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1 AMENDMENT TO SENATE BILL 2785

2 AMENDMENT NO. _____. Amend Senate Bill 2785 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Small
5 Wireless Facilities Deployment Act.

6 Section 5. Legislative intent. Small wireless facilities
7 are critical to delivering wireless access to advanced
8 technology, broadband, and 9-1-1 services to homes, businesses
9 and schools in Illinois. Because of the integral role that the
10 delivery of wireless technology plays in economic vitality of
11 the State of Illinois and in the lives of its citizens, the
12 General Assembly has determined that a law addressing the
13 deployment of wireless technology is of vital interest to the
14 State. To ensure that public and private Illinois consumers
15 continue to benefit from these services as soon as possible and
16 to ensure that providers of wireless access have a fair and

1 predictable process for the deployment of small wireless
2 facilities, the General Assembly is enacting this Act, which
3 specifies how local authorities may regulate the collocation of
4 small wireless facilities and small wireless facility
5 networks.

6 Section 10. Definitions. As used in this Act:

7 "Antenna" means communications equipment that transmits or
8 receives electromagnetic radio signals used in the provision of
9 wireless service.

10 "Applicant" means a wireless provider or a communications
11 facilities provider that submits an application.

12 "Application" means a request submitted by an applicant to
13 an authority for the collocation of small wireless facilities
14 or small wireless facility networks under Section 15.

15 "Authority" means a city, village, incorporated town,
16 township, county, unit of local government, or special district
17 that has jurisdiction and control for use of the public
18 rights-of-way as provided by the Illinois Highway Code for
19 placements within the public rights-of-way or has zoning or
20 land use control for placements not within the public
21 rights-of-way.

22 "Authority utility pole" means a utility pole or similar
23 structure that is used in whole or in part for communications
24 service, electric service, lighting, traffic control, signage,
25 or a similar function owned or a controlled by an authority.

1 "Authority structure" means an existing tower, building,
2 water tower, or other structure owned or controlled by an
3 authority, but not an authority utility pole.

4 "Cable operator" has the same meaning as in 47 U.S.C.
5 522(5), as amended.

6 "Collocate" means to install, mount, maintain, modify,
7 operate, or replace wireless facilities on an existing private
8 or public tower, building, or water tower; an existing private
9 or authority utility pole; or another existing structure.
10 "Collocation" has a corresponding meaning.

11 "Communications service" means cable service, as defined
12 in 47 U.S.C. 522(6), as amended; or information service, as
13 defined in 47 U.S.C. 153(24), as amended; telecommunications
14 service as defined in 47 U.S.C. 153(53), as amended; mobile
15 service as defined in 47 U.S.C. 153(33), as amended; or
16 wireless service other than mobile service.

17 "Communications facilities provider" means a person or
18 entity that installs or constructs facilities or structures
19 used to provide communications services.

20 "Communications service provider" means a cable operator;
21 a provider of information service; a telecommunications
22 carrier, as defined in 47 U.S.C. 153(51), as amended; or a
23 wireless provider.

24 "Small wireless facilities" means wireless facilities that
25 meet both of the following qualifications: (i) each antenna is
26 located inside an enclosure of no more than 6 cubic feet in

1 volume or, in the case of an antenna that has exposed elements,
2 the antenna and all of its exposed elements could fit within an
3 imaginary enclosure of no more than 6 cubic feet; and (ii) all
4 other wireless equipment associated with the structure is
5 cumulatively no more than 28 cubic feet in volume. The
6 following types of associated ancillary equipment are not
7 included in the calculation of equipment volume: electric
8 meter, concealment, telecommunications demarcation box,
9 ground-based enclosures, grounding equipment, power transfer
10 switch, cut-off switch, and vertical cable runs for the
11 connection of power and other services.

12 "Small wireless facility network" means a collection of
13 interrelated small wireless facilities designed to deliver
14 wireless communications service.

15 "Utility pole" means a pole or similar structure that is
16 used in whole or in part for communications service, electric
17 service, lighting, traffic control, signage, or a similar
18 function.

19 "Wireless facilities" means equipment at a fixed location
20 that enables wireless communications between user equipment
21 and a communications network, including, but not limited to:
22 (i) equipment associated with wireless communications services
23 such as private, broadcast, and public safety services, as well
24 as unlicensed wireless services and fixed wireless services
25 such as microwave backhaul; and (ii) radio transceivers,
26 antennas, coaxial or fiber-optic cable, regular and backup

1 power supplies, and comparable equipment, regardless of
2 technological configuration.

3 "Wireless service" means a fixed or mobile wireless service
4 provided using wireless facilities.

5 "Wireless provider" means a provider of wireless service.

6 Section 15. Siting of small wireless facilities and small
7 wireless facility networks.

8 (a) Except as provided in this Section, an authority may
9 not prohibit, regulate, or charge for the collocation of small
10 wireless facilities or small wireless facility networks.

11 (b) Small wireless facilities and small wireless facility
12 networks shall be classified as permitted uses, and not subject
13 to the standards of a special or conditional use, in:

14 (1) all public rights-of-way and authority property;
15 and

16 (2) other property not zoned exclusively for
17 single-family residential use.

18 (c) Small wireless facilities and small wireless facility
19 networks may be classified as special or conditional uses where
20 those facilities are not located within the public
21 rights-of-way or within authority property and are located on
22 property zoned exclusively for single-family residential use.

23 (d) An authority may require building permits, permits to
24 work within the public rights-of-way, and other permits for the
25 collocation of small wireless facilities and small wireless

1 facility networks, provided such permits are of general
2 applicability. Authorities shall receive applications for,
3 process, and issue permits and approvals subject to the
4 following requirements:

5 (1) An authority shall not assess any recurring or
6 nonrecurring fees or charges for the collocation of small
7 wireless facilities or small wireless facility networks
8 within the public rights-of-way to an applicant that is
9 paying the authority:

10 (A) a tax authorized by the Simplified Municipal
11 Telecommunications Tax Act at a rate exceeding 5%; or

12 (B) an infrastructure maintenance fee authorized
13 by Section 5 of the Telecommunications Infrastructure
14 Maintenance Fee Act if the authority was listed in
15 Section 5-25 of the Simplified Municipal
16 Telecommunications Tax Act.

17 This paragraph (1) does not prohibit an authority from
18 charging a recurring fee for the collocation of small
19 wireless facilities or small wireless facility networks on
20 authority utility poles located within the public
21 rights-of-way in accordance with subsection (e).

22 (2) If paragraph (1) of this subsection (d) does not
23 apply, applicants shall not be required to pay a higher
24 application processing fee than communications service
25 providers that are not wireless providers. Total
26 processing fees for any individual permit or approval,

1 including any fees charged by third parties, shall not
2 exceed \$500.

3 (3) Applicants shall not be required to perform any
4 services, including restoration work not directly related
5 to the collocation, to obtain approval for applications.

6 (4) An applicant shall not be required to provide more
7 information to obtain a permit than communications service
8 providers that are not wireless providers.

9 (5) Each application for a permit or approval shall be
10 processed on a nondiscriminatory basis and deemed approved
11 if the authority fails to approve or deny the application
12 within 60 days after submittal of a complete application.
13 This period may be tolled to accommodate timely requests
14 for information required to complete the application or may
15 be extended by mutual agreement between the authority and
16 the applicant. A permit application may address multiple
17 small wireless facilities or a small wireless facilities
18 network.

19 (6) An authority may deny an application only if it
20 does not meet the applicable authority's construction in
21 the public rights-of-way, building, or electrical codes or
22 standards, provided such codes and standards are of general
23 applicability. The authority must document the basis for
24 the denial, including the specific code provisions or
25 standards on which the denial was based, and send the
26 documentation to the applicant on or before the day the

1 authority denies an application. The applicant may cure the
2 deficiencies identified by the authority and resubmit the
3 application within 30 days of the denial without paying an
4 additional processing fee. The authority shall approve or
5 deny the revised application within 30 days.

6 (7) An authority may not limit the duration of a permit
7 or approval related to one or more small wireless
8 facilities or a small wireless facilities network.

9 (8) An authority may not institute a moratorium on (A)
10 filing, receiving, or processing applications or (B)
11 issuing permits or approvals for the collocation of small
12 wireless facilities and small wireless facility networks.

13 (9) An authority may not impose discriminatory
14 licensing standards for persons collating small wireless
15 facilities and small wireless facility networks. An
16 authority shall receive applications for, process, and
17 issue licenses for persons collating small wireless
18 facilities and small wireless facility networks
19 applications in a manner substantially comparable to the
20 licensing of other contractors within the jurisdiction of
21 the authority.

22 (e) A wireless provider or licensed contractor may
23 collocate small wireless facilities and small wireless
24 facility networks on authority utility poles located within the
25 public rights-of-way, subject to reasonable rates, terms, and
26 conditions as provided in one or more agreements between the

1 wireless provider and the authority. The authority must process
2 authority utility pole collocation requests, issue permits,
3 and allow the installation and operation of small wireless
4 facilities and small wireless facility networks on authority
5 utility poles pending negotiation of the agreement. Authority
6 utility pole collocation requests shall be processed in the
7 same manner as permit applications under subsection (d). The
8 reasonable annual recurring rate to collocate a small wireless
9 facility on an authority utility pole shall not exceed the rate
10 produced by applying the formula adopted by the Federal
11 Communications Commission for telecommunications pole
12 attachments under paragraph (2) of subsection (e) of 47 CFR
13 1.1409.

14 (f) An authority shall authorize the collocation of small
15 wireless facilities and small wireless facility networks on
16 authority structures not located within the public
17 rights-of-way to the same extent an authority permits access to
18 authority structures for other commercial projects or uses and
19 may authorize such collocations if the authority has not
20 previously permitted such access. Such collocations shall be
21 subject to reasonable rates, terms, and conditions as provided
22 in one or more agreements between the wireless provider and the
23 authority. An authority may not charge on an annual recurring
24 basis more for such collocations than the lesser of (1) the
25 amount charged for similar commercial projects or uses to
26 occupy or use the same amount of space on similarly situated

1 property; (2) the projected cost to the authority resulting
2 from the collocation; or (3) \$500 annually.

3 Section 20. Home rule. A home rule unit may not regulate
4 small wireless facilities and small wireless facility networks
5 in a manner inconsistent with the regulation by the State of
6 small wireless facilities and small wireless facility networks
7 under this Act. This Section is a limitation under subsection
8 (i) of Section 6 of Article VII of the Illinois Constitution on
9 the concurrent exercise by home rule units of powers and
10 functions exercised by the State."