

House Bill 176 (COMMITTEE SUBSTITUTE)

By: Representatives Parsons of the 44th, Abrams of the 89th, Smith of the 134th, Dudgeon of the 25th, Martin of the 49th, and others

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 change certain provisions applicable to counties and municipal corporations related
3 to 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

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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; and

26 (4) Allow the deployment of critical wireless infrastructure to ensure that first responders
 27 can provide for the health and safety of all residents of Georgia.

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

38 36-66B-3.

39 As used in this chapter, the term:

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

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

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

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

58 (5) 'Complete application' means an application containing all documents, information,
 59 and fees specifically enumerated in or required by the local governing authority's
 60 regulations, ordinances, and forms pertaining to the location, construction, collocation,
 61 modification, or operation of wireless facilities.

62 ~~(5)~~(6) 'Equipment compound' means an area surrounding or adjacent to the base of a
 63 wireless support structure within which accessory equipment is located.

64 ~~(6)~~(7) 'Local governing authority' means a municipality or county that has adopted land
 65 use or zoning regulations for all or the majority of land uses within its jurisdiction or has
 66 adopted separate regulations pertaining to the location, construction, collocation,
 67 modification, or operation of wireless facilities.

68 ~~(7)~~(8) 'Modification' or 'modify' means the improvement, upgrade, expansion, or
 69 replacement of existing wireless facilities on an existing wireless support structure or
 70 within an existing equipment compound, provided such improvement, upgrade,
 71 expansion, or replacement does not increase the height of the wireless support structure
 72 or increase the dimensions of the equipment compound.

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

75 (10) 'Utility' means any person, corporation, municipality, county, or other entity, or
 76 department thereof or entity related or subordinate thereto, providing retail or wholesale
 77 electric, data, cable, or telecommunications services.

78 ~~(8)~~(11) 'Wireless facility' means the set of equipment and network components, exclusive
 79 of the underlying wireless support structure, including antennas, transmitters, receivers,
 80 base stations, power supplies, cabling, and accessory equipment, used to provide wireless
 81 data and wireless telecommunication services.

82 ~~(9)~~(12) 'Wireless support structure' means a freestanding structure, such as a monopole,
 83 tower, either guyed or self-supporting, or suitable existing or alternative structure
 84 designed to support or capable of supporting wireless facilities. Such term shall not
 85 include any telephone or electrical utility pole or any tower used for the distribution or
 86 transmission of electrical service.

87 36-66B-4.

88 (a) Applications for collocation or modification of a wireless facility entitled to
 89 streamlined processing under this Code section shall be reviewed for conformance with
 90 applicable site plan and building permit requirements, including zoning and land use
 91 conformity, but shall not otherwise be subject to the issuance of additional zoning, land
 92 use, or special use permit approvals beyond the initial zoning, land use, or special permit
 93 approvals issued for such wireless support structure or wireless facility. The intent of this

94 Code section is to allow previously approved wireless support structures and wireless
95 facilities to be modified or ~~accept~~ collocations thereto to be accepted without additional
96 zoning or land use review beyond that which is typically required by the local governing
97 authority for the issuance of building or electrical permits.

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

101 (1) The proposed modification or collocation shall not increase the overall height or
102 width of the wireless support structure to which the wireless facilities are to be attached;

103 (2) The proposed modification or collocation shall not increase the dimensions of the
104 equipment compound initially approved by the local governing authority;

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

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

111 (c) A local governing authority's review of an application to modify or collocate wireless
112 facilities on an existing wireless support structure shall not include an evaluation of the
113 technical, business, or service characteristics of such proposed wireless facilities. A local
114 governing authority shall not require an applicant to submit radio frequency analyses or any
115 other documentation intended to demonstrate the proposed service characteristics of the
116 proposed wireless facilities, to illustrate the need for such wireless facilities, or to justify
117 the business decision to collocate such wireless facilities; provided, however, that the local
118 governing authority may require the applicant to provide a letter from a radio frequency
119 engineer certifying the applicant's proposed wireless facilities will not interfere with public
120 safety emergency communications.

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

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

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

127 (e) Within 30 calendar days of the date an application for modification or collocation is
128 filed with the local governing authority, the local governing authority shall determine if it
129 is a complete application and, if it determines the application is not a complete application,
130 notify the applicant in writing of any information required to complete ~~the~~ such application.

131 To the extent additional information is required to complete the application, the time
 132 required by the applicant to provide such information shall not be counted toward the 90
 133 calendar day review period set forth in subsection (d) of this Code section. Information
 134 requested to complete the application may only include the documents, information, and
 135 fees specifically enumerated in the local governing authority's regulations, ordinances, and
 136 forms pertaining to the location, construction, collocation, modification, or operation of
 137 wireless facilities.

138 36-66B-5.

139 (a) Within 150 calendar days of the date an application for a new wireless support
 140 structure is filed with the local governing authority, unless another date is specified in a
 141 written agreement between the local governing authority and the applicant, the local
 142 governing authority shall:

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

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

145 (b) Within 30 calendar days of the date an application for a new wireless support structure
 146 is filed with the local governing authority, the local governing authority shall determine if
 147 it is a complete application and, if it determines the application is not a complete
 148 application, notify the applicant in writing of any information required to complete such
 149 application. To the extent additional information is required to complete the application,
 150 the time required by the applicant to provide such information shall not be counted toward
 151 the calendar day review period set forth in subsection (a) of this Code section. Information
 152 requested to complete the application may only include the documents, information, and
 153 fees specifically enumerated in the local governing authority's existing regulations,
 154 ordinances, and forms pertaining to the location, construction, collocation, modification,
 155 or operation of wireless facilities.

156 36-66B-6.

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

159 (1) Condition the approval of any application for a new wireless support structure on a
 160 requirement that a modification or collocation to such structure be subject to a review that
 161 is inconsistent with the requirements of Code Section 36-66B-4;

162 (2) Require the removal of existing wireless support structures or wireless facilities as
 163 a condition to approval of an application for a new wireless facility or wireless support
 164 structure unless such existing wireless support structure or wireless facility is abandoned
 165 and owned by the applicant; or

166 (3) Require the applicant to place an antenna or other wireless communications
167 equipment on publicly owned land or on a publicly or privately owned water tank,
168 building, or electric transmission tower as an alternative to the location proposed by the
169 applicant.

170 36-66B-7.

171 A local governing authority shall not:

172 (1) Charge an applicant a zoning, permitting, or other fee for review or inspection of a
173 new or existing wireless facility or wireless support structure in an amount greater than
174 the amount authorized by subsection (a) of Code Section 48-13-9;

175 (2) Charge an applicant a zoning, permitting, or other fee for review or inspection of a
176 collocation or modification in excess of \$500.00;

177 (3) Seek reimbursement from the applicant for any application fees, consultation fees,
178 registry fees, or audit fees with respect to a wireless facility or wireless support structure
179 that are based on a contingency fee arrangement; or

180 (4) Charge a wireless service provider or wireless infrastructure provider any rental,
181 license, or other fees in excess of the fair market value for rental or use of similarly
182 situated property to renew or extend the term of a lease or other agreement for a wireless
183 facility or wireless support structure on such local governing authority's property."

184 **SECTION 2.**

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