

The Senate Regulated Industries and Utilities Committee offered the following substitute to SB 192:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide a short title; to provide legislative findings; to provide for definitions; to
3 provide for planning for the construction of wireless facilities and wireless support structures;
4 to provide for the procedure and manner of permitting of such structures; to provide for the
5 collocating of wireless communication antennas on existing structures where possible; to
6 provide for certain limitations with regard to such structures; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
11 by adding a new chapter to read as follows:

12 style="text-align:center">"CHAPTER 66B

13 36-66B-1.

14 This chapter shall be known and may be cited as the 'Wireless Communications Tower
15 Siting Act.'

16 36-66B-2.

17 The General Assembly finds that the enactment of this chapter is necessary for the purpose
18 of:

19 (1) Ensuring the safe and efficient integration of facilities necessary for the provision of
20 broadband and other advanced wireless communications services throughout this state;
21 and

22 (2) Ensuring the ready availability of reliable wireless service to the public and
23 government agencies and first responders, with the intention of furthering public safety
24 and general welfare.

25 It is not the intent of this chapter to limit or preempt the scope of a zoning authority's
26 review of applications for the siting of wireless facilities or wireless support structures.

27 36-66B-3.

28 As used in this chapter, the term:

29 (1) 'Antenna' means communications equipment that transmits and receives
30 electromagnetic radio signals used in the provision of all types of wireless
31 communications services.

32 (2) 'Application' means a formal request submitted to the local authority to construct or
33 modify a wireless support structure or a wireless facility.

34 (3) 'Authority' means a municipality or county that has adopted planning and zoning
35 regulations for all or the majority of land uses within its jurisdiction.

36 (4) 'Building permit' means an official administrative authorization issued by the local
37 authority prior to beginning construction of any new or existing support structure. The
38 issuance of a building permit is not a mechanism for the approval or denial of a zoning
39 or land use application.

40 (5) 'Collocation' means the placement or installation of wireless facilities on existing
41 structures, including towers, buildings, utility poles, and water tanks, in a manner that
42 negates the need to construct a new freestanding support structure, such as a tower.

43 (6) 'Equipment enclosure' means an enclosed structure, cabinet, or shelter used to contain
44 radio or other equipment necessary for the transmission or reception of wireless
45 communication signals.

46 (7) 'Existing tower' means a freestanding support structure constructed prior to the
47 effective date of this chapter that is used to provide wireless services.

48 (8) 'High-voltage electrical transmission tower' means a structure owned or operated by
49 a public utility, municipality, electric membership corporation, or rural electric
50 cooperative that is designed specifically for and used to carry lines, cables, or wires for
51 the long distance transmission of high-voltage electricity. Such term shall not include a
52 utility pole.

53 (9) 'Utility pole' means a structure owned or operated by a public utility, municipality,
54 electric membership corporation, or rural electric cooperative that is designed specifically
55 for and used to carry lines, cables, or wires for telephony, cable television, or electricity
56 or to provide lighting.

57 (10) 'Wireless facility' means the set of equipment and network components, exclusive
58 of the underlying support structure or tower, including, but not limited to, antennas,
59 transmitters, receivers, base stations, power supplies cabling, and associated equipment
60 necessary to provide wireless services to a discrete geographic area.

61 (11) 'Wireless support structure' means, other than a utility pole, a freestanding structure,
62 such as a monopole or tower, designed to support wireless facilities.

63 36-66B-4.

64 (a) An authority may plan for and regulate the siting of wireless facilities and wireless
65 support structures in accordance with locally adopted planning or zoning regulations and
66 in conformity with this title.

67 (b) Any person that is engaged in the business of providing wireless telecommunications
68 services, or the wireless telecommunications infrastructure required therefor, and that
69 proposes to construct a wireless support structure within the jurisdiction of any planning
70 authority that has adopted planning and zoning regulations in accordance with this title
71 shall:

72 (1) Submit the necessary copies and attachments of the completed application to the
73 appropriate planning authority to construct a wireless support structure; and

74 (2) Comply with any local ordinances concerning land use and the appropriate permitting
75 processes, subject to the limitations imposed by this chapter;

76 (c) All records, such as documents, electronic data, and the like, in the possession or
77 custody of authority personnel shall be subject to Article 4 of Chapter 18 of Title 50.
78 Disclosure of such records shall be consistent with applicable state laws;

79 (d) After the submission of a completed application to construct a wireless support
80 structure, the authority shall, within 75 days commencing from the date that the application
81 is deemed complete by the authority or within a date certain specified in a written
82 agreement between the authority and the applicant:

83 (1) Review the completed application in light of relevant building code regulations;

84 (2) Make its final decision to approve or disapprove the application; and

85 (3) Advise the applicant in writing of its final decision.

86 (e) A party aggrieved by the final action of an authority denying an application under the
87 provisions of this chapter may bring an action for review in any court of competent
88 jurisdiction.

89 36-66B-5.

90 (a) In deploying or expanding commercial and public safety wireless networks, the
91 collocation of new antennas and equipment on existing support structures, including

92 buildings, utility poles, water towers, or existing conforming communication towers, shall
 93 be preferred over the construction of new towers or support structures; provided, however,
 94 that the authority shall not permit or authorize the placing or collocating of antennas on
 95 high-voltage electrical transmission towers. Further preference shall be given to neutral
 96 third-party infrastructure providers.

97 (b) Irrespective of subsection (a) of this Code section, an application for collocation on an
 98 existing structure other than a utility pole may be subject to the issuance of a building
 99 permit and any cost based fee associated with such building permit.

100 (c) The authority may deny an application to construct a new wireless support structure
 101 based on an applicant's unwillingness to evaluate the reasonable feasibility of collocating
 102 new antennas and equipment on an existing structure or structures within the applicant's
 103 search ring.

104 (d) The authority shall not deny an application to construct a new wireless
 105 communications support structure under subsection (c) of this Code section if evidence is
 106 provided that collocation on an existing structure is technically infeasible.

107 (e) After an applicant submits a completed application, the authority shall, within 45 days
 108 commencing from the date that an application for collocation of new antennas and
 109 equipment on existing support structures is deemed complete by the authority or within a
 110 date certain specified in a written agreement between the authority and the applicant:

- 111 (1) Review the completed application in light of relevant building code regulations;
- 112 (2) Make its final decision to approve or disapprove the application; and
- 113 (3) Advise the applicant in writing of its final decision.

114 36-66B-6.

115 An authority shall not:

- 116 (1) Impose environmental testing, sampling, or monitoring requirements or other
 117 compliance measures for radio frequency emissions on wireless communications
 118 facilities that are categorically excluded under the Federal Communications
 119 Commission's rules for radio frequency emissions pursuant to 47 CFR 1.1307(b)(1);
- 120 (2) Institute a moratorium on the construction of new wireless support structures lasting
 121 over 90 days in duration or institute any such moratorium within six months of the
 122 conclusion of any previous moratorium on the construction of wireless support structures
 123 unless authorized or directed by a state or federal agency;
- 124 (3) Charge an application fee, consulting fee, or other fee associated with the submission,
 125 review, processing, and approval of a building permit that is not required for other types
 126 of commercial development within the authority's jurisdiction. Fees imposed by a local
 127 authority or by a third-party entity providing review or technical consultation to the local

128 authority shall not exceed what is usual and customary. Any charges or fees assessed by
129 an authority on account of an outside consultant shall be fixed in advance and
130 incorporated into a permit or application fee and shall not exceed \$2,500.00 for a
131 collocation or \$5,000.00 for the placement and construction of a new wireless facility,
132 antenna, or support structures;

133 (4) Permit third-party consultants to charge wireless telecommunications service
134 providers for any travel expenses incurred in the consultant's review of wireless
135 telecommunications permits;

136 (5) Establish or enforce regulations or procedures for radio frequency signal strength or
137 the adequacy of service quality in the consideration of any application for the
138 construction, modification, maintenance, or operation of a wireless facility or support
139 structure;

140 (6) Impose surety requirements, including removal bonds, escrow deposits, or any other
141 type of financial surety, to ensure that abandoned or unused facilities can be removed
142 unless such requirements are directly related to the actual costs of removal, competitively
143 neutral, and nondiscriminatory;

144 (7) Prohibit the placement of emergency power systems that comply with federal and
145 state environmental requirements; provided, however, that the local authority may impose
146 reasonable conditions on the testing and placement of such systems;

147 (8) Condition the approval of a new support structure or collocation on the agreement
148 of the structure owner to provide space on the structure for local governmental services
149 at less than the market rate;

150 (9) Limit the duration of any building permit for a wireless facility or support structure
151 to less than 365 days from the issuance of such permit;

152 (10) Require an applicant to construct a distributed antenna system; or

153 (11) Require a utility pole owner to accept a request for wireless facility attachments to
154 utility poles."

155 **SECTION 2.**

156 All laws and parts of laws in conflict with this Act are repealed.