

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2439

Introduced 2/19/2021, by Rep. Lawrence Walsh, Jr.

SYNOPSIS AS INTRODUCED:

50 ILCS 840/15	was 50 ILCS 835/15
50 ILCS 840/90 rep.	
65 ILCS 5/11-80-24 new	

Amends the Small Wireless Facilities Deployment Act. Provides that an authority may require a wireless provider to include documentation and certification that the small wireless facility and location meets all FCC standards and regulations at the wireless provider's sole cost and expense. Provides that an authority may require (currently, propose) that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 200 (currently, 100) feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location and structure does not impose technical limits or additional significant costs (currently, additional material costs as determined by the applicant). Provides that an authority may require a wireless provider to comply with generally applicable standards, including acoustic regulations. Repeals a Section that repeals the Act on June 1, 2021. Amends the Illinois Municipal Code. Provides that a municipality may require that a small wireless facility be collocated on any existing utility pole within its public rights-of-way and the entity owning the utility pole shall provide access for that purpose. Provides that any fee charged for the use of a utility pole under the Section shall be at the lowest rate charged by the entity owning the utility pole and shall not exceed the entity's actual costs. Effective immediately, except for certain provisions.

LRB102 04019 AWJ 14035 b

FISCAL NOTE ACT  
MAY APPLY

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 Section 15 as follows:

6 (50 ILCS 840/15) (was 50 ILCS 835/15)

7 (Section scheduled to be repealed on June 1, 2021)

8 Sec. 15. Regulation of small wireless facilities.

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

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

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

22 (d) An authority may require an applicant to obtain one or  
23 more permits to collocate a small wireless facility. An

1 authority shall receive applications for, process, and issue  
2 permits subject to the following requirements:

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

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

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

1 of 1989;

2 (B) the location where each proposed small  
3 wireless facility or utility pole would be installed  
4 and photographs of the location and its immediate  
5 surroundings depicting the utility poles or structures  
6 on which each proposed small wireless facility would  
7 be mounted or location where utility poles or  
8 structures would be installed, including requiring  
9 documentation and certification that the small  
10 wireless facility and location meets all FCC standards  
11 and regulations at the wireless provider's sole cost  
12 and expense;

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

19 (D) the equipment type and model numbers for the  
20 antennas and all other wireless equipment associated  
21 with the small wireless facility, including requiring  
22 documentation and certification that all equipment  
23 meets applicable FCC standards and regulations at the  
24 wireless provider's sole cost and expense;

25 (E) a proposed schedule for the installation and  
26 completion of each small wireless facility covered by

1 the application, if approved; and

2 (F) certification that the collocation complies  
3 with paragraph (6) to the best of the applicant's  
4 knowledge.

5 (3) Subject to paragraph (6), an authority may not  
6 require the placement of small wireless facilities on any  
7 specific utility pole, or category of utility poles, or  
8 require multiple antenna systems on a single utility pole;  
9 however, with respect to an application for the  
10 collocation of a small wireless facility associated with a  
11 new utility pole, an authority may require ~~propose~~ that  
12 the small wireless facility be collocated on an existing  
13 utility pole or existing wireless support structure within  
14 200 ~~100~~ feet of the proposed collocation, which the  
15 applicant shall accept if it has the right to use the  
16 alternate structure on reasonable terms and conditions and  
17 the alternate location and structure does not impose  
18 technical limits or additional significant ~~material~~ costs  
19 ~~as determined by the applicant~~. The authority may require  
20 the applicant to provide a written certification  
21 describing the property rights, technical limits or  
22 ~~material~~ cost reasons the alternate location does not  
23 satisfy the criteria in this paragraph (3).

24 (4) Subject to paragraph (6), an authority may not  
25 limit the placement of small wireless facilities mounted  
26 on a utility pole or a wireless support structure by

1 minimum horizontal separation distances.

2 (5) An authority may limit the maximum height of a  
3 small wireless facility to 10 feet above the utility pole  
4 or wireless support structure on which the small wireless  
5 facility is collocated. Subject to any applicable waiver,  
6 zoning, or other process that addresses wireless provider  
7 requests for an exception or variance and does not  
8 prohibit granting of such exceptions or variances, the  
9 authority may limit the height of new or replacement  
10 utility poles or wireless support structures on which  
11 small wireless facilities are collocated to the higher of:  
12 (i) 10 feet in height above the tallest existing utility  
13 pole, other than a utility pole supporting only wireless  
14 facilities, that is in place on the date the application  
15 is submitted to the authority, that is located within 300  
16 feet of the new or replacement utility pole or wireless  
17 support structure and that is in the same right-of-way  
18 within the jurisdictional boundary of the authority,  
19 provided the authority may designate which intersecting  
20 right-of-way within 300 feet of the proposed utility pole  
21 or wireless support structures shall control the height  
22 limitation for such facility; or (ii) 45 feet above ground  
23 level.

24 (6) An authority may require that:

25 (A) the wireless provider's operation of the small  
26 wireless facilities does not interfere with the

1 frequencies used by a public safety agency for public  
2 safety communications; a wireless provider shall  
3 install small wireless facilities of the type and  
4 frequency that will not cause unacceptable  
5 interference with a public safety agency's  
6 communications equipment; unacceptable interference  
7 will be determined by and measured in accordance with  
8 industry standards and the FCC's regulations  
9 addressing unacceptable interference to public safety  
10 spectrum or any other spectrum licensed by a public  
11 safety agency; if a small wireless facility causes  
12 such interference, and the wireless provider has been  
13 given written notice of the interference by the public  
14 safety agency, the wireless provider, at its own  
15 expense, shall take all reasonable steps necessary to  
16 correct and eliminate the interference, including, but  
17 not limited to, powering down the small wireless  
18 facility and later powering up the small wireless  
19 facility for intermittent testing, if necessary; the  
20 authority may terminate a permit for a small wireless  
21 facility based on such interference if the wireless  
22 provider is not making a good faith effort to remedy  
23 the problem in a manner consistent with the abatement  
24 and resolution procedures for interference with public  
25 safety spectrum established by the FCC including 47  
26 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672

1 through 47 CFR 90.675;

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

7 (C) the wireless provider comply with applicable  
8 spacing requirements in applicable codes and  
9 ordinances concerning the location of ground-mounted  
10 equipment located in the right-of-way if the  
11 requirements include a waiver, zoning, or other  
12 process that addresses wireless provider requests for  
13 exception or variance and do not prohibit granting of  
14 such exceptions or variances;

15 (D) the wireless provider comply with local code  
16 provisions or regulations concerning undergrounding  
17 requirements that prohibit the installation of new or  
18 the modification of existing utility poles in a  
19 right-of-way without prior approval if the  
20 requirements include a waiver, zoning, or other  
21 process that addresses requests to install such new  
22 utility poles or modify such existing utility poles  
23 and do not prohibit the replacement of utility poles;

24 (E) the wireless provider comply with generally  
25 applicable standards that are consistent with this Act  
26 and adopted by an authority for construction and



1 public safety in the rights-of-way, including, but not  
2 limited to, reasonable and nondiscriminatory wiring  
3 and cabling requirements, grounding requirements,  
4 utility pole extension requirements, acoustic  
5 regulations, and signage limitations; and shall comply  
6 with reasonable and nondiscriminatory requirements  
7 that are consistent with this Act and adopted by an  
8 authority regulating the location, size, surface area  
9 and height of small wireless facilities, or the  
10 abandonment and removal of small wireless facilities;

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

1           Electronics Engineers;

2           (G) the wireless provider comply with the  
3 applicable codes and local code provisions or  
4 regulations that concern public safety;

5           (H) the wireless provider comply with written  
6 design standards that are generally applicable for  
7 decorative utility poles, or reasonable stealth,  
8 concealment, and aesthetic requirements that are  
9 identified by the authority in an ordinance, written  
10 policy adopted by the governing board of the  
11 authority, a comprehensive plan, or other written  
12 design plan that applies to other occupiers of the  
13 rights-of-way, including on a historic landmark or in  
14 a historic district; ~~and~~

15           (I) subject to subsection (c) of this Section, and  
16 except for facilities excluded from evaluation for  
17 effects on historic properties under 47 CFR  
18 1.1307(a)(4), reasonable, technically feasible and  
19 non-discriminatory design or concealment measures in a  
20 historic district or historic landmark; any such  
21 design or concealment measures, including restrictions  
22 on a specific category of poles, may not have the  
23 effect of prohibiting any provider's technology; such  
24 design and concealment measures shall not be  
25 considered a part of the small wireless facility for  
26 purposes of the size restrictions of a small wireless

1 facility; this paragraph may not be construed to limit  
2 an authority's enforcement of historic preservation in  
3 conformance with the requirements adopted pursuant to  
4 the Illinois State Agency Historic Resources  
5 Preservation Act or the National Historic Preservation  
6 Act of 1966, 54 U.S.C. Section 300101 et seq., and the  
7 regulations adopted to implement those laws; ~~and-~~

8 (J) the wireless provider submit regular  
9 documentation and verification that the continuing  
10 operation of the provider's small wireless facilities  
11 complies with applicable FCC standards and regulations  
12 at the wireless provider's sole cost and expense.

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

26 (8) An authority shall process applications as

1 follows:

2 (A) an application to collocate a small wireless  
3 facility on an existing utility pole or wireless  
4 support structure shall be processed on a  
5 nondiscriminatory basis and deemed approved if the  
6 authority fails to approve or deny the application  
7 within 90 days; however, if an applicant intends to  
8 proceed with the permitted activity on a deemed  
9 approved basis, the applicant must notify the  
10 authority in writing of its intention to invoke the  
11 deemed approved remedy no sooner than 75 days after  
12 the submission of a completed application; the permit  
13 shall be deemed approved on the latter of the 90th day  
14 after submission of the complete application or the  
15 10th day after the receipt of the deemed approved  
16 notice by the authority; the receipt of the deemed  
17 approved notice shall not preclude the authority's  
18 denial of the permit request within the time limits as  
19 provided under this Act; and

20 (B) an application to collocate a small wireless  
21 facility that includes the installation of a new  
22 utility pole shall be processed on a nondiscriminatory  
23 basis and deemed approved if the authority fails to  
24 approve or deny the application within 120 days;  
25 however, if an applicant intends to proceed with the  
26 permitted activity on a deemed approved basis, the

1 applicant must notify the authority in writing of its  
2 intention to invoke the deemed approved remedy no  
3 sooner than 105 days after the submission of a  
4 completed application; the permit shall be deemed  
5 approved on the latter of the 120th day after  
6 submission of the complete application or the 10th day  
7 after the receipt of the deemed approved notice by the  
8 authority; the receipt of the deemed approved notice  
9 shall not preclude the authority's denial of the  
10 permit request within the time limits as provided  
11 under this Act.

12 (9) An authority shall approve an application unless  
13 the application does not meet the requirements of this  
14 Act. If an authority determines that applicable codes,  
15 local code provisions or regulations that concern public  
16 safety, or the requirements of paragraph (6) require that  
17 the utility pole or wireless support structure be replaced  
18 before the requested collocation, approval may be  
19 conditioned on the replacement of the utility pole or  
20 wireless support structure at the cost of the provider.  
21 The authority must document the basis for a denial,  
22 including the specific code provisions or application  
23 conditions on which the denial was based, and send the  
24 documentation to the applicant on or before the day the  
25 authority denies an application. The applicant may cure  
26 the deficiencies identified by the authority and resubmit

1 the revised application once within 30 days after notice  
2 of denial is sent to the applicant without paying an  
3 additional application fee. The authority shall approve or  
4 deny the revised application within 30 days after the  
5 applicant resubmits the application or it is deemed  
6 approved; however, the applicant must notify the authority  
7 in writing of its intention to proceed with the permitted  
8 activity on a deemed approved basis, which may be  
9 submitted with the resubmitted application. Any subsequent  
10 review shall be limited to the deficiencies cited in the  
11 denial. However, this revised application cure does not  
12 apply if the cure requires the review of a new location,  
13 new or different structure to be collocated upon, new  
14 antennas, or other wireless equipment associated with the  
15 small wireless facility.

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

18 (A) the express agreement in writing by both the  
19 applicant and the authority; or

20 (B) a local, State, or federal disaster  
21 declaration or similar emergency that causes the  
22 delay.

23 (11) An applicant seeking to collocate small wireless  
24 facilities within the jurisdiction of a single authority  
25 shall be allowed, at the applicant's discretion, to file a  
26 consolidated application and receive a single permit for

1 the collocation of up to 25 small wireless facilities if  
2 the collocations each involve substantially the same type  
3 of small wireless facility and substantially the same type  
4 of structure. If an application includes multiple small  
5 wireless facilities, the authority may remove small  
6 wireless facility collocations from the application and  
7 treat separately small wireless facility collocations for  
8 which incomplete information has been provided or that do  
9 not qualify for consolidated treatment or that are denied.  
10 The authority may issue separate permits for each  
11 collocation that is approved in a consolidated  
12 application.

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

25 (13) The duration of a permit shall be for a period of  
26 not less than 5 years, and the permit shall be renewed for

1 equivalent durations unless the authority makes a finding  
2 that the small wireless facilities or the new or modified  
3 utility pole do not comply with the applicable codes or  
4 local code provisions or regulations in paragraphs (6) and  
5 (9). If this Act is repealed as provided in Section 90,  
6 renewals of permits shall be subject to the applicable  
7 authority code provisions or regulations in effect at the  
8 time of renewal.

9 (14) An authority may not prohibit, either expressly  
10 or de facto, the (i) filing, receiving, or processing  
11 applications, or (ii) issuing of permits or other  
12 approvals, if any, for the collocation of small wireless  
13 facilities unless there has been a local, State, or  
14 federal disaster declaration or similar emergency that  
15 causes the delay.

16 (15) Applicants shall submit applications, supporting  
17 information, and notices by personal delivery or as  
18 otherwise required by the authority. An authority may  
19 require that permits, supporting information, and notices  
20 be submitted by personal delivery at the authority's  
21 designated place of business, by regular mail postmarked  
22 on the date due, or by any other commonly used means,  
23 including electronic mail, as required by the authority.

24 (e) Application fees are subject to the following  
25 requirements:

26 (1) An authority may charge an application fee of up



1 to \$650 for an application to collocate a single small  
2 wireless facility on an existing utility pole or wireless  
3 support structure and up to \$350 for each small wireless  
4 facility addressed in an application to collocate more  
5 than one small wireless facility on existing utility poles  
6 or wireless support structures.

7 (2) An authority may charge an application fee of  
8 \$1,000 for each small wireless facility addressed in an  
9 application that includes the installation of a new  
10 utility for such collocation.

11 (3) Notwithstanding any contrary provision of State  
12 law or local ordinance, applications pursuant to this  
13 Section must be accompanied by the required application  
14 fee.

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

20 (f) An authority shall not require an application,  
21 approval, or permit, or require any fees or other charges,  
22 from a communications service provider authorized to occupy  
23 the rights-of-way, for: (i) routine maintenance; (ii) the  
24 replacement of wireless facilities with wireless facilities  
25 that are substantially similar, the same size, or smaller if  
26 the wireless provider notifies the authority at least 10 days

1 prior to the planned replacement and includes equipment  
2 specifications for the replacement of equipment consistent  
3 with the requirements of subparagraph (D) of paragraph (2) of  
4 subsection (d) of this Section; or (iii) the installation,  
5 placement, maintenance, operation, or replacement of micro  
6 wireless facilities that are suspended on cables that are  
7 strung between existing utility poles in compliance with  
8 applicable safety codes. However, an authority may require a  
9 permit to work within rights-of-way for activities that affect  
10 traffic patterns or require lane closures.

11 (g) Nothing in this Act authorizes a person to collocate  
12 small wireless facilities on: (1) property owned by a private  
13 party or property owned or controlled by a unit of local  
14 government that is not located within rights-of-way, subject  
15 to subsection (j) of this Section, or a privately owned  
16 utility pole or wireless support structure without the consent  
17 of the property owner; (2) property owned, leased, or  
18 controlled by a park district, forest preserve district, or  
19 conservation district for public park, recreation, or  
20 conservation purposes without the consent of the affected  
21 district, excluding the placement of facilities on  
22 rights-of-way located in an affected district that are under  
23 the jurisdiction and control of a different unit of local  
24 government as provided by the Illinois Highway Code; or (3)  
25 property owned by a rail carrier registered under Section  
26 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or

1 any other public commuter rail service, or an electric utility  
2 as defined in Section 16-102 of the Public Utilities Act,  
3 without the consent of the rail carrier, public commuter rail  
4 service, or electric utility. The provisions of this Act do  
5 not apply to an electric or gas public utility or such  
6 utility's wireless facilities if the facilities are being  
7 used, developed, and maintained consistent with the provisions  
8 of subsection (i) of Section 16-108.5 of the Public Utilities  
9 Act.

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

19 (h) Agreements between authorities and wireless providers  
20 that relate to the collocation of small wireless facilities in  
21 the right-of-way, including the collocation of small wireless  
22 facilities on authority utility poles, that are in effect on  
23 the effective date of this Act remain in effect for all small  
24 wireless facilities collocated on the authority's utility  
25 poles pursuant to applications submitted to the authority  
26 before the effective date of this Act, subject to applicable

1 termination provisions. Such agreements entered into after the  
2 effective date of the Act shall comply with the Act.

3 (i) An authority shall allow the collocation of small  
4 wireless facilities on authority utility poles subject to the  
5 following:

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

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

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

1 annual recurring rate of less than \$200 to collocate a  
2 small wireless facility on an authority utility pole.

3 (4) Authorities or other persons owning or controlling  
4 authority utility poles within the right-of-way shall  
5 offer rates, fees, and other terms that comply with  
6 subparagraphs (A) through (E) of this paragraph (4).  
7 Within 2 months after the effective date of this Act, an  
8 authority or a person owning or controlling authority  
9 utility poles shall make available, through ordinance or  
10 an authority utility pole attachment agreement, license or  
11 other agreement that makes available to wireless  
12 providers, the rates, fees, and terms for the collocation  
13 of small wireless facilities on authority utility poles  
14 that comply with this Act and with subparagraphs (A)  
15 through (E) of this paragraph (4). In the absence of such  
16 an ordinance or agreement that complies with this Act, and  
17 until such a compliant ordinance or agreement is adopted,  
18 wireless providers may collocate small wireless facilities  
19 and install utility poles under the requirements of this  
20 Act.

21 (A) The rates, fees, and terms must be  
22 nondiscriminatory, competitively neutral, and  
23 commercially reasonable, and may address, among other  
24 requirements, the requirements in subparagraphs (A)  
25 through (I) of paragraph (6) of subsection (d) of this  
26 Section; subsections (e), (i), and (k) of this

1 Section; Section 30; and Section 35, and must comply  
2 with this Act.

3 (B) For authority utility poles that support  
4 aerial facilities used to provide communications  
5 services or electric service, wireless providers shall  
6 comply with the process for make-ready work under 47  
7 U.S.C. 224 and its implementing regulations, and the  
8 authority shall follow a substantially similar process  
9 for make-ready work except to the extent that the  
10 timing requirements are otherwise addressed in this  
11 Act. The good-faith estimate of the person owning or  
12 controlling the authority utility pole for any  
13 make-ready work necessary to enable the pole to  
14 support the requested collocation shall include  
15 authority utility pole replacement, if necessary.

16 (C) For authority utility poles that do not  
17 support aerial facilities used to provide  
18 communications services or electric service, the  
19 authority shall provide a good-faith estimate for any  
20 make-ready work necessary to enable the authority  
21 utility pole to support the requested collocation,  
22 including pole replacement, if necessary, within 90  
23 days after receipt of a complete application.  
24 Make-ready work, including any authority utility pole  
25 replacement, shall be completed within 60 days of  
26 written acceptance of the good-faith estimate by the

1 applicant at the wireless provider's sole cost and  
2 expense. Alternatively, if the authority determines  
3 that applicable codes or public safety regulations  
4 require the authority utility pole to be replaced to  
5 support the requested collocation, the authority may  
6 require the wireless provider to replace the authority  
7 utility pole at the wireless provider's sole cost and  
8 expense.

9 (D) The authority shall not require more  
10 make-ready work than required to meet applicable codes  
11 or industry standards. Make-ready work may include  
12 work needed to accommodate additional public safety  
13 communications needs that are identified in a  
14 documented and approved plan for the deployment of  
15 public safety equipment as specified in paragraph (1)  
16 of subsection (d) of this Section and included in an  
17 existing or preliminary authority or public service  
18 agency budget for attachment within one year of the  
19 application. Fees for make-ready work, including any  
20 authority utility pole replacement, shall not exceed  
21 actual costs or the amount charged to communications  
22 service providers for similar work and shall not  
23 include any consultants' fees or expenses for  
24 authority utility poles that do not support aerial  
25 facilities used to provide communications services or  
26 electric service. Make-ready work, including any pole

1 replacement, shall be completed within 60 days of  
2 written acceptance of the good-faith estimate by the  
3 wireless provider, at its sole cost and expense.

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

22 (j) An authority shall authorize the collocation of small  
23 wireless facilities on utility poles owned or controlled by  
24 the authority that are not located within rights-of-way to the  
25 same extent the authority currently permits access to utility  
26 poles for other commercial projects or uses. The collocations



1 shall be subject to reasonable and nondiscriminatory rates,  
2 fees, and terms as provided in an agreement between the  
3 authority and the wireless provider.

4 (k) Nothing in this Section precludes an authority from  
5 adopting reasonable rules with respect to the removal of  
6 abandoned small wireless facilities. A small wireless facility  
7 that is not operated for a continuous period of 12 months shall  
8 be considered abandoned and the owner of the facility must  
9 remove the small wireless facility within 90 days after  
10 receipt of written notice from the authority notifying the  
11 owner of the abandonment. The notice shall be sent by  
12 certified or registered mail, return receipt requested, by the  
13 authority to the owner at the last known address of the owner.  
14 If the small wireless facility is not removed within 90 days of  
15 such notice, the authority may remove or cause the removal of  
16 the such facility pursuant to the terms of its pole attachment  
17 agreement for authority utility poles or through whatever  
18 actions are provided for abatement of nuisances or by other  
19 law for removal and cost recovery. An authority may require a  
20 wireless provider to provide written notice to the authority  
21 if it sells or transfers small wireless facilities subject to  
22 this Act within the jurisdictional boundary of the authority.  
23 Such notice shall include the name and contact information of  
24 the new wireless provider.

25 (l) Nothing in this Section requires an authority to  
26 install or maintain any specific utility pole or to continue

1 to install or maintain utility poles in any location if the  
2 authority makes a non-discriminatory decision to eliminate  
3 above-ground utility poles of a particular type generally,  
4 such as electric utility poles, in all or a significant  
5 portion of its geographic jurisdiction. For authority utility  
6 poles with collocated small wireless facilities in place when  
7 an authority makes a decision to eliminate above-ground  
8 utility poles of a particular type generally, the authority  
9 shall either (i) continue to maintain the authority utility  
10 pole or install and maintain a reasonable alternative utility  
11 pole or wireless support structure for the collocation of the  
12 small wireless facility, or (ii) offer to sell the utility  
13 pole to the wireless provider at a reasonable cost or allow the  
14 wireless provider to install its own utility pole so it can  
15 maintain service from that location.

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

17 (50 ILCS 840/90 rep.)

18 Section 10. The Small Wireless Facilities Deployment Act  
19 is amended by repealing Section 90.

20 Section 15. The Illinois Municipal Code is amended by  
21 adding Section 11-80-24 as follows:

22 (65 ILCS 5/11-80-24 new)

23 Sec. 11-80-24. Collocation of small wireless facilities.

1       (a) A municipality may require that a small wireless  
2       facility be collocated on any existing utility pole within its  
3       public rights-of-way under paragraph (3) of subsection (d) of  
4       Section 15 of the Small Wireless Facilities Deployment Act and  
5       the entity owning the utility pole shall provide access for  
6       that purpose.

7       (b) Any fee charged for the use of a utility pole under  
8       this Section shall be at the lowest rate charged by the entity  
9       owning the utility pole and shall not exceed the entity's  
10       actual costs.

11       Section 99. Effective date. Section 10 and this Section  
12       take effect upon becoming law.