House Bill 176 (AS PASSED HOUSE AND SENATE)
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

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to change certain provisions applicable to counties and municipal corporations related to advanced broadband collocation; to provide for a short title; to provide for definitions; to make changes related to streamlined processing; to standardize certain procedures related to new wireless facilities; to place limitations on the time allowed for the review of new wireless facilities; to limit fees charged for review of wireless facilities; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"CHAPTER 66B

36-66B-1.
This chapter shall be known and may be cited as the 'Advanced Broadband Collocation Act' 'Mobile Broadband Infrastructure Leads to Development (BILD) Act.'

36-66B-2.
(a) The General Assembly finds that the enactment of this chapter is necessary to:
(1) Ensure the safe and efficient integration of facilities necessary for the provision of broadband and other advanced wireless communication services throughout this state;
(2) Ensure the ready availability of reliable wireless communication services to the public to support personal communications, economic development, and the general welfare; and
(3) Encourage where feasible the modification or collocation of wireless facilities on existing wireless support structures over the construction of new wireless support structures in the deployment or expansion of commercial wireless networks; and

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

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

36-66B-3.

As used in this chapter, the term:

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

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

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

(4) 'Collocation' 'Collocate' or 'collocation' means the placement or installation of new wireless facilities on previously approved and constructed wireless support structures, including monopoles and towers, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding wireless support structure. Such term includes the placement of accessory equipment within an existing equipment compound.
(5) 'Complete application' means an application containing all documents, information, and fees specifically enumerated in or required by the local governing authority's regulations, ordinances, and forms pertaining to the location, construction, collocation, modification, or operation of wireless facilities.

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

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

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

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

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

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

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

36-66B-4.

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

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

1. The proposed modification or collocation shall not increase the overall height or width of the wireless support structure to which the wireless facilities are to be attached;
2. The proposed modification or collocation shall not increase the dimensions of the equipment compound initially approved by the local governing authority;
3. The proposed modification or collocation shall comply with applicable conditions of approval, if any, applied to the initial wireless facilities and wireless support structure, as well as any subsequently adopted amendments to such conditions of approval; and
4. The proposed modification or collocation shall not exceed the applicable weight limits for the wireless support structure, as demonstrated by a letter from a structural engineer licensed to practice in this state.

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

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

1. Make its final decision to approve or disapprove the application; and
2. Advise the applicant in writing of its final decision.

(e) Within 30 calendar days of the date an application for modification or collocation is filed with the local governing authority, the local governing authority shall determine if it is a complete application and, if it determines the application is not a complete application, notify the applicant in writing of any information required to complete the such application.
To the extent additional information is required to complete the application, the time
required by the applicant to provide such information shall not be counted toward the 90
calendar day review period set forth in subsection (d) of this Code section. Information
requested to complete the application may only include the documents, information, and
fees specifically enumerated in the local governing authority's regulations, ordinances, and
forms pertaining to the location, construction, collocation, modification, or operation of
wireless facilities.

36-66B-5.
(a) Within 150 calendar days of the date an application for a new wireless support
structure is filed with the local governing authority, unless another date is specified in a
written agreement between the local governing authority and the applicant, the local
governing authority shall:
(1) Make its final decision to approve or disapprove the application; and
(2) Advise the applicant in writing of its final decision.
(b) Within 30 calendar days of the date an application for a new wireless support structure
is filed with the local governing authority, the local governing authority shall determine if
it is a complete application and, if it determines the application is not a complete
application, notify the applicant in writing of any information required to complete such
application. To the extent additional information is required to complete the application,
the time required by the applicant to provide such information shall not be counted toward
the calendar day review period set forth in subsection (a) of this Code section. Information
requested to complete the application may only include the documents, information, and
fees specifically enumerated in the local governing authority's existing regulations,
ordinances, and forms pertaining to the location, construction, collocation, modification,
or operation of wireless facilities.

36-66B-6.
In the regulation of the placement or construction of any new wireless facility or wireless
support structure, a local governing authority shall not:
(1) Condition the approval of any application for a new wireless support structure on a
requirement that a modification or collocation to such structure be subject to a review that
is inconsistent with the requirements of Code Section 36-66B-4;
(2) Require the removal of existing wireless support structures or wireless facilities as
a condition to approval of an application for a new wireless facility or wireless support
structure unless such existing wireless support structure or wireless facility is abandoned
and owned by the applicant; or
(3) Require the applicant to place an antenna or other wireless communications equipment on publicly owned land or on a publicly or privately owned water tank, building, or electric transmission tower as an alternative to the location proposed by the applicant.

36-66B-7.

A local governing authority shall not:

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

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

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

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

SECTION 2.

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