



Sen. Michael E. Hastings

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10200HB1738sam002

LRB102 00350 SPS 27569 a

1 AMENDMENT TO HOUSE BILL 1738

2 AMENDMENT NO. _____. Amend House Bill 1738 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Small Wireless Facilities Deployment Act
5 is reenacted and amended as follows:

6 (50 ILCS 840/Act title)

7 An Act concerning local government.

8 (50 ILCS 840/1) (was 50 ILCS 835/1)

9 Sec. 1. Short title. This Act may be cited as the Small
10 Wireless Facilities Deployment Act.

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

12 (50 ILCS 840/5) (was 50 ILCS 835/5)

13 Sec. 5. Legislative intent. Small wireless facilities are
14 critical to delivering wireless access to advanced technology,

1 broadband, and 9-1-1 services to homes, businesses, and
2 schools in Illinois. Because of the integral role that the
3 delivery of wireless technology plays in the economic vitality
4 of the State of Illinois and in the lives of its citizens, the
5 General Assembly has determined that a law addressing the
6 deployment of wireless technology is of vital interest to the
7 State. To ensure that public and private Illinois consumers
8 continue to benefit from these services as soon as possible
9 and to ensure that providers of wireless access have a fair and
10 predictable process for the deployment of small wireless
11 facilities in a manner consistent with the character of the
12 area in which the small wireless facilities are deployed, the
13 General Assembly is enacting this Act, which specifies how
14 local authorities may regulate the collocation of small
15 wireless facilities.

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

17 (50 ILCS 840/7) (was 50 ILCS 835/7)

18 Sec. 7. Applicability. This Act does not apply to a
19 municipality with a population of 1,000,000 or more.

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

21 (50 ILCS 840/10) (was 50 ILCS 835/10)

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

23 "Antenna" means communications equipment that transmits or
24 receives electromagnetic radio frequency signals used in the

1 provision of wireless services.

2 "Applicable codes" means uniform building, fire,
3 electrical, plumbing, or mechanical codes adopted by a
4 recognized national code organization or local amendments to
5 those codes, including the National Electric Safety Code.

6 "Applicant" means any person who submits an application
7 and is a wireless provider.

8 "Application" means a request submitted by an applicant to
9 an authority for a permit to collocate small wireless
10 facilities, and a request that includes the installation of a
11 new utility pole for such collocation, as well as any
12 applicable fee for the review of such application.

13 "Authority" means a unit of local government that has
14 jurisdiction and control for use of public rights-of-way as
15 provided by the Illinois Highway Code for placements within
16 public rights-of-way or has zoning or land use control for
17 placements not within public rights-of-way.

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

20 "Collocate" or "collocation" means to install, mount,
21 maintain, modify, operate, or replace wireless facilities on
22 or adjacent to a wireless support structure or utility pole.

23 "Communications service" means cable service, as defined
24 in 47 U.S.C. 522(6), as amended; information service, as
25 defined in 47 U.S.C. 153(24), as amended; telecommunications
26 service, as defined in 47 U.S.C. 153(53), as amended; mobile

1 service, as defined in 47 U.S.C. 153(33), as amended; or
2 wireless service other than mobile service.

3 "Communications service provider" means a cable operator,
4 as defined in 47 U.S.C. 522(5), as amended; a provider of
5 information service, as defined in 47 U.S.C. 153(24), as
6 amended; a telecommunications carrier, as defined in 47 U.S.C.
7 153(51), as amended; or a wireless provider.

8 "FCC" means the Federal Communications Commission of the
9 United States.

10 "Fee" means a one-time charge.

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

1 Illinois State Historic Preservation Office is pending.

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

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

8 "Permit" means a written authorization required by an
9 authority to perform an action or initiate, continue, or
10 complete a project.

11 "Person" means an individual, corporation, limited
12 liability company, partnership, association, trust, or other
13 entity or organization, including an authority.

14 "Public safety agency" means the functional division of
15 the federal government, the State, a unit of local government,
16 or a special purpose district located in whole or in part
17 within this State, that provides or has authority to provide
18 firefighting, police, ambulance, medical, or other emergency
19 services to respond to and manage emergency incidents.

20 "Rate" means a recurring charge.

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

25 "Small wireless facility" means a wireless facility that
26 meets both of the following qualifications: (i) each antenna

1 is located inside an enclosure of no more than 6 cubic feet in
2 volume or, in the case of an antenna that has exposed elements,
3 the antenna and all of its exposed elements could fit within an
4 imaginary enclosure of no more than 6 cubic feet; and (ii) all
5 other wireless equipment attached directly to a utility pole
6 associated with the facility is cumulatively no more than 25
7 cubic feet in volume. The following types of associated
8 ancillary equipment are not included in the calculation of
9 equipment volume: electric meter, concealment elements,
10 telecommunications demarcation box, ground-based enclosures,
11 grounding equipment, power transfer switch, cut-off switch,
12 and vertical cable runs for the connection of power and other
13 services.

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

18 "Wireless facility" means equipment at a fixed location
19 that enables wireless communications between user equipment
20 and a communications network, including: (i) equipment
21 associated with wireless communications; and (ii) radio
22 transceivers, antennas, coaxial or fiber-optic cable, regular
23 and backup power supplies, and comparable equipment,
24 regardless of technological configuration. "Wireless facility"
25 includes small wireless facilities. "Wireless facility" does
26 not include: (i) the structure or improvements on, under, or

1 within which the equipment is collocated; or (ii) wireline
2 backhaul facilities, coaxial or fiber optic cable that is
3 between wireless support structures or utility poles or
4 coaxial, or fiber optic cable that is otherwise not
5 immediately adjacent to or directly associated with an
6 antenna.

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

15 "Wireless provider" means a wireless infrastructure
16 provider or a wireless services provider.

17 "Wireless services" means any services provided to the
18 general public, including a particular class of customers, and
19 made available on a nondiscriminatory basis using licensed or
20 unlicensed spectrum, whether at a fixed location or mobile,
21 provided using wireless facilities.

22 "Wireless services provider" means a person who provides
23 wireless services.

24 "Wireless support structure" means a freestanding
25 structure, such as a monopole; tower, either guyed or
26 self-supporting; billboard; or other existing or proposed

1 structure designed to support or capable of supporting
2 wireless facilities. "Wireless support structure" does not
3 include a utility pole.

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

5 (50 ILCS 840/15) (was 50 ILCS 835/15)

6 Sec. 15. Regulation of small wireless facilities.

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

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

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

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

24 (1) An authority may not directly or indirectly
25 require an applicant to perform services unrelated to the

1 collocation for which approval is sought, such as in-kind
2 contributions to the authority, including reserving fiber,
3 conduit, or utility pole space for the authority on the
4 wireless provider's utility pole. An authority may reserve
5 space on authority utility poles for future public safety
6 uses or for the authority's electric utility uses, but a
7 reservation of space may not preclude the collocation of a
8 small wireless facility unless the authority reasonably
9 determines that the authority utility pole cannot
10 accommodate both uses.

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

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

24 (B) the location where each proposed small
25 wireless facility or utility pole would be installed
26 and photographs of the location and its immediate

1 surroundings depicting the utility poles or structures
2 on which each proposed small wireless facility would
3 be mounted or location where utility poles or
4 structures would be installed;

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

11 (D) the equipment type and model numbers for the
12 antennas and all other wireless equipment associated
13 with the small wireless facility;

14 (E) a proposed schedule for the installation and
15 completion of each small wireless facility covered by
16 the application, if approved;

17 (F) certification that the collocation complies
18 with paragraph (6) to the best of the applicant's
19 knowledge; and

20 (G) the wireless provider's certification from a
21 radio engineer that it operates the small wireless
22 facility within all applicable FCC standards.

23 (3) Subject to paragraph (6), an authority may not
24 require the placement of small wireless facilities on any
25 specific utility pole, or category of utility poles, or
26 require multiple antenna systems on a single utility pole;

1 however, with respect to an application for the
2 collocation of a small wireless facility associated with a
3 new utility pole, an authority may propose that the small
4 wireless facility be collocated on an existing utility
5 pole or existing wireless support structure within 200
6 feet of the proposed collocation, which the applicant
7 shall accept if it has the right to use the alternate
8 structure on reasonable terms and conditions and the
9 alternate location and structure does not impose technical
10 limits or additional material costs as determined by the
11 applicant. The authority may require the applicant to
12 provide a written certification describing the property
13 rights, technical limits or material cost reasons the
14 alternate location does not satisfy the criteria in this
15 paragraph (3).

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

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

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

16 (6) An authority may require that:

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

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

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

25 (C) the wireless provider comply with applicable
26 spacing requirements in applicable codes and

1 ordinances concerning the location of ground-mounted
2 equipment located in the right-of-way if the
3 requirements include a waiver, zoning, or other
4 process that addresses wireless provider requests for
5 exception or variance and do not prohibit granting of
6 such exceptions or variances;

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

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

1 and height of small wireless facilities, or the
2 abandonment and removal of small wireless facilities;

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

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

23 (H) the wireless provider comply with written
24 design standards that are generally applicable for
25 decorative utility poles, or reasonable stealth,
26 concealment, and aesthetic requirements that are

1 identified by the authority in an ordinance, written
2 policy adopted by the governing board of the
3 authority, a comprehensive plan, or other written
4 design plan that applies to other occupiers of the
5 rights-of-way, including on a historic landmark or in
6 a historic district;

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

26 (J) When a wireless provider replaces or adds a

1 new radio transceiver or antennas to an existing small
2 wireless facility, certification by the wireless
3 provider from a radio engineer that the continuing
4 operation of the small wireless facility complies with
5 all applicable FCC standards.

6 (7) Within 30 days after receiving an application, an
7 authority must determine whether the application is
8 complete and notify the applicant. If an application is
9 incomplete, an authority must specifically identify the
10 missing information. An application shall be deemed
11 complete if the authority fails to provide notification to
12 the applicant within 30 days after when all documents,
13 information, and fees specifically enumerated in the
14 authority's permit application form are submitted by the
15 applicant to the authority. Processing deadlines are
16 tolled from the time the authority sends the notice of
17 incompleteness to the time the applicant provides the
18 missing information.

19 (8) An authority shall process applications as
20 follows:

21 (A) an application to collocate a small wireless
22 facility on an existing utility pole or wireless
23 support structure shall be processed on a
24 nondiscriminatory basis and deemed approved if the
25 authority fails to approve or deny the application
26 within 90 days; however, if an applicant intends to

1 proceed with the permitted activity on a deemed
2 approved basis, the applicant must notify the
3 authority in writing of its intention to invoke the
4 deemed approved remedy no sooner than 75 days after
5 the submission of a completed application; the permit
6 shall be deemed approved on the latter of the 90th day
7 after submission of the complete application or the
8 10th day after the receipt of the deemed approved
9 notice by the authority; the receipt of the deemed
10 approved notice shall not preclude the authority's
11 denial of the permit request within the time limits as
12 provided under this Act; and

13 (B) an application to collocate a small wireless
14 facility that includes the installation of a new
15 utility pole shall be processed on a nondiscriminatory
16 basis and deemed approved if the authority fails to
17 approve or deny the application within 120 days;
18 however, if an applicant intends to proceed with the
19 permitted activity on a deemed approved basis, the
20 applicant must notify the authority in writing of its
21 intention to invoke the deemed approved remedy no
22 sooner than 105 days after the submission of a
23 completed application; the permit shall be deemed
24 approved on the latter of the 120th day after
25 submission of the complete application or the 10th day
26 after the receipt of the deemed approved notice by the

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

5 (9) An authority shall approve an application unless
6 the application does not meet the requirements of this
7 Act. If an authority determines that applicable codes,
8 local code provisions or regulations that concern public
9 safety, or the requirements of paragraph (6) require that
10 the utility pole or wireless support structure be replaced
11 before the requested collocation, approval may be
12 conditioned on the replacement of the utility pole or
13 wireless support structure at the cost of the provider.
14 The authority must document the basis for a denial,
15 including the specific code provisions or application
16 conditions on which the denial was based, and send the
17 documentation to the applicant on or before the day the
18 authority denies an application. The applicant may cure
19 the deficiencies identified by the authority and resubmit
20 the revised application once within 30 days after notice
21 of denial is sent to the applicant without paying an
22 additional application fee. The authority shall approve or
23 deny the revised application within 30 days after the
24 applicant resubmits the application or it is deemed
25 approved; however, the applicant must notify the authority
26 in writing of its intention to proceed with the permitted

1 activity on a deemed approved basis, which may be
2 submitted with the resubmitted application. Any subsequent
3 review shall be limited to the deficiencies cited in the
4 denial. However, this revised application cure does not
5 apply if the cure requires the review of a new location,
6 new or different structure to be collocated upon, new
7 antennas, or other wireless equipment associated with the
8 small wireless facility.

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

11 (A) the express agreement in writing by both the
12 applicant and the authority; or

13 (B) a local, State, or federal disaster
14 declaration or similar emergency that causes the
15 delay.

16 (11) An applicant seeking to collocate small wireless
17 facilities within the jurisdiction of a single authority
18 shall be allowed, at the applicant's discretion, to file a
19 consolidated application and receive a single permit for
20 the collocation of up to 25 small wireless facilities if
21 the collocations each involve substantially the same type
22 of small wireless facility and substantially the same type
23 of structure. If an application includes multiple small
24 wireless facilities, the authority may remove small
25 wireless facility collocations from the application and
26 treat separately small wireless facility collocations for

1 which incomplete information has been provided or that do
2 not qualify for consolidated treatment or that are denied.
3 The authority may issue separate permits for each
4 collocation that is approved in a consolidated
5 application.

6 (12) Collocation for which a permit is granted shall
7 be completed within 180 days after issuance of the permit,
8 unless the authority and the wireless provider agree to
9 extend this period or a delay is caused by make-ready work
10 for an authority utility pole or by the lack of commercial
11 power or backhaul availability at the site, provided the
12 wireless provider has made a timely request within 60 days
13 after the issuance of the permit for commercial power or
14 backhaul services, and the additional time to complete
15 installation does not exceed 360 days after issuance of
16 the permit. Otherwise, the permit shall be void unless the
17 authority grants an extension in writing to the applicant.

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

1 time of renewal.

2 (14) An authority may not prohibit, either expressly
3 or de facto, the (i) filing, receiving, or processing
4 applications, or (ii) issuing of permits or other
5 approvals, if any, for the collocation of small wireless
6 facilities unless there has been a local, State, or
7 federal disaster declaration or similar emergency that
8 causes the delay.

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

17 (e) Application fees are subject to the following
18 requirements:

19 (1) An authority may charge an application fee of up
20 to \$650 for an application to collocate a single small
21 wireless facility on an existing utility pole or wireless
22 support structure and up to \$350 for each small wireless
23 facility addressed in an application to collocate more
24 than one small wireless facility on existing utility poles
25 or wireless support structures.

26 (2) An authority may charge an application fee of

1 \$1,000 for each small wireless facility addressed in an
2 application that includes the installation of a new
3 utility for such collocation.

4 (3) Notwithstanding any contrary provision of State
5 law or local ordinance, applications pursuant to this
6 Section must be accompanied by the required application
7 fee.

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

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

1 applicable safety codes. However, an authority may require a
2 permit to work within rights-of-way for activities that affect
3 traffic patterns or require lane closures.

4 (g) Nothing in this Act authorizes a person to collocate
5 small wireless facilities on: (1) property owned by a private
6 party or property owned or controlled by a unit of local
7 government that is not located within rights-of-way, subject
8 to subsection (j) of this Section, or a privately owned
9 utility pole or wireless support structure without the consent
10 of the property owner; (2) property owned, leased, or
11 controlled by a park district, forest preserve district, or
12 conservation district for public park, recreation, or
13 conservation purposes without the consent of the affected
14 district, excluding the placement of facilities on
15 rights-of-way located in an affected district that are under
16 the jurisdiction and control of a different unit of local
17 government as provided by the Illinois Highway Code; or (3)
18 property owned by a rail carrier registered under Section
19 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or
20 any other public commuter rail service, or an electric utility
21 as defined in Section 16-102 of the Public Utilities Act,
22 without the consent of the rail carrier, public commuter rail
23 service, or electric utility. The provisions of this Act do
24 not apply to an electric or gas public utility or such
25 utility's wireless facilities if the facilities are being
26 used, developed, and maintained consistent with the provisions

1 of subsection (i) of Section 16-108.5 of the Public Utilities
2 Act.

3 For the purposes of this subsection, "public utility" has
4 the meaning given to that term in Section 3-105 of the Public
5 Utilities Act. Nothing in this Act shall be construed to
6 relieve any person from any requirement (1) to obtain a
7 franchise or a State-issued authorization to offer cable
8 service or video service or (2) to obtain any required
9 permission to install, place, maintain, or operate
10 communications facilities, other than small wireless
11 facilities subject to this Act.

12 (h) Agreements between authorities and wireless providers
13 that relate to the collocation of small wireless facilities in
14 the right-of-way, including the collocation of small wireless
15 facilities on authority utility poles, that are in effect on
16 the effective date of this Act remain in effect for all small
17 wireless facilities collocated on the authority's utility
18 poles pursuant to applications submitted to the authority
19 before the effective date of this Act, subject to applicable
20 termination provisions. Such agreements entered into after the
21 effective date of the Act shall comply with the Act.

22 (i) An authority shall allow the collocation of small
23 wireless facilities on authority utility poles subject to the
24 following:

25 (1) An authority may not enter into an exclusive
26 arrangement with any person for the right to attach small

1 wireless facilities to authority utility poles.

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

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

22 (4) Authorities or other persons owning or controlling
23 authority utility poles within the right-of-way shall
24 offer rates, fees, and other terms that comply with
25 subparagraphs (A) through (E) of this paragraph (4).
26 Within 2 months after the effective date of this Act, an

1 authority or a person owning or controlling authority
2 utility poles shall make available, through ordinance or
3 an authority utility pole attachment agreement, license or
4 other agreement that makes available to wireless
5 providers, the rates, fees, and terms for the collocation
6 of small wireless facilities on authority utility poles
7 that comply with this Act and with subparagraphs (A)
8 through (E) of this paragraph (4). In the absence of such
9 an ordinance or agreement that complies with this Act, and
10 until such a compliant ordinance or agreement is adopted,
11 wireless providers may collocate small wireless facilities
12 and install utility poles under the requirements of this
13 Act.

14 (A) The rates, fees, and terms must be
15 nondiscriminatory, competitively neutral, and
16 commercially reasonable, and may address, among other
17 requirements, the requirements in subparagraphs (A)
18 through (I) of paragraph (6) of subsection (d) of this
19 Section; subsections (e), (i), and (k) of this
20 Section; Section 30; and Section 35, and must comply
21 with this Act.

22 (B) For authority utility poles that support
23 aerial facilities used to provide communications
24 services or electric service, wireless providers shall
25 comply with the process for make-ready work under 47
26 U.S.C. 224 and its implementing regulations, and the

1 authority shall follow a substantially similar process
2 for make-ready work except to the extent that the
3 timing requirements are otherwise addressed in this
4 Act. The good-faith estimate of the person owning or
5 controlling the authority utility pole for any
6 make-ready work necessary to enable the pole to
7 support the requested collocation shall include
8 authority utility pole replacement, if necessary.

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

1 expense.

2 (D) The authority shall not require more
3 make-ready work than required to meet applicable codes
4 or industry standards. Make-ready work may include
5 work needed to accommodate additional public safety
6 communications needs that are identified in a
7 documented and approved plan for the deployment of
8 public safety equipment as specified in paragraph (1)
9 of subsection (d) of this Section and included in an
10 existing or preliminary authority or public service
11 agency budget for attachment within one year of the
12 application. Fees for make-ready work, including any
13 authority utility pole replacement, shall not exceed
14 actual costs or the amount charged to communications
15 service providers for similar work and shall not
16 include any consultants' fees or expenses for
17 authority utility poles that do not support aerial
18 facilities used to provide communications services or
19 electric service. Make-ready work, including any pole
20 replacement, shall be completed within 60 days of
21 written acceptance of the good-faith estimate by the
22 wireless provider, at its sole cost and expense.

23 (E) A wireless provider that has an existing
24 agreement with the authority on the effective date of
25 the Act may accept the rates, fees, and terms that an
26 authority makes available under this Act for the

1 collocation of small wireless facilities or the
2 installation of new utility poles for the collocation
3 of small wireless facilities that are the subject of
4 an application submitted 2 or more years after the
5 effective date of the Act as provided in this
6 paragraph (4) by notifying the authority that it opts
7 to accept such rates, fees, and terms. The existing
8 agreement remains in effect, subject to applicable
9 termination provisions, for the small wireless
10 facilities the wireless provider has collocated on the
11 authority's utility poles pursuant to applications
12 submitted to the authority before the wireless
13 provider provides such notice and exercises its option
14 under this subparagraph.

15 (j) An authority shall authorize the collocation of small
16 wireless facilities on utility poles owned or controlled by
17 the authority that are not located within rights-of-way to the
18 same extent the authority currently permits access to utility
19 poles for other commercial projects or uses. The collocations
20 shall be subject to reasonable and nondiscriminatory rates,
21 fees, and terms as provided in an agreement between the
22 authority and the wireless provider.

23 (k) Nothing in this Section precludes an authority from
24 adopting reasonable rules with respect to the removal of
25 abandoned small wireless facilities. A small wireless facility
26 that is not operated for a continuous period of 12 months shall

1 be considered abandoned and the owner of the facility must
2 remove the small wireless facility within 90 days after
3 receipt of written notice from the authority notifying the
4 owner of the abandonment. The notice shall be sent by
5 certified or registered mail, return receipt requested, by the
6 authority to the owner at the last known address of the owner.
7 If the small wireless facility is not removed within 90 days of
8 such notice, the authority may remove or cause the removal of
9 the facility pursuant to the terms of its pole attachment
10 agreement for authority utility poles or through whatever
11 actions are provided for abatement of nuisances or by other
12 law for removal and cost recovery. An authority may require a
13 wireless provider to provide written notice to the authority
14 if it sells or transfers small wireless facilities subject to
15 this Act within the jurisdictional boundary of the authority.
16 Such notice shall include the name and contact information of
17 the new wireless provider.

18 (1) Nothing in this Section requires an authority to
19 install or maintain any specific utility pole or to continue
20 to install or maintain utility poles in any location if the
21 authority makes a non-discriminatory decision to eliminate
22 above-ground utility poles of a particular type generally,
23 such as electric utility poles, in all or a significant
24 portion of its geographic jurisdiction. For authority utility
25 poles with collocated small wireless facilities in place when
26 an authority makes a decision to eliminate above-ground

1 utility poles of a particular type generally, the authority
2 shall either (i) continue to maintain the authority utility
3 pole or install and maintain a reasonable alternative utility
4 pole or wireless support structure for the collocation of the
5 small wireless facility, or (ii) offer to sell the utility
6 pole to the wireless provider at a reasonable cost or allow the
7 wireless provider to install its own utility pole so it can
8 maintain service from that location.

9 (Source: P.A. 102-9, eff. 6-3-21.)

10 (50 ILCS 840/20) (was 50 ILCS 835/20)

11 Sec. 20. Local authority. Subject to this Act and
12 applicable federal law, an authority may continue to exercise
13 zoning, land use, planning, and permitting authority within
14 its territorial boundaries, including with respect to wireless
15 support structures and utility poles; except that no authority
16 shall have or exercise any jurisdiction or authority over the
17 design, engineering, construction, installation, or operation
18 of any small wireless facility located in an interior
19 structure or upon the site of any campus, stadium, or athletic
20 facility not otherwise owned or controlled by the authority,
21 other than to comply with applicable codes and local code
22 provisions concerning public safety. Nothing in this Act
23 authorizes the State or any political subdivision, including
24 an authority, to require wireless facility deployment or to
25 regulate wireless services.

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

2 (50 ILCS 840/25) (was 50 ILCS 835/25)

3 Sec. 25. Dispute resolution. A circuit court has
4 jurisdiction to resolve all disputes arising under this Act.
5 Pending resolution of a dispute concerning rates for
6 collocation of small wireless facilities on authority utility
7 poles within the right-of-way, the authority shall allow the
8 collocating person to collocate on its poles at annual rates
9 of no more than \$200 per year per authority utility pole, with
10 rates to be determined upon final resolution of the dispute.

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

12 (50 ILCS 840/30) (was 50 ILCS 835/30)

13 Sec. 30. Indemnification. A wireless provider shall
14 indemnify and hold an authority harmless against any and all
15 liability or loss from personal injury or property damage
16 resulting from or arising out of, in whole or in part, the use
17 or occupancy of the authority improvements or right-of-way
18 associated with such improvements by the wireless provider or
19 its employees, agents, or contractors arising out of the
20 rights and privileges granted under this Act. A wireless
21 provider has no obligation to indemnify or hold harmless
22 against any liabilities and losses as may be due to or caused
23 by the sole negligence of the authority or its employees or
24 agents. A wireless provider shall further waive any claims

1 that they may have against an authority with respect to
2 consequential, incidental, or special damages, however caused,
3 based on the theory of liability.

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

5 (50 ILCS 840/35) (was 50 ILCS 835/35)

6 Sec. 35. Insurance.

7 (a) Except for a wireless provider with an existing
8 franchise to occupy and operate in the rights-of-way, during
9 the period in which the wireless provider's facilities are
10 located on the authority improvements or rights-of-way, the
11 authority may require the wireless provider to carry, at the
12 wireless provider's own cost and expense, the following
13 insurance: (i) property insurance for its property's
14 replacement cost against all risks; (ii) workers' compensation
15 insurance, as required by law; or (iii) commercial general
16 liability insurance with respect to its activities on the
17 authority improvements or rights-of-way to afford minimum
18 protection limits consistent with its requirements of other
19 users of authority improvements or rights-of-way, including
20 coverage for bodily injury and property damage. An authority
21 may require a wireless provider to include the authority as an
22 additional insured on the commercial general liability policy
23 and provide certification and documentation of inclusion of
24 the authority in a commercial general liability policy as
25 reasonably required by the authority.

1 (b) A wireless provider may self-insure all or a portion
2 of the insurance coverage and limit requirements required by
3 an authority. A wireless provider that self-insures is not
4 required, to the extent of the self-insurance, to comply with
5 the requirement for the naming of additional insureds under
6 this Section. A wireless provider that elects to self-insure
7 shall provide to the authority evidence sufficient to
8 demonstrate its financial ability to self-insure the insurance
9 coverage and limits required by the authority.

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

11 (50 ILCS 840/40) (was 50 ILCS 835/40)

12 Sec. 40. Home rule. A home rule unit may not regulate small
13 wireless facilities in a manner inconsistent with this Act.
14 This Section is a limitation under subsection (i) of Section 6
15 of Article VII of the Illinois Constitution on the concurrent
16 exercise by home rule units of powers and functions exercised
17 by the State.

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

19 (50 ILCS 840/45)

20 Sec. 45. Continuation of Act; validation.

21 (a) The General Assembly finds and declares that Public
22 Act 102-9 and this amendatory Act of the 102nd General
23 Assembly manifest ~~this amendatory Act of the 102nd General~~
24 ~~Assembly manifests~~ the intention of the General Assembly to

1 extend the repeal of this Act and have this Act continue in
2 effect until December 31, 2024.

3 (b) This Act is ~~Section shall be~~ deemed to have been in
4 continuous effect since June 1, 2021 and it shall continue to
5 be in effect ~~henceforward~~ until it is ~~otherwise~~ lawfully
6 repealed. The changes made to this Act by Public Act 102-9 ~~All~~
7 ~~previously enacted amendments to this Act taking effect on or~~
8 ~~after June 1, 2021,~~ are hereby validated. All actions taken in
9 reliance on or under this Act by any person or entity are
10 hereby validated.

11 (c) Public Act 102-9 was intended to reenact this Act, but
12 it did not set forth this Act in full. To ensure the continuing
13 effectiveness of this Act, this Act is set forth in full and
14 reenacted by this amendatory Act of the 102nd General
15 Assembly. ~~In order to ensure the continuing effectiveness of~~
16 ~~this Act, it is set forth in full and reenacted by this~~
17 ~~amendatory Act of the 102nd General Assembly.~~ Striking and
18 underscoring are used only to show changes being made to the
19 base text. This reenactment is intended as a continuation of
20 this Act. This reenactment is not intended to supersede any
21 amendment to this Act that may be made by any other Public Act
22 of the 102nd General Assembly. ~~This reenactment is intended as~~
23 ~~a continuation of this Act. It is not intended to supersede any~~
24 ~~amendment to this Act that is enacted by the 102nd General~~
25 ~~Assembly.~~

26 (Source: P.A. 102-9, eff. 6-3-21.)

1 (50 ILCS 840/90) (was 50 ILCS 835/90)

2 Sec. 90. Repeal. This Act is repealed on December 31,
3 2024.

4 (Source: P.A. 102-9, eff. 6-3-21.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law."