

SB3298



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3298

Introduced 2/11/2020, by Sen. Suzy Glowiak Hilton

SYNOPSIS AS INTRODUCED:

50 ILCS 840/10
50 ILCS 840/15

was 50 ILCS 835/10
was 50 ILCS 835/15

Amends the Small Wireless Facilities Deployment Act. Modifies the definition of "collocate" or "collocation" and adds a definition of "structure". Changes various references of "collocate" or "collocation" to "install" or "installation". Provides that an authority may require in a residential historic district that a small wireless facility be collocated on an existing utility pole or existing wireless support structure within 850 feet of the proposed installation or, if no such existing wireless support structure, the authority may reject the application. Effective immediately.

LRB101 20079 AWJ 69611 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Small Wireless Facilities Deployment Act is
5 amended by changing Sections 10 and 15 as follows:

6 (50 ILCS 840/10) (was 50 ILCS 835/10)

7 (Section scheduled to be repealed on June 1, 2021)

8 Sec. 10. Definitions. As used in this Act:

9 "Antenna" means communications equipment that transmits or
10 receives electromagnetic radio frequency signals used in the
11 provision of wireless services.

12 "Applicable codes" means uniform building, fire,
13 electrical, plumbing, or mechanical codes adopted by a
14 recognized national code organization or local amendments to
15 those codes, including the National Electric Safety Code.

16 "Applicant" means any person who submits an application and
17 is a wireless provider.

18 "Application" means a request submitted by an applicant to
19 an authority for a permit to collocate small wireless
20 facilities, and a request that includes the installation of a
21 new utility pole for such collocation, as well as any
22 applicable fee for the review of such application.

23 "Authority" means a unit of local government that has

1 jurisdiction and control for use of public rights-of-way as
2 provided by the Illinois Highway Code for placements within
3 public rights-of-way or has zoning or land use control for
4 placements not within public rights-of-way.

5 "Authority utility pole" means a utility pole owned or
6 operated by an authority in public rights-of-way.

7 "Collocate" or "collocation" means either: (i) mounting or
8 installing an antenna wireless facility on a pre-existing
9 structure; or (ii) modifying a structure for the purpose of
10 mounting or installing an antenna wireless facility on that
11 structure ~~to install, mount, maintain, modify, operate, or~~
12 ~~replace wireless facilities on or adjacent to a wireless~~
13 ~~support structure or utility pole.~~

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

20 "Communications service provider" means a cable operator,
21 as defined in 47 U.S.C. 522(5), as amended; a provider of
22 information service, as defined in 47 U.S.C. 153(24), as
23 amended; a telecommunications carrier, as defined in 47 U.S.C.
24 153(51), as amended; or a wireless provider.

25 "FCC" means the Federal Communications Commission of the
26 United States.

1 "Fee" means a one-time charge.

2 "Historic district" or "historic landmark" means a
3 building, property, or site, or group of buildings, properties,
4 or sites that are either (i) listed in the National Register of
5 Historic Places or formally determined eligible for listing by
6 the Keeper of the National Register, the individual who has
7 been delegated the authority by the federal agency to list
8 properties and determine their eligibility for the National
9 Register, in accordance with Section VI.D.1.a.i through
10 Section VI.D.1.a.v of the Nationwide Programmatic Agreement
11 codified at 47 CFR Part 1, Appendix C; or (ii) designated as a
12 locally landmarked building, property, site, or historic
13 district by an ordinance adopted by the authority pursuant to a
14 preservation program that meets the requirements of the
15 Certified Local Government Program of the Illinois State
16 Historic Preservation Office or where such certification of the
17 preservation program by the Illinois State Historic
18 Preservation Office is pending.

19 "Law" means a federal or State statute, common law, code,
20 rule, regulation, order, or local ordinance or resolution.

21 "Micro wireless facility" means a small wireless facility
22 that is not larger in dimension than 24 inches in length, 15
23 inches in width, and 12 inches in height and that has an
24 exterior antenna, if any, no longer than 11 inches.

25 "Permit" means a written authorization required by an
26 authority to perform an action or initiate, continue, or

1 complete a project.

2 "Person" means an individual, corporation, limited
3 liability company, partnership, association, trust, or other
4 entity or organization, including an authority.

5 "Public safety agency" means the functional division of the
6 federal government, the State, a unit of local government, or a
7 special purpose district located in whole or in part within
8 this State, that provides or has authority to provide
9 firefighting, police, ambulance, medical, or other emergency
10 services to respond to and manage emergency incidents.

11 "Rate" means a recurring charge.

12 "Right-of-way" means the area on, below, or above a public
13 roadway, highway, street, public sidewalk, alley, or utility
14 easement dedicated for compatible use. "Right-of-way" does not
15 include authority-owned aerial lines.

16 "Small wireless facility" means a wireless facility that
17 meets both of the following qualifications: (i) each antenna is
18 located inside an enclosure of no more than 6 cubic feet in
19 volume or, in the case of an antenna that has exposed elements,
20 the antenna and all of its exposed elements could fit within an
21 imaginary enclosure of no more than 6 cubic feet; and (ii) all
22 other wireless equipment attached directly to a utility pole
23 associated with the facility is cumulatively no more than 25
24 cubic feet in volume. The following types of associated
25 ancillary equipment are not included in the calculation of
26 equipment volume: electric meter, concealment elements,

1 telecommunications demarcation box, ground-based enclosures,
2 grounding equipment, power transfer switch, cut-off switch,
3 and vertical cable runs for the connection of power and other
4 services.

5 "Structure" means a pole, tower, base station, or other
6 building, whether or not it has an existing antenna wireless
7 facility that is used or to be used for the provision of
8 personal wireless service and whether or not owned or
9 commingled with other types of services.

10 "Utility pole" means a pole or similar structure that is
11 used in whole or in part by a communications service provider
12 or for electric distribution, lighting, traffic control, or a
13 similar function.

14 "Wireless facility" means equipment at a fixed location
15 that enables wireless communications between user equipment
16 and a communications network, including: (i) equipment
17 associated with wireless communications; and (ii) radio
18 transceivers, antennas, coaxial or fiber-optic cable, regular
19 and backup power supplies, and comparable equipment,
20 regardless of technological configuration. "Wireless facility"
21 includes small wireless facilities. "Wireless facility" does
22 not include: (i) the structure or improvements on, under, or
23 within which the equipment is installed ~~collocated~~; or (ii)
24 wireline backhaul facilities, coaxial or fiber optic cable that
25 is between wireless support structures or utility poles or
26 coaxial, or fiber optic cable that is otherwise not immediately

1 adjacent to or directly associated with an antenna.

2 "Wireless infrastructure provider" means any person
3 authorized to provide telecommunications service in the State
4 that builds or installs wireless communication transmission
5 equipment, wireless facilities, wireless support structures,
6 or utility poles and that is not a wireless services provider
7 but is acting as an agent or a contractor for a wireless
8 services provider for the application submitted to the
9 authority.

10 "Wireless provider" means a wireless infrastructure
11 provider or a wireless services provider.

12 "Wireless services" means any services provided to the
13 general public, including a particular class of customers, and
14 made available on a nondiscriminatory basis using licensed or
15 unlicensed spectrum, whether at a fixed location or mobile,
16 provided using wireless facilities.

17 "Wireless services provider" means a person who provides
18 wireless services.

19 "Wireless support structure" means a freestanding
20 structure, such as a monopole; tower, either guyed or
21 self-supporting; billboard; or other existing or proposed
22 structure designed to support or capable of supporting wireless
23 facilities. "Wireless support structure" does not include a
24 utility pole.

25 (Source: P.A. 100-585, eff. 6-1-18.)

1 (50 ILCS 840/15) (was 50 ILCS 835/15)

2 (Section scheduled to be repealed on June 1, 2021)

3 Sec. 15. Regulation of small wireless facilities.

4 (a) This Section applies to activities of a wireless
5 provider within or outside rights-of-way.

6 (b) Except as provided in this Section, an authority may
7 not prohibit, regulate, or charge for the installation
8 ~~collocation~~ of small wireless facilities.

9 (c) Small wireless facilities shall be classified as
10 permitted uses and subject to administrative review in
11 conformance with this Act, except as provided in paragraph (5)
12 of subsection (d) of this Section regarding height exceptions
13 or variances, but not subject to zoning review or approval if
14 they are installed ~~collocated~~ (i) in rights-of-way in any zone,
15 or (ii) outside rights-of-way in property zoned exclusively for
16 commercial or industrial use.

17 (d) An authority may require an applicant to obtain one or
18 more permits to install ~~collocate~~ a small wireless facility. An
19 authority shall receive applications for, process, and issue
20 permits subject to the following requirements:

21 (1) An authority may not directly or indirectly require
22 an applicant to perform services unrelated to the
23 installation ~~collocation~~ for which approval is sought,
24 such as in-kind contributions to the authority, including
25 reserving fiber, conduit, or utility pole space for the
26 authority on the wireless provider's utility pole. An

1 authority may reserve space on authority utility poles for
2 future public safety uses or for the authority's electric
3 utility uses, but a reservation of space may not preclude
4 the collocation of a small wireless facility unless the
5 authority reasonably determines that the authority utility
6 pole cannot accommodate both uses.

7 (2) An applicant shall not be required to provide more
8 information to obtain a permit than the authority requires
9 of a communications service provider that is not a wireless
10 provider that requests to attach facilities to a structure;
11 however, a wireless provider may be required to provide the
12 following information when seeking a permit to install
13 ~~collocate~~ small wireless facilities on a utility pole or
14 wireless support structure:

15 (A) site specific structural integrity and, for an
16 authority utility pole, make-ready analysis prepared
17 by a structural engineer, as that term is defined in
18 Section 4 of the Structural Engineering Practice Act of
19 1989;

20 (B) the location where each proposed small
21 wireless facility or utility pole would be installed
22 and photographs of the location and its immediate
23 surroundings depicting the utility poles or structures
24 on which each proposed small wireless facility would be
25 mounted or location where utility poles or structures
26 would be installed;

1 (C) specifications and drawings prepared by a
2 structural engineer, as that term is defined in Section
3 4 of the Structural Engineering Practice Act of 1989,
4 for each proposed small wireless facility covered by
5 the application as it is proposed to be installed;

6 (D) the equipment type and model numbers for the
7 antennas and all other wireless equipment associated
8 with the small wireless facility;

9 (E) a proposed schedule for the installation and
10 completion of each small wireless facility covered by
11 the application, if approved; and

12 (F) certification that the installation
13 ~~collocation~~ complies with paragraph (6) to the best of
14 the applicant's knowledge.

15 (3) Subject to paragraph (6), an authority may not
16 require the placement of small wireless facilities on any
17 specific utility pole, or category of utility poles, or
18 require multiple antenna systems on a single utility pole;
19 however: (i) with respect to an application for the
20 collocation of a small wireless facility associated with a
21 new utility pole, an authority may require ~~propose~~ that the
22 small wireless facility be collocated on an existing
23 utility pole or existing wireless support structure, when
24 possible, within 850 ~~100~~ feet of the proposed installation
25 ~~collocation~~, which the applicant shall accept if it has the
26 right to use the alternate structure on reasonable terms

1 and conditions and the alternate location and structure
2 does not impose technical limits or additional material
3 costs as determined by the applicant; or (ii) an authority
4 may require in a residential historic district that the
5 small wireless facility be collocated on an existing
6 utility pole or existing wireless support structure within
7 850 feet of the proposed installation or, if no such
8 existing wireless support structure, the authority may
9 reject the application. The authority may require the
10 applicant to provide a written certification describing
11 the property rights, technical limits or material cost
12 reasons the alternate location does not satisfy the
13 criteria in this paragraph (3).

14 (4) Subject to paragraph (6), an authority may not
15 limit the placement of small wireless facilities mounted on
16 a utility pole or a wireless support structure by minimum
17 horizontal separation distances.

18 (5) An authority may limit the maximum height of a
19 small wireless facility to 10 feet above the utility pole
20 or wireless support structure on which the small wireless
21 facility is installed ~~collocated~~. Subject to any
22 applicable waiver, zoning, or other process that addresses
23 wireless provider requests for an exception or variance and
24 does not prohibit granting of such exceptions or variances,
25 the authority may limit the height of new or replacement
26 utility poles or wireless support structures on which small

1 wireless facilities are installed ~~collocated~~ to the higher
2 of: (i) 10 feet in height above the tallest existing
3 utility pole, other than a utility pole supporting only
4 wireless facilities, that is in place on the date the
5 application is submitted to the authority, that is located
6 within 300 feet of the new or replacement utility pole or
7 wireless support structure and that is in the same
8 right-of-way within the jurisdictional boundary of the
9 authority, provided the authority may designate which
10 intersecting right-of-way within 300 feet of the proposed
11 utility pole or wireless support structures shall control
12 the height limitation for such facility; or (ii) 45 feet
13 above ground level.

14 (6) An authority may require that:

15 (A) the wireless provider's operation of the small
16 wireless facilities does not interfere with the
17 frequencies used by a public safety agency for public
18 safety communications; a wireless provider shall
19 install small wireless facilities of the type and
20 frequency that will not cause unacceptable
21 interference with a public safety agency's
22 communications equipment; unacceptable interference
23 will be determined by and measured in accordance with
24 industry standards and the FCC's regulations
25 addressing unacceptable interference to public safety
26 spectrum or any other spectrum licensed by a public

1 safety agency; if a small wireless facility causes such
2 interference, and the wireless provider has been given
3 written notice of the interference by the public safety
4 agency, the wireless provider, at its own expense,
5 shall take all reasonable steps necessary to correct
6 and eliminate the interference, including, but not
7 limited to, powering down the small wireless facility
8 and later powering up the small wireless facility for
9 intermittent testing, if necessary; the authority may
10 terminate a permit for a small wireless facility based
11 on such interference if the wireless provider is not
12 making a good faith effort to remedy the problem in a
13 manner consistent with the abatement and resolution
14 procedures for interference with public safety
15 spectrum established by the FCC including 47 CFR 22.970
16 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR
17 90.675;

18 (B) the wireless provider comply with requirements
19 that are imposed by a contract between an authority and
20 a private property owner that concern design or
21 construction standards applicable to utility poles and
22 ground-mounted equipment located in the right-of-way;

23 (C) the wireless provider comply with applicable
24 spacing requirements in applicable codes and
25 ordinances concerning the location of ground-mounted
26 equipment located in the right-of-way if the

1 requirements include a waiver, zoning, or other
2 process that addresses wireless provider requests for
3 exception or variance and do not prohibit granting of
4 such exceptions or variances;

5 (D) the wireless provider comply with local code
6 provisions or regulations concerning undergrounding
7 requirements that prohibit the installation of new or
8 the modification of existing utility poles in a
9 right-of-way without prior approval if the
10 requirements include a waiver, zoning, or other
11 process that addresses requests to install such new
12 utility poles or modify such existing utility poles and
13 do not prohibit the replacement of utility poles;

14 (E) the wireless provider comply with generally
15 applicable standards that are consistent with this Act
16 and adopted by an authority for construction and public
17 safety in the rights-of-way, including, but not
18 limited to, reasonable and nondiscriminatory wiring
19 and cabling requirements, grounding requirements,
20 utility pole extension requirements, and signage
21 limitations; and shall comply with reasonable and
22 nondiscriminatory requirements that are consistent
23 with this Act and adopted by an authority regulating
24 the location, size, surface area and height of small
25 wireless facilities, or the abandonment and removal of
26 small wireless facilities;

1 (F) the wireless provider not install ~~collocate~~
2 small wireless facilities on authority utility poles
3 that are part of an electric distribution or
4 transmission system within the communication worker
5 safety zone of the pole or the electric supply zone of
6 the pole; however, the antenna and support equipment of
7 the small wireless facility may be located in the
8 communications space on the authority utility pole and
9 on the top of the pole, if not otherwise unavailable,
10 if the wireless provider complies with applicable
11 codes for work involving the top of the pole; for
12 purposes of this subparagraph (F), the terms
13 "communications space", "communication worker safety
14 zone", and "electric supply zone" have the meanings
15 given to those terms in the National Electric Safety
16 Code as published by the Institute of Electrical and
17 Electronics Engineers;

18 (G) the wireless provider comply with the
19 applicable codes and local code provisions or
20 regulations that concern public safety;

21 (H) the wireless provider comply with written
22 design standards that are generally applicable for
23 decorative utility poles, or reasonable stealth,
24 concealment, and aesthetic requirements that are
25 identified by the authority in an ordinance, written
26 policy adopted by the governing board of the authority,

1 a comprehensive plan, or other written design plan that
2 applies to other occupiers of the rights-of-way,
3 including on a historic landmark or in a historic
4 district; and

5 (I) subject to subsection (c) of this Section, and
6 except for facilities excluded from evaluation for
7 effects on historic properties under 47 CFR
8 1.1307(a)(4), reasonable, technically feasible and
9 non-discriminatory design or concealment measures in a
10 historic district or historic landmark; any such
11 design or concealment measures, including restrictions
12 on a specific category of poles, may not have the
13 effect of prohibiting any provider's technology; such
14 design and concealment measures shall not be
15 considered a part of the small wireless facility for
16 purposes of the size restrictions of a small wireless
17 facility; this paragraph may not be construed to limit
18 an authority's enforcement of historic preservation in
19 conformance with the requirements adopted pursuant to
20 the Illinois State Agency Historic Resources
21 Preservation Act or the National Historic Preservation
22 Act of 1966, 54 U.S.C. Section 300101 et seq., and the
23 regulations adopted to implement those laws.

24 (7) Within 30 days after receiving an application, an
25 authority must determine whether the application is
26 complete and notify the applicant. If an application is

1 incomplete, an authority must specifically identify the
2 missing information. An application shall be deemed
3 complete if the authority fails to provide notification to
4 the applicant within 30 days after when all documents,
5 information, and fees specifically enumerated in the
6 authority's permit application form are submitted by the
7 applicant to the authority. Processing deadlines are
8 tolled from the time the authority sends the notice of
9 incompleteness to the time the applicant provides the
10 missing information.

11 (8) An authority shall process applications as
12 follows:

13 (A) an application to collocate a small wireless
14 facility on an existing utility pole or wireless
15 support structure shall be processed on a
16 nondiscriminatory basis and deemed approved if the
17 authority fails to approve or deny the application
18 within 90 days; however, if an applicant intends to
19 proceed with the permitted activity on a deemed
20 approved basis, the applicant must notify the
21 authority in writing of its intention to invoke the
22 deemed approved remedy no sooner than 75 days after the
23 submission of a completed application; the permit
24 shall be deemed approved on the latter of the 90th day
25 after submission of the complete application or the
26 10th day after the receipt of the deemed approved

1 notice by the authority; the receipt of the deemed
2 approved notice shall not preclude the authority's
3 denial of the permit request within the time limits as
4 provided under this Act; and

5 (B) an application to install ~~collocate~~ a small
6 wireless facility that includes the installation of a
7 new utility pole shall be processed on a
8 nondiscriminatory basis and deemed approved if the
9 authority fails to approve or deny the application
10 within 120 days; however, if an applicant intends to
11 proceed with the permitted activity on a deemed
12 approved basis, the applicant must notify the
13 authority in writing of its intention to invoke the
14 deemed approved remedy no sooner than 105 days after
15 the submission of a completed application; the permit
16 shall be deemed approved on the latter of the 120th day
17 after submission of the complete application or the
18 10th day after the receipt of the deemed approved
19 notice by the authority; the receipt of the deemed
20 approved notice shall not preclude the authority's
21 denial of the permit request within the time limits as
22 provided under this Act.

23 (9) An authority shall approve an application unless
24 the application does not meet the requirements of this Act.
25 If an authority determines that applicable codes, local
26 code provisions or regulations that concern public safety,

1 or the requirements of paragraph (6) require that the
2 utility pole or wireless support structure be replaced
3 before the requested installation ~~collocation~~, approval
4 may be conditioned on the replacement of the utility pole
5 or wireless support structure at the cost of the provider.
6 The authority must document the basis for a denial,
7 including the specific code provisions or application
8 conditions on which the denial was based, and send the
9 documentation to the applicant on or before the day the
10 authority denies an application. The applicant may cure the
11 deficiencies identified by the authority and resubmit the
12 revised application once within 30 days after notice of
13 denial is sent to the applicant without paying an
14 additional application fee. The authority shall approve or
15 deny the revised application within 30 days after the
16 applicant resubmits the application or it is deemed
17 approved; however, the applicant must notify the authority
18 in writing of its intention to proceed with the permitted
19 activity on a deemed approved basis, which may be submitted
20 with the resubmitted application. Any subsequent review
21 shall be limited to the deficiencies cited in the denial.
22 However, this revised application cure does not apply if
23 the cure requires the review of a new location, new or
24 different structure to be installed ~~collocated~~ upon, new
25 antennas, or other wireless equipment associated with the
26 small wireless facility.

1 (10) The time period for applications may be further
2 tolled by:

3 (A) the express agreement in writing by both the
4 applicant and the authority; or

5 (B) a local, State, or federal disaster
6 declaration or similar emergency that causes the
7 delay.

8 (11) An applicant seeking to install ~~collocate~~ small
9 wireless facilities within the jurisdiction of a single
10 authority shall be allowed, at the applicant's discretion,
11 to file a consolidated application and receive a single
12 permit for the installation ~~collocation~~ of up to 25 small
13 wireless facilities if the installations ~~collocations~~ each
14 involve substantially the same type of small wireless
15 facility and substantially the same type of structure. If
16 an application includes multiple small wireless
17 facilities, the authority may remove small wireless
18 facility installations ~~collocations~~ from the application
19 and treat separately small wireless facility installations
20 ~~collocations~~ for which incomplete information has been
21 provided or that do not qualify for consolidated treatment
22 or that are denied. The authority may issue separate
23 permits for each installation ~~collocation~~ that is approved
24 in a consolidated application.

25 (12) Installation ~~Collocation~~ for which a permit is
26 granted shall be completed within 180 days after issuance

1 of the permit, unless the authority and the wireless
2 provider agree to extend this period or a delay is caused
3 by make-ready work for an authority utility pole or by the
4 lack of commercial power or backhaul availability at the
5 site, provided the wireless provider has made a timely
6 request within 60 days after the issuance of the permit for
7 commercial power or backhaul services, and the additional
8 time to complete installation does not exceed 360 days
9 after issuance of the permit. Otherwise, the permit shall
10 be void unless the authority grants an extension in writing
11 to the applicant.

12 (13) The duration of a permit shall be for a period of
13 not less than 5 years, and the permit shall be renewed for
14 equivalent durations unless the authority makes a finding
15 that the small wireless facilities or the new or modified
16 utility pole do not comply with the applicable codes or
17 local code provisions or regulations in paragraphs (6) and
18 (9). If this Act is repealed as provided in Section 90,
19 renewals of permits shall be subject to the applicable
20 authority code provisions or regulations in effect at the
21 time of renewal.

22 (14) An authority may not prohibit, either expressly or
23 de facto, the (i) filing, receiving, or processing
24 applications, or (ii) issuing of permits or other
25 approvals, if any, for the installation ~~collocation~~ of
26 small wireless facilities unless there has been a local,

1 State, or federal disaster declaration or similar
2 emergency that causes the delay.

3 (15) Applicants shall submit applications, supporting
4 information, and notices by personal delivery or as
5 otherwise required by the authority. An authority may
6 require that permits, supporting information, and notices
7 be submitted by personal delivery at the authority's
8 designated place of business, by regular mail postmarked on
9 the date due, or by any other commonly used means,
10 including electronic mail, as required by the authority.

11 (e) Application fees are subject to the following
12 requirements:

13 (1) An authority may charge an application fee of up to
14 \$650 for an application to collocate a single small
15 wireless facility on an existing utility pole or wireless
16 support structure and up to \$350 for each small wireless
17 facility addressed in an application to collocate more than
18 one small wireless facility on existing utility poles or
19 wireless support structures.

20 (2) An authority may charge an application fee of
21 \$1,000 for each small wireless facility addressed in an
22 application that includes the installation of a new utility
23 for such installation ~~collocation~~.

24 (3) Notwithstanding any contrary provision of State
25 law or local ordinance, applications pursuant to this
26 Section must be accompanied by the required application

1 fee.

2 (4) Within 2 months after the effective date of this
3 Act, an authority shall make available application fees
4 consistent with this subsection, through ordinance, or in a
5 written schedule of permit fees adopted by the authority.

6 (f) An authority shall not require an application,
7 approval, or permit, or require any fees or other charges, from
8 a communications service provider authorized to occupy the
9 rights-of-way, for: (i) routine maintenance; (ii) the
10 replacement of wireless facilities with wireless facilities
11 that are substantially similar, the same size, or smaller if
12 the wireless provider notifies the authority at least 10 days
13 prior to the planned replacement and includes equipment
14 specifications for the replacement of equipment consistent
15 with the requirements of subparagraph (D) of paragraph (2) of
16 subsection (d) of this Section; or (iii) the installation,
17 placement, maintenance, operation, or replacement of micro
18 wireless facilities that are suspended on cables that are
19 strung between existing utility poles in compliance with
20 applicable safety codes. However, an authority may require a
21 permit to work within rights-of-way for activities that affect
22 traffic patterns or require lane closures.

23 (g) Nothing in this Act authorizes a person to install
24 ~~relocate~~ small wireless facilities on: (1) property owned by a
25 private party or property owned or controlled by a unit of
26 local government that is not located within rights-of-way,

1 subject to subsection (j) of this Section, or a privately owned
2 utility pole or wireless support structure without the consent
3 of the property owner; (2) property owned, leased, or
4 controlled by a park district, forest preserve district, or
5 conservation district for public park, recreation, or
6 conservation purposes without the consent of the affected
7 district, excluding the placement of facilities on
8 rights-of-way located in an affected district that are under
9 the jurisdiction and control of a different unit of local
10 government as provided by the Illinois Highway Code; or (3)
11 property owned by a rail carrier registered under Section
12 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or
13 any other public commuter rail service, or an electric utility
14 as defined in Section 16-102 of the Public Utilities Act,
15 without the consent of the rail carrier, public commuter rail
16 service, or electric utility. The provisions of this Act do not
17 apply to an electric or gas public utility or such utility's
18 wireless facilities if the facilities are being used,
19 developed, and maintained consistent with the provisions of
20 subsection (i) of Section 16-108.5 of the Public Utilities Act.

21 For the purposes of this subsection, "public utility" has
22 the meaning given to that term in Section 3-105 of the Public
23 Utilities Act. Nothing in this Act shall be construed to
24 relieve any person from any requirement (1) to obtain a
25 franchise or a State-issued authorization to offer cable
26 service or video service or (2) to obtain any required

1 permission to install, place, maintain, or operate
2 communications facilities, other than small wireless
3 facilities subject to this Act.

4 (h) Agreements between authorities and wireless providers
5 that relate to the installation ~~collocation~~ of small wireless
6 facilities in the right-of-way, including the collocation of
7 small wireless facilities on authority utility poles, that are
8 in effect on the effective date of this Act remain in effect
9 for all small wireless facilities collocated on the authority's
10 utility poles pursuant to applications submitted to the
11 authority before the effective date of this Act, subject to
12 applicable termination provisions. Such agreements entered
13 into after the effective date of the Act shall comply with the
14 Act.

15 (i) An authority shall allow the collocation of small
16 wireless facilities on authority utility poles subject to the
17 following:

18 (1) An authority may not enter into an exclusive
19 arrangement with any person for the right to attach small
20 wireless facilities to authority utility poles.

21 (2) The rates and fees for collocations on authority
22 utility poles shall be nondiscriminatory regardless of the
23 services provided by the collocating person.

24 (3) An authority may charge an annual recurring rate to
25 collocate a small wireless facility on an authority utility
26 pole located in a right-of-way that equals (i) \$200 per

1 year or (ii) the actual, direct, and reasonable costs
2 related to the wireless provider's use of space on the
3 authority utility pole. Rates for collocation on authority
4 utility poles located outside of a right-of-way are not
5 subject to these limitations. In any controversy
6 concerning the appropriateness of a cost-based rate for an
7 authority utility pole located within a right-of-way, the
8 authority shall have the burden of proving that the rate
9 does not exceed the actual, direct, and reasonable costs
10 for the applicant's proposed use of the authority utility
11 pole. Nothing in this paragraph (3) prohibits a wireless
12 provider and an authority from mutually agreeing to an
13 annual recurring rate of less than \$200 to collocate a
14 small wireless facility on an authority utility pole.

15 (4) Authorities or other persons owning or controlling
16 authority utility poles within the right-of-way shall
17 offer rates, fees, and other terms that comply with
18 subparagraphs (A) through (E) of this paragraph (4). Within
19 2 months after the effective date of this Act, an authority
20 or a person owning or controlling authority utility poles
21 shall make available, through ordinance or an authority
22 utility pole attachment agreement, license or other
23 agreement that makes available to wireless providers, the
24 rates, fees, and terms for the collocation of small
25 wireless facilities on authority utility poles that comply
26 with this Act and with subparagraphs (A) through (E) of

1 this paragraph (4). In the absence of such an ordinance or
2 agreement that complies with this Act, and until such a
3 compliant ordinance or agreement is adopted, wireless
4 providers may install ~~collocate~~ small wireless facilities
5 and install utility poles under the requirements of this
6 Act.

7 (A) The rates, fees, and terms must be
8 nondiscriminatory, competitively neutral, and
9 commercially reasonable, and may address, among other
10 requirements, the requirements in subparagraphs (A)
11 through (I) of paragraph (6) of subsection (d) of this
12 Section; subsections (e), (i), and (k) of this Section;
13 Section 30; and Section 35, and must comply with this
14 Act.

15 (B) For authority utility poles that support
16 aerial facilities used to provide communications
17 services or electric service, wireless providers shall
18 comply with the process for make-ready work under 47
19 U.S.C. 224 and its implementing regulations, and the
20 authority shall follow a substantially similar process
21 for make-ready work except to the extent that the
22 timing requirements are otherwise addressed in this
23 Act. The good-faith estimate of the person owning or
24 controlling the authority utility pole for any
25 make-ready work necessary to enable the pole to support
26 the requested collocation shall include authority

1 utility pole replacement, if necessary.

2 (C) For authority utility poles that do not support
3 aerial facilities used to provide communications
4 services or electric service, the authority shall
5 provide a good-faith estimate for any make-ready work
6 necessary to enable the authority utility pole to
7 support the requested collocation, including pole
8 replacement, if necessary, within 90 days after
9 receipt of a complete application. Make-ready work,
10 including any authority utility pole replacement,
11 shall be completed within 60 days of written acceptance
12 of the good-faith estimate by the applicant at the
13 wireless provider's sole cost and expense.
14 Alternatively, if the authority determines that
15 applicable codes or public safety regulations require
16 the authority utility pole to be replaced to support
17 the requested collocation, the authority may require
18 the wireless provider to replace the authority utility
19 pole at the wireless provider's sole cost and expense.

20 (D) The authority shall not require more
21 make-ready work than required to meet applicable codes
22 or industry standards. Make-ready work may include
23 work needed to accommodate additional public safety
24 communications needs that are identified in a
25 documented and approved plan for the deployment of
26 public safety equipment as specified in paragraph (1)

1 of subsection (d) of this Section and included in an
2 existing or preliminary authority or public service
3 agency budget for attachment within one year of the
4 application. Fees for make-ready work, including any
5 authority utility pole replacement, shall not exceed
6 actual costs or the amount charged to communications
7 service providers for similar work and shall not
8 include any consultants' fees or expenses for
9 authority utility poles that do not support aerial
10 facilities used to provide communications services or
11 electric service. Make-ready work, including any pole
12 replacement, shall be completed within 60 days of
13 written acceptance of the good-faith estimate by the
14 wireless provider, at its sole cost and expense.

15 (E) A wireless provider that has an existing
16 agreement with the authority on the effective date of
17 the Act may accept the rates, fees, and terms that an
18 authority makes available under this Act for the
19 collocation of small wireless facilities or the
20 installation of new utility poles for the installation
21 ~~collocation~~ of small wireless facilities that are the
22 subject of an application submitted 2 or more years
23 after the effective date of the Act as provided in this
24 paragraph (4) by notifying the authority that it opts
25 to accept such rates, fees, and terms. The existing
26 agreement remains in effect, subject to applicable

1 termination provisions, for the small wireless
2 facilities the wireless provider has collocated on the
3 authority's utility poles pursuant to applications
4 submitted to the authority before the wireless
5 provider provides such notice and exercises its option
6 under this subparagraph.

7 (j) An authority shall authorize the collocation of small
8 wireless facilities on utility poles owned or controlled by the
9 authority that are not located within rights-of-way to the same
10 extent the authority currently permits access to utility poles
11 for other commercial projects or uses. The collocations shall
12 be subject to reasonable and nondiscriminatory rates, fees, and
13 terms as provided in an agreement between the authority and the
14 wireless provider.

15 (k) Nothing in this Section precludes an authority from
16 adopting reasonable rules with respect to the removal of
17 abandoned small wireless facilities. A small wireless facility
18 that is not operated for a continuous period of 12 months shall
19 be considered abandoned and the owner of the facility must
20 remove the small wireless facility within 90 days after receipt
21 of written notice from the authority notifying the owner of the
22 abandonment. The notice shall be sent by certified or
23 registered mail, return receipt requested, by the authority to
24 the owner at the last known address of the owner. If the small
25 wireless facility is not removed within 90 days of such notice,
26 the authority may remove or cause the removal of the such

1 facility pursuant to the terms of its pole attachment agreement
2 for authority utility poles or through whatever actions are
3 provided for abatement of nuisances or by other law for removal
4 and cost recovery. An authority may require a wireless provider
5 to provide written notice to the authority if it sells or
6 transfers small wireless facilities subject to this Act within
7 the jurisdictional boundary of the authority. Such notice shall
8 include the name and contact information of the new wireless
9 provider.

10 (1) Nothing in this Section requires an authority to
11 install or maintain any specific utility pole or to continue to
12 install or maintain utility poles in any location if the
13 authority makes a non-discriminatory decision to eliminate
14 above-ground utility poles of a particular type generally, such
15 as electric utility poles, in all or a significant portion of
16 its geographic jurisdiction. For authority utility poles with
17 collocated small wireless facilities in place when an authority
18 makes a decision to eliminate above-ground utility poles of a
19 particular type generally, the authority shall either (i)
20 continue to maintain the authority utility pole or install and
21 maintain a reasonable alternative utility pole or wireless
22 support structure for the collocation of the small wireless
23 facility, or (ii) offer to sell the utility pole to the
24 wireless provider at a reasonable cost or allow the wireless
25 provider to install its own utility pole so it can maintain
26 service from that location.

1 (Source: P.A. 100-585, eff. 6-1-18.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.