

The House Committee on Energy, Utilities and Telecommunications offers the following substitute to HB 176:

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 change certain provisions applicable to counties and municipal corporations related to
3 advanced broadband collocation; to provide for a short title; to provide for definitions; to
4 make changes related to streamlined processing; to standardize certain procedures related to
5 new wireless facilities; to place limitations on the time allowed for the review of new
6 wireless facilities; to limit fees charged for review of wireless facilities; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
11 by revising Chapter 66B, relating to advanced broadband collocation, as follows:

12 **"CHAPTER 66B**

13 36-66B-1.

14 This chapter shall be known and may be cited as the ~~'Advanced Broadband Collocation~~
15 ~~Act.'~~ 'Mobile Broadband Infrastructure Leads to Development (BILD) Act.'

16 36-66B-2.

17 (a) The General Assembly finds that the enactment of this chapter is necessary to:

- 18 (1) Ensure the safe and efficient integration of facilities necessary for the provision of
19 broadband and other advanced wireless communication services throughout this state;
20 (2) Ensure the ready availability of reliable wireless communication services to the
21 public to support personal communications, economic development, and the general
22 welfare; and

23 (3) Encourage where feasible the modification or collocation of wireless facilities on
 24 existing wireless support structures over the construction of new wireless support
 25 structures in the deployment or expansion of commercial wireless networks.

26 (b) While recognizing and confirming the purview of local governments to exercise
 27 zoning, land use, and permitting authority within their territorial boundaries with regard to
 28 the location, construction, and modification of wireless communication facilities, it is the
 29 intent of this chapter to establish procedural standards for the exercise of such authority so
 30 as to streamline and facilitate the construction or modification of such facilities, including
 31 the placement of new or additional wireless facilities on existing wireless support
 32 structures. It is not the intent of this chapter to limit or preempt the scope of a local
 33 government's review of zoning, land use, or permitting applications for the siting of
 34 wireless facilities or wireless support structures or to require a local government to exercise
 35 its zoning power.

36 36-66B-3.

37 As used in this chapter, the term:

38 (1) 'Accessory equipment' means any equipment serving or being used in conjunction
 39 with a wireless facility or wireless support structure and includes, but is not limited to,
 40 utility or transmission equipment, power supplies, generators, batteries, cables, equipment
 41 buildings, cabinets, and storage sheds, shelters, or similar structures.

42 (2) 'Antenna' means communications equipment that transmits, receives, or transmits
 43 and receives electromagnetic radio signals used in the provision of all types of wireless
 44 communication services.

45 (3) 'Application' means a formal request submitted to the local governing authority to
 46 construct, ~~collate~~ collocate, or modify a wireless support structure or a wireless facility.
 47 An application ~~shall be deemed complete when~~ may include all documents, information,
 48 and fees specifically enumerated in the local governing authority's regulations,
 49 ordinances, and forms pertaining to the location, construction, collocation, modification,
 50 or operation of wireless facilities ~~are~~ submitted by the applicant to the local governing
 51 authority.

52 (4) ~~'Collocation'~~ 'Collocate' or 'collocation' means the placement or installation of new
 53 wireless facilities on previously approved and constructed wireless support structures,
 54 including monopoles and towers, both self-supporting and guyed, in a manner that
 55 negates the need to construct a new freestanding wireless support structure. Such term
 56 includes the placement of accessory equipment within an existing equipment compound.

57 (5) 'Equipment compound' means an area surrounding or adjacent to the base of a
 58 wireless support structure within which accessory equipment is located.

59 (6) 'Local governing authority' means a municipality or county that has adopted land use
 60 or zoning regulations for all or the majority of land uses within its jurisdiction or has
 61 adopted separate regulations pertaining to the location, construction, collocation,
 62 modification, or operation of wireless facilities.

63 (7) 'Modification' or 'modify' means the improvement, upgrade, expansion, or
 64 replacement of existing wireless facilities on an existing wireless support structure or
 65 within an existing equipment compound, ~~provided such improvement, upgrade,~~
 66 ~~expansion, or replacement does not increase the height of the wireless support structure~~
 67 ~~or increase the dimensions of the equipment compound.~~

68 (8) 'Registry' means any official list, record, or register of wireless facilities, equipment
 69 compounds, or wireless support structures maintained by a local governing authority.

70 (9) 'State' means the State of Georgia and any agency, department, or authority thereof.

71 (10) 'Substantially change the size' means:

72 (A) The mounting or installation of proposed antennas on an existing wireless support
 73 structure that would increase the height of such existing wireless support structure by
 74 more than 10 percent, or by the height of one additional antenna array with separation
 75 from the nearest existing antenna exceeding 20 feet, whichever is greater;

76 (B) The mounting or installation of proposed antennas on an existing wireless support
 77 structure involving the addition of an appurtenance to the body of such existing wireless
 78 support structure that would protrude from the edge of such existing wireless support
 79 structure by more than 20 feet, or more than the width of such existing wireless support
 80 structure at the level of such appurtenance, whichever is greater;

81 (C) The expansion of the boundaries of the existing equipment compound surrounding
 82 the existing wireless support structure by more than 30 linear feet in any direction or
 83 excavation outside such expanded boundaries or outside any existing access or utility
 84 easement related to the existing wireless support structure; or

85 (D) The addition of more than the standard number of new equipment cabinets for the
 86 technology involved, not to exceed four, or the addition of more than one new
 87 equipment compound in association with the mounting of a proposed antenna.

88 (11) 'Utility' means any person, corporation, municipality, county, or other entity, or
 89 department thereof or entity related or subordinate thereto, providing retail or wholesale
 90 electric, data, cable, or telecommunications services.

91 ~~(8)~~(12) 'Wireless facility' means the set of equipment and network components, exclusive
 92 of the underlying wireless support structure, including antennas, transmitters, receivers,
 93 base stations, power supplies, cabling, and accessory equipment, used to provide wireless
 94 data and wireless telecommunication services.

95 ~~(9)~~(13) 'Wireless support structure' means a freestanding structure, such as a monopole,
 96 tower, either guyed or self-supporting, or suitable existing building or alternative
 97 structure designed to support or capable of supporting wireless facilities. Such term shall
 98 not include any telephone or electrical utility pole or any tower used for the distribution
 99 or transmission of electrical service.

100 36-66B-4.

101 (a) Applications for collocation or modification of a wireless facility entitled to
 102 streamlined processing under this Code section shall be reviewed for conformance with
 103 applicable site plan and building permit requirements, including zoning and land use
 104 conformity, but shall not otherwise be subject to the issuance of additional zoning, land
 105 use, or special use permit approvals beyond the initial zoning, land use, or special permit
 106 approvals issued for such wireless support structure or wireless facility. The intent of this
 107 Code section is to allow previously approved wireless support structures and wireless
 108 facilities to be modified or ~~accept~~ collocations thereto to be accepted without additional
 109 zoning or land use review beyond that which is typically required by the local governing
 110 authority for the issuance of building or electrical permits.

111 (b) The streamlined process set forth in subsection (a) of this Code section shall apply to
 112 applications for ~~all~~ proposed modifications and to applications for ~~all~~ proposed collocations
 113 that meet the following requirements:

114 (1) The proposed modification or collocation shall not ~~increase the overall height or~~
 115 ~~width~~ substantially change the size of the wireless support structure to which the wireless
 116 facilities are to be attached;

117 (2) The proposed modification or collocation shall not ~~increase the dimensions~~
 118 substantially change the size of the equipment compound initially approved by the local
 119 governing authority;

120 (3) The proposed modification or collocation shall comply with applicable conditions of
 121 approval, if any, applied to the initial wireless facilities and wireless support structure,
 122 as well as any subsequently adopted amendments to such conditions of approval; and

123 (4) The proposed modification or collocation shall not exceed the applicable weight
 124 limits for the wireless support structure, as demonstrated by a letter from a structural
 125 engineer licensed to practice in this state.

126 A modification or collocation, once approved, shall not differ from the modification or
 127 collocation proposed in the application without filing a subsequent application.

128 (c) A local governing authority's review of an application to modify or collocate wireless
 129 facilities on an existing wireless support structure shall not include an evaluation of the
 130 technical, business, or service characteristics of such proposed wireless facilities. A local

131 governing authority shall not require an applicant to submit radio frequency analyses or any
 132 other documentation intended to demonstrate the proposed service characteristics of the
 133 proposed wireless facilities, to illustrate the need for such wireless facilities, or to justify
 134 the business decision to collocate such wireless facilities; provided, however, that the local
 135 governing authority may require the applicant to provide a letter from a radio frequency
 136 engineer certifying the applicant's proposed wireless facilities will not interfere with
 137 emergency communications.

138 (d) Within 90 calendar days of the date an application for modification or collocation of
 139 wireless facilities is filed with the local governing authority, unless another date is
 140 specified in a written agreement between the local governing authority and the applicant,
 141 the local governing authority shall:

142 (1) Make its final decision to approve or disapprove the application; and

143 (2) Advise the applicant in writing of its final decision.

144 (e) Within 30 calendar days of the date an application for modification or collocation is
 145 filed with the local governing authority, the local governing authority shall notify the
 146 applicant in writing of any information required to complete ~~the~~ such application. To the
 147 extent additional information is required to complete the application, the time required by
 148 the applicant to provide such information shall not be counted toward the 90 calendar day
 149 review period set forth in subsection (d) of this Code section.

150 (f) If a local governing authority fails to make a final decision to approve or disapprove
 151 an application for modification or collocation of wireless facilities pursuant to the
 152 provisions of subsection (d) of this Code section, then such application shall be deemed
 153 approved as submitted.

154 (g) This chapter shall not:

155 (1) Authorize a local governing authority, except when operating as a utility, to mandate,
 156 require, or regulate the placement, modification, or collocation of any wireless facility
 157 on new, existing, or replacement utility poles owned or operated by a utility; or

158 (2) Expand the power of any local governing authority to regulate any utility.

159 36-66B-5.

160 In the regulation of the placement or construction of any new wireless facility or wireless
 161 support structure, a local governing authority shall not:

162 (1) Place conditions on the approval of any application beyond those specified in Code
 163 Section 36-66B-4 for any subsequent application for collocation or modification;

164 (2) Evaluate an application solely based on the availability of other potential locations
 165 for the placement of wireless support structures or wireless facilities;

166 (3) Require the removal of existing wireless support structures or wireless facilities as
 167 a condition to approval of an application for a new wireless facility or wireless support
 168 structure unless such existing wireless support structure or wireless facility is abandoned
 169 and owned by the applicant;

170 (4) Impose any requirements or restrictions with respect to objects in navigable airspace
 171 that are greater than or in conflict with the requirements or restrictions imposed by the
 172 Federal Aviation Administration; or

173 (5) Impose surety requirements, including bonds, escrow deposits, letters of credit, or
 174 any other type of financial surety, to ensure that abandoned or unused wireless facilities
 175 or wireless support structures can be removed, unless the local governing authority
 176 imposes similar requirements on other permits for other types of commercial
 177 development or land uses.

178 36-66B-6.

179 (a) In reviewing an application or request for a new wireless facility or wireless support
 180 structure, a local governing authority shall not require the applicant to place an antenna or
 181 other wireless communications equipment on publicly owned land or on a publicly or
 182 privately owned water tank, building, or electric transmission tower as an alternative to the
 183 location proposed by the applicant.

184 (b) Within 150 calendar days of the date an application for a new wireless facility or
 185 wireless support structure is filed with the local governing authority, unless another date
 186 is specified in a written agreement between the local governing authority and the applicant,
 187 the local governing authority shall:

188 (1) Make its final decision to approve or disapprove the application; and

189 (2) Advise the applicant in writing of its final decision.

190 (c) Within 30 calendar days of the date an application for a new wireless facility or
 191 wireless support structure is filed with the local governing authority, the local governing
 192 authority shall notify the applicant in writing of any information required to complete such
 193 application. To the extent additional information is required to complete the application,
 194 the time required by the applicant to provide such information shall not be counted toward
 195 the 150 calendar day review period set forth in subsection (b) of this Code section.

196 (d) If a local governing authority fails to make its final decision to approve or disapprove
 197 an application for a new wireless facility or wireless support structure pursuant to the
 198 provisions of subsection (b) of this Code section, then such application shall be deemed
 199 approved as submitted.

200 (e) If an applicant for a new wireless support structure submits more than ten applications
 201 for new wireless support structures to the local governing authority within any calendar

202 month, only the first ten of such applications shall be subject to the provisions of
203 subsections (b), (c), and (d) of this Code section.

204 36-66B-7.

205 A local governing authority shall not charge an applicant:

206 (1) A zoning, permitting, or other fee for review or inspection of a new or existing
207 wireless facility or wireless support structure in an amount greater than the reasonably
208 approximate cost incurred by the local governing authority in connection with such
209 review or inspection; or

210 (2) Any fee in excess of the zoning, permitting, or other fees charged for similar
211 activities involving other land uses.

212 36-66B-8.

213 In the event a local governing authority engages a consultant to assist in reviewing any
214 application, permit, or registry for a wireless facility or wireless support structure, the local
215 governing authority shall not seek reimbursement or payment from the applicant for any
216 consulting fees in excess of the reasonably approximate costs incurred, and in no event
217 shall an applicant be required to pay or reimburse consulting fees that are based on a
218 contingency or similar fee.

219 36-66B-9.

220 Neither the state nor any local governing authority, except when operating as a utility, shall
221 charge a wireless service provider or wireless infrastructure provider any rental, license,
222 or other fees to locate a wireless facility or wireless support structure on such government
223 entity's property in excess of the current market rates for rental or use of similarly situated
224 property. If the state or local governing authority and the applicant do not agree on the
225 applicable market rate on any such government property, the market rate shall be
226 determined by mediation in which the applicant and the state or local governing authority,
227 as applicable, shall submit their respective positions regarding the appropriate market rate
228 for the property in question to a mediator mutually agreed upon by the parties who will
229 determine the appropriate market rate. If the parties cannot mutually agree on a mediator,
230 one shall be chosen in accordance with the procedures of the American Arbitration
231 Association. Any such mediation shall be concluded within 150 calendar days from the
232 date the applicant first tenders its proposed lease rate to the state or local governing
233 authority."

234

SECTION 2.

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