

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 style="text-align:center">**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 style="text-align:center">"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 all documents, information, and fees~~
 48 ~~specifically enumerated in the local governing authority's regulations, ordinances, and~~
 49 ~~forms pertaining to the location, construction, collocation, modification, or operation of~~
 50 ~~wireless facilities are submitted by the applicant to the authority.~~

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

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

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

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

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

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

72 ~~(8)~~(10) 'Wireless facility' means the set of equipment and network components, exclusive
 73 of the underlying wireless support structure, including antennas, transmitters, receivers,
 74 base stations, power supplies, cabling, and accessory equipment, used to provide wireless
 75 data and wireless telecommunication services.

76 ~~(9)~~(11) 'Wireless support structure' means a freestanding structure, such as a monopole,
 77 tower, either guyed or self-supporting, or suitable existing building or alternative
 78 structure designed to support or capable of supporting wireless facilities. Such term shall
 79 not include any telephone or electrical utility pole or any tower used for the distribution
 80 or transmission of electrical service.

81 36-66B-4.

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

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

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

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

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

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

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

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

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

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

121 (e) Within 30 calendar days of the date an application for modification or collocation is
122 filed with the local governing authority, the local governing authority shall notify the
123 applicant in writing of any information required to complete ~~the~~ such application. To the
124 extent additional information is required to complete the application, the time required by
125 the applicant to provide such information shall not be counted toward the 90 calendar day
126 review period set forth in subsection (d) of this Code section. Such information may only
127 include the documents, information, and fees specifically enumerated in the local

128 governing authority's regulations, ordinances, and forms pertaining to the location,
129 construction, collocation, modification, or operation of wireless facilities.

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

134 (g) This chapter shall not:

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

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

139 36-66B-5.

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

142 (1) Place conditions on the approval of any application that are inconsistent with any
143 provisions of Code Section 36-66B-4 for any subsequent application for collocation or
144 modification;

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

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

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

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

159 36-66B-6.

160 (a) In reviewing an application or request for a new wireless facility or wireless support
161 structure, a local governing authority shall not require the applicant to place an antenna or
162 other wireless communications equipment on publicly owned land or on a publicly or

163 privately owned water tank, building, or electric transmission tower as an alternative to the
164 location proposed by the applicant.

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

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

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

171 (c) Within 30 calendar days of the date an application for a new wireless facility or
172 wireless support structure is filed with the local governing authority, the local governing
173 authority shall notify the applicant in writing of any information required to complete such
174 application. To the extent additional information is required to complete the application,
175 the time required by the applicant to provide such information shall not be counted toward
176 the 150 calendar day review period set forth in subsection (b) of this Code section. Such
177 information may only include the documents, information, and fees specifically
178 enumerated in the local governing authority's regulations, ordinances, and forms pertaining
179 to the location, construction, collocation, modification, or operation of wireless facilities.

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

184 (e) If an applicant for a new wireless support structure submits more than ten applications
185 for new wireless support structures to the local governing authority within any calendar
186 month, only the first ten of such applications shall be subject to the provisions of
187 subsections (b), (c), and (d) of this Code section.

188 36-66B-7.

189 A local governing authority shall not charge an applicant:

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

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

196 36-66B-8.

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

203 **SECTION 2.**

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