Senate Bill 432

By: Senators Hawkins of the 49th, Balfour of the 9th, Shafer of the 48th, Williams of the 19th, Murphy of the 27th and others

AS PASSED

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 provide procedures for reviewing applications for the modification or collocation of wireless communication facilities; to provide a short title; to provide legislative findings and intent; to provide definitions; to provide for related matters; to provide an effective date; 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 adding a new chapter to read as follows:

″CHAPTER 66B

36-66B-1.

This chapter shall be known and may be cited as the 'Advanced Broadband Collocation 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.

(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 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 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 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, modification, or operation of wireless facilities are submitted by the applicant to the authority.

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

(6) '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, modification, or operation of wireless facilities.

(7) '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.

(8) '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 telecommunication services.

(9) '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 electrical utility pole or 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 accept collocations 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 all modifications and to applications for all proposed collocations that meet the following requirements:

(1) The proposed 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 collocation shall not increase the dimensions of the equipment compound approved by the local governing authority;

(3) The proposed 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 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 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 notify the applicant in writing of any information required to complete the 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.″

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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