

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

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

1 Section 7. Applicability. This Act does not apply to a
2 municipality with a population of 1,000,000 or more.

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

4 "Antenna" means communications equipment that transmits or
5 receives electromagnetic radio frequency signals used in the
6 provision of wireless services.

7 "Applicable codes" means uniform building, fire,
8 electrical, plumbing, or mechanical codes adopted by a
9 recognized national code organization or local amendments to
10 those codes, including the National Electric Safety Code.

11 "Applicant" means any person who submits an application and
12 is a wireless provider.

13 "Application" means a request submitted by an applicant to
14 an authority for a permit to collocate small wireless
15 facilities, and a request that includes the installation of a
16 new utility pole for such collocation, as well as any
17 applicable fee for the review of such application.

18 "Authority" means a unit of local government that has
19 jurisdiction and control for use of public rights-of-way as
20 provided by the Illinois Highway Code for placements within
21 public rights-of-way or has zoning or land use control for
22 placements not within public rights-of-way.

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

25 "Collocate" or "collocation" means to install, mount,

1 maintain, modify, operate, or replace wireless facilities on or
2 adjacent to a wireless support structure or utility pole.

3 "Communications service" means cable service, as defined
4 in 47 U.S.C. 522(6), as amended; information service, as
5 defined in 47 U.S.C. 153(24), as amended; telecommunications
6 service, as defined in 47 U.S.C. 153(53), as amended; mobile
7 service, as defined in 47 U.S.C. 153(33), as amended; or
8 wireless service other than mobile service.

9 "Communications service provider" means a cable operator,
10 as defined in 47 U.S.C. 522(5), as amended; a provider of
11 information service, as defined in 47 U.S.C. 153(24), as
12 amended; a telecommunications carrier, as defined in 47 U.S.C.
13 153(51), as amended; or a wireless provider.

14 "FCC" means the Federal Communications Commission of the
15 United States.

16 "Fee" means a one-time charge.

17 "Historic district" or "historic landmark" means a
18 building, property, or site, or group of buildings, properties,
19 or sites that are either (i) listed in the National Register of
20 Historic Places or formally determined eligible for listing by
21 the Keeper of the National Register, the individual who has
22 been delegated the authority by the federal agency to list
23 properties and determine their eligibility for the National
24 Register, in accordance with Section VI.D.1.a.i through
25 Section VI.D.1.a.v of the Nationwide Programmatic Agreement
26 codified at 47 CFR Part 1, Appendix C; or (ii) designated as a

1 locally landmarked building, property, site, or historic
2 district by an ordinance adopted by the authority pursuant to a
3 preservation program that meets the requirements of the
4 Certified Local Government Program of the Illinois State
5 Historic Preservation Office or where such certification of the
6 preservation program by the Illinois State Historic
7 Preservation Office is pending.

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

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

14 "Permit" means a written authorization required by an
15 authority to perform an action or initiate, continue, or
16 complete a project.

17 "Person" means an individual, corporation, limited
18 liability company, partnership, association, trust, or other
19 entity or organization, including an authority.

20 "Public safety agency" means the functional division of the
21 federal government, the State, a unit of local government, or a
22 special purpose district located in whole or in part within
23 this State, that provides or has authority to provide
24 firefighting, police, ambulance, medical, or other emergency
25 services to respond to and manage emergency incidents.

26 "Rate" means a recurring charge.

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

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

20 "Utility pole" means a pole or similar structure that is
21 used in whole or in part by a communications service provider
22 or for electric distribution, lighting, traffic control, or a
23 similar function.

24 "Wireless facility" means equipment at a fixed location
25 that enables wireless communications between user equipment
26 and a communications network, including: (i) equipment

1 associated with wireless communications; and (ii) radio
2 transceivers, antennas, coaxial or fiber-optic cable, regular
3 and backup power supplies, and comparable equipment,
4 regardless of technological configuration. "Wireless facility"
5 includes small wireless facilities. "Wireless facility" does
6 not include: (i) the structure or improvements on, under, or
7 within which the equipment is collocated; or (ii) wireline
8 backhaul facilities, coaxial or fiber optic cable that is
9 between wireless support structures or utility poles or
10 coaxial, or fiber optic cable that is otherwise not immediately
11 adjacent to or directly associated with an antenna.

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

20 "Wireless provider" means a wireless infrastructure
21 provider or a wireless services provider.

22 "Wireless services" means any services provided to the
23 general public, including a particular class of customers, and
24 made available on a nondiscriminatory basis using licensed or
25 unlicensed spectrum, whether at a fixed location or mobile,
26 provided using wireless facilities.

1 "Wireless services provider" means a person who provides
2 wireless services.

3 "Wireless support structure" means a freestanding
4 structure, such as a monopole; tower, either guyed or
5 self-supporting; billboard; or other existing or proposed
6 structure designed to support or capable of supporting wireless
7 facilities. "Wireless support structure" does not include a
8 utility pole.

9 Section 15. Regulation of small wireless facilities.

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

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

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

23 (d) An authority may require an applicant to obtain one or
24 more permits to collocate a small wireless facility. An
25 authority shall receive applications for, process, and issue

1 permits subject to the following requirements:

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

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

22 (A) site specific structural integrity and, for an
23 authority utility pole, make-ready analysis prepared
24 by a structural engineer, as that term is defined in
25 Section 4 of the Structural Engineering Practice Act of
26 1989;

1 (B) the location where each proposed small
2 wireless facility or utility pole would be installed
3 and photographs of the location and its immediate
4 surroundings depicting the utility poles or structures
5 on which each proposed small wireless facility would be
6 mounted or location where utility poles or structures
7 would be installed;

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

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

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

19 (F) certification that the collocation complies
20 with paragraph (6) to the best of the applicant's
21 knowledge.

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

1 of a small wireless facility associated with a new utility
2 pole, an authority may propose that the small wireless
3 facility be collocated on an existing utility pole or
4 existing wireless support structure within 100 feet of the
5 proposed collocation, which the applicant shall accept if
6 it has the right to use the alternate structure on
7 reasonable terms and conditions and the alternate location
8 and structure does not impose technical limits or
9 additional material costs as determined by the applicant.
10 The authority may require the applicant to provide a
11 written certification describing the property rights,
12 technical limits or material cost reasons the alternate
13 location does not satisfy the criteria in this paragraph
14 (3).

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

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

1 wireless support structures on which small wireless
2 facilities are collocated to the higher of: (i) 10 feet in
3 height above the tallest existing utility pole, other than
4 a utility pole supporting only wireless facilities, that is
5 in place on the date the application is submitted to the
6 authority, that is located within 300 feet of the new or
7 replacement utility pole or wireless support structure and
8 that is in the same right-of-way within the jurisdictional
9 boundary of the authority, provided the authority may
10 designate which intersecting right-of-way within 300 feet
11 of the proposed utility pole or wireless support structures
12 shall control the height limitation for such facility; or
13 (ii) 45 feet 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 collocate small
2 wireless facilities on authority utility poles that
3 are part of an electric distribution or transmission
4 system within the communication worker safety zone of
5 the pole or the electric supply zone of the pole;
6 however, the antenna and support equipment of the small
7 wireless facility may be located in the communications
8 space on the authority utility pole and on the top of
9 the pole, if not otherwise unavailable, if the wireless
10 provider complies with applicable codes for work
11 involving the top of the pole; for purposes of this
12 subparagraph (F), the terms "communications space",
13 "communication worker safety zone", and "electric
14 supply zone" have the meanings given to those terms in
15 the National Electric Safety Code as published by the
16 Institute of Electrical and Electronics Engineers;

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

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

1 applies to other occupiers of the rights-of-way,
2 including on a historic landmark or in a historic
3 district; and

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

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

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

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

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

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

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

22 (9) An authority shall approve an application unless
23 the application does not meet the requirements of this Act.
24 If an authority determines that applicable codes, local
25 code provisions or regulations that concern public safety,
26 or the requirements of paragraph (6) require that the

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

26 (10) The time period for applications may be further

1 tolled by:

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

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

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

23 (12) Collocation for which a permit is granted shall be
24 completed within 180 days after issuance of the permit,
25 unless the authority and the wireless provider agree to
26 extend this period or a delay is caused by make-ready work

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

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

19 (14) An authority may not prohibit, either expressly or
20 de facto, the (i) filing, receiving, or processing
21 applications, or (ii) issuing of permits or other
22 approvals, if any, for the collocation of small wireless
23 facilities unless there has been a local, State, or federal
24 disaster declaration or similar emergency that causes the
25 delay.

26 (15) Applicants shall submit applications, supporting

1 information, and notices by personal delivery or as
2 otherwise required by the authority. An authority may
3 require that permits, supporting information, and notices
4 be submitted by personal delivery at the authority's
5 designated place of business, by regular mail postmarked on
6 the date due, or by any other commonly used means,
7 including electronic mail, as required by the authority.

8 (e) Application fees are subject to the following
9 requirements:

10 (1) An authority may charge an application fee of up to
11 \$650 for an application to collocate a single small
12 wireless facility on an existing utility pole or wireless
13 support structure and up to \$350 for each small wireless
14 facility addressed in an application to collocate more than
15 one small wireless facility on existing utility poles or
16 wireless support structures.

17 (2) An authority may charge an application fee of
18 \$1,000 for each small wireless facility addressed in an
19 application that includes the installation of a new utility
20 for such collocation.

21 (3) Notwithstanding any contrary provision of State
22 law or local ordinance, applications pursuant to this
23 Section must be accompanied by the required application
24 fee.

25 (4) Within 2 months after the effective date of this
26 Act, an authority shall make available application fees

1 consistent with this subsection, through ordinance, or in a
2 written schedule of permit fees adopted by the authority.

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

20 (g) Nothing in this Act authorizes a person to collocate
21 small wireless facilities on: (1) property owned by a private
22 party or property owned or controlled by a unit of local
23 government that is not located within rights-of-way, subject to
24 subsection (j) of this Section, or a privately owned utility
25 pole or wireless support structure without the consent of the
26 property owner; (2) property owned, leased, or controlled by a

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

18 For the purposes of this subsection, "public utility" has
19 the meaning given to that term in Section 3-105 of the Public
20 Utilities Act. Nothing in this Act shall be construed to
21 relieve any person from any requirement (1) to obtain a
22 franchise or a State-issued authorization to offer cable
23 service or video service or (2) to obtain any required
24 permission to install, place, maintain, or operate
25 communications facilities, other than small wireless
26 facilities subject to this Act.

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

11 (i) An authority shall allow the collocation of small
12 wireless facilities on authority utility poles subject to the
13 following:

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

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

20 (3) An authority may charge an annual recurring rate to
21 collocate a small wireless facility on an authority utility
22 pole located in a right-of-way that equals (i) \$200 per
23 year or (ii) the actual, direct, and reasonable costs
24 related to the wireless provider's use of space on the
25 authority utility pole. Rates for collocation on authority
26 utility poles located outside of a right-of-way are not

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

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

1 install utility poles under the requirements of this Act.

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

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

23 (C) For authority utility poles that do not support
24 aerial facilities used to provide communications
25 services or electric service, the authority shall
26 provide a good-faith estimate for any make-ready work

1 necessary to enable the authority utility pole to
2 support the requested collocation, including pole
3 replacement, if necessary, within 90 days after
4 receipt of a complete application. Make-ready work,
5 including any authority utility pole replacement,
6 shall be completed within 60 days of written acceptance
7 of the good-faith estimate by the applicant at the
8 wireless provider's sole cost and expense.
9 Alternatively, if the authority determines that
10 applicable codes or public safety regulations require
11 the authority utility pole to be replaced to support
12 the requested collocation, the authority may require
13 the wireless provider to replace the authority utility
14 pole at the wireless provider's sole cost and expense.

15 (D) The authority shall not require more
16 make-ready work than required to meet applicable codes
17 or industry standards. Make-ready work may include
18 work needed to accommodate additional public safety
19 communications needs that are identified in a
20 documented and approved plan for the deployment of
21 public safety equipment as specified in paragraph (1)
22 of subsection (d) of this Section and included in an
23 existing or preliminary authority or public service
24 agency budget for attachment within one year of the
25 application. Fees for make-ready work, including any
26 authority utility pole replacement, shall not exceed

1 actual costs or the amount charged to communications
2 service providers for similar work and shall not
3 include any consultants' fees or expenses for
4 authority utility poles that do not support aerial
5 facilities used to provide communications services or
6 electric service. Make-ready work, including any pole
7 replacement, shall be completed within 60 days of
8 written acceptance of the good-faith estimate by the
9 wireless provider, at its sole cost and expense.

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

1 subparagraph.

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

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

1 transfers small wireless facilities subject to this Act within
2 the jurisdictional boundary of the authority. Such notice shall
3 include the name and contact information of the new wireless
4 provider.

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

22 Section 20. Local authority. Subject to this Act and
23 applicable federal law, an authority may continue to exercise
24 zoning, land use, planning, and permitting authority within its
25 territorial boundaries, including with respect to wireless

1 support structures and utility poles; except that no authority
2 shall have or exercise any jurisdiction or authority over the
3 design, engineering, construction, installation, or operation
4 of any small wireless facility located in an interior structure
5 or upon the site of any campus, stadium, or athletic facility
6 not otherwise owned or controlled by the authority, other than
7 to comply with applicable codes and local code provisions
8 concerning public safety. Nothing in this Act authorizes the
9 State or any political subdivision, including an authority, to
10 require wireless facility deployment or to regulate wireless
11 services.

12 Section 25. Dispute resolution. A circuit court has
13 jurisdiction to resolve all disputes arising under this Act.
14 Pending resolution of a dispute concerning rates for
15 collocation of small wireless facilities on authority utility
16 poles within the right-of-way, the authority shall allow the
17 collocating person to collocate on its poles at annual rates of
18 no more than \$200 per year per authority utility pole, with
19 rates to be determined upon final resolution of the dispute.

20 Section 30. Indemnification. A wireless provider shall
21 indemnify and hold an authority harmless against any and all
22 liability or loss from personal injury or property damage
23 resulting from or arising out of, in whole or in part, the use
24 or occupancy of the authority improvements or right-of-way

1 associated with such improvements by the wireless provider or
2 its employees, agents, or contractors arising out of the rights
3 and privileges granted under this Act. A wireless provider has
4 no obligation to indemnify or hold harmless against any
5 liabilities and losses as may be due to or caused by the sole
6 negligence of the authority or its employees or agents. A
7 wireless provider shall further waive any claims that they may
8 have against an authority with respect to consequential,
9 incidental, or special damages, however caused, based on the
10 theory of liability.

11 Section 35. Insurance.

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

1 may require a wireless provider to include the authority as an
2 additional insured on the commercial general liability policy
3 and provide certification and documentation of inclusion of the
4 authority in a commercial general liability policy as
5 reasonably required by the authority.

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

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

21 Section 90. Repeal. This Act is repealed on June 1, 2021.

22 Section 100. The Counties Code is amended by changing
23 Section 5-12001.2 as follows:

1 (55 ILCS 5/5-12001.2)

2 Sec. 5-12001.2. Regulation of telecommunications
3 facilities; Lake County pilot project. In addition to any other
4 requirements under this Division concerning the regulation of
5 telecommunications facilities and except as provided by the
6 Small Wireless Facilities Deployment Act, the following
7 applies to any new telecommunications facilities in Lake County
8 that are not AM telecommunications towers or facilities:

9 (a) For every new wireless telecommunications facility
10 requiring a new tower structure, a telecommunications
11 carrier shall provide the county with documentation
12 consisting of the proposed location, a site plan, and an
13 elevation that sufficiently describes a proposed wireless
14 facility location.

15 (b) The county shall have 7 days to review the facility
16 proposal and contact the telecommunications carrier in
17 writing via e-mail or other written means as specified by
18 the telecommunications carrier. This written communication
19 shall either approve the proposed location or request a
20 meeting to review other possible alternative locations. If
21 requested, the meeting shall take place within 7 days after
22 the date of the written communication.

23 (c) At the meeting, the telecommunications carrier
24 shall provide the county documentation consisting of radio
25 frequency engineering criteria and a corresponding

1 telecommunications facility search ring map, together with
2 documentation of the carrier's efforts to site the proposed
3 facility within the telecommunications facility search
4 ring.

5 (d) Within 21 days after receipt of the carrier's
6 documentation, the county shall propose either an
7 alternative site within the telecommunications facility
8 search ring, or an alternative site outside of the
9 telecommunications search ring that meets the radio
10 frequency engineering criteria provided by the
11 telecommunications carrier and that will not materially
12 increase the construction budget beyond what was estimated
13 on the original carrier proposed site.

14 (e) If the county's proposed alternative site meets the
15 radio frequency engineering criteria provided by the
16 telecommunications carrier, and will not materially
17 increase the construction budget beyond what was estimated
18 on the original carrier proposed site, then the
19 telecommunications carrier shall agree to build the
20 facility at the alternative location, subject to the
21 negotiation of a lease with commercially reasonable terms
22 and the obtainment of the customary building permits.

23 (f) If the telecommunications carrier can demonstrate
24 that: (i) the county's proposed alternative site does not
25 meet the radio frequency engineering criteria, (ii) the
26 county's proposed alternative site will materially

1 increase the construction budget beyond what was estimated
2 on the original carrier proposed site, (iii) the county has
3 failed to provide an alternative site, or (iv) after a
4 period of 90 days after receipt of the alternative site,
5 the telecommunications carrier has failed, after acting in
6 good faith and with due diligence, to obtain a lease or, at
7 a minimum, a letter of intent to lease the alternative site
8 at lease rates not materially greater than the lease rate
9 for the original proposed site; then the carrier can
10 proceed to permit and construct the site under the
11 provisions and standards of Section 5-12001.1 of this Code.
12 (Source: P.A. 98-197, eff. 8-9-13; 98-756, eff. 7-16-14.)