

1 SB589  
2 120816-1  
3 By Senator Singleton  
4 RFD: Commerce, Transportation, and Utilities  
5 First Read: 01-APR-10

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8 SYNOPSIS: This bill would provide for review of an  
9 application for collocation or modification of a  
10 wireless facility by the local governing authority.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT

15  
16 Relating to the collocation and modification of  
17 wireless facilities; to provide legislative findings; to  
18 provide a procedure for requesting collocation or  
19 modification; and to provide procedures for reviewing  
20 applications for the modification or collocation of wireless  
21 communication facilities by a local governing authority.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall be known as the "Advanced  
24 Broadband Collocation Act."

25 Section 2. (a) The Legislature finds and declares  
26 that the purpose of this act is to do all of the following:

1           (1) Ensure the safe and efficient integration of  
2 facilities necessary for the provision of broadband and other  
3 advanced wireless communication services throughout this  
4 state.

5           (2) Ensure the ready availability of reliable  
6 wireless communication services to the public to support  
7 personal communications, economic development, and the general  
8 welfare.

9           (3) Encourage, where feasible, the modification or  
10 collocation of wireless facilities on existing wireless  
11 support structures over the construction of new wireless  
12 support structures in the deployment or expansion of  
13 commercial wireless networks.

14           (b) While recognizing and confirming the purview of  
15 local government to exercise zoning, land use, and permitting  
16 authority within its territorial boundaries with regard to the  
17 location, construction, and modification of wireless  
18 communication facilities, it is the intent of the Legislature  
19 to establish procedural standards for the exercise of such  
20 authority so as to streamline and facilitate the modification  
21 of such facilities, including the placement of new or  
22 additional wireless facilities on existing wireless support  
23 structures. This act shall not limit or preempt the scope of a  
24 local government's review of zoning, land use, or permitting  
25 applications for the siting of wireless facilities or wireless  
26 support structures or to require a local government to  
27 exercise its zoning power.

1           Section 3. As used in this act, the following terms  
2 have the following meanings:

3           (1) ACCESSORY EQUIPMENT. Any equipment serving or  
4 being used in conjunction with a wireless facility or wireless  
5 support structure. The term includes, but is not limited to,  
6 utility or transmission equipment, power supplies, generators,  
7 batteries, cables, equipment buildings, cabinets, and storage  
8 sheds, shelters, or similar structures.

9           (2) ANTENNA. Communications equipment that transmits  
10 and receives electromagnetic radio signals used in the  
11 provision of all types of wireless communication services.

12           (3) APPLICATION. A formal request submitted to the  
13 local governing authority to construct or modify a wireless  
14 support structure or a wireless facility. An application shall  
15 be deemed complete when all documents, information, and fees  
16 specifically enumerated in the local governing authority's  
17 regulations, ordinances, and forms pertaining to the location,  
18 construction, modification, or operation of wireless  
19 facilities are submitted by the applicant to the authority.

20           (4) COLLOCATION. The placement or installation of  
21 new wireless facilities on previously approved and constructed  
22 wireless support structures, including monopoles and towers,  
23 both self-supporting and guyed, in a manner that negates the  
24 need to construct a new freestanding wireless support  
25 structure. Such term includes the placement of accessory  
26 equipment within an existing equipment compound.

1           (5) EQUIPMENT COMPOUND. An area surrounding or  
2 adjacent to the base of a wireless support structure within  
3 which accessory equipment is located.

4           (6) LOCAL GOVERNING AUTHORITY. A municipality or  
5 county that has adopted land use or zoning ordinances for all  
6 or the majority of land uses within its jurisdiction or has  
7 adopted separate ordinances pertaining to the location,  
8 construction, modification, or operation of wireless  
9 facilities.

10           (7) MODIFICATION or MODIFY. The improvement,  
11 upgrade, expansion, or replacement of existing wireless  
12 facilities on an existing wireless support structure or within  
13 an existing equipment compound, provided such improvement,  
14 upgrade, expansion, or replacement does not increase the  
15 height of the wireless support structure or increase the  
16 dimensions of the equipment compound or increase the load  
17 borne by the support structure.

18           (8) WIRELESS FACILITY. The set of equipment and  
19 network components, exclusive of the underlying wireless  
20 support structure, including antennas, transmitters,  
21 receivers, base stations, power supplies, cabling, and  
22 accessory equipment used to provide wireless data and  
23 telecommunication services.

24           (9) WIRELESS SUPPORT STRUCTURE. A freestanding  
25 structure, including, but not limited to, a monopole, tower,  
26 either guyed or self-supporting, or suitable existing or  
27 alternative structure designed to support wireless facilities.

1           Section 4. (a) An application for collocation or  
2           modification of a wireless facility shall be entitled to  
3           processing under this section. The application shall be  
4           reviewed for conformance with applicable site plan and  
5           building permit requirements, including safety requirements,  
6           zoning and land use conformity, but shall not otherwise be  
7           subject to the issuance of additional zoning, land use, or  
8           special use permit approvals beyond the initial zoning, land  
9           use, or special permit approvals issued for such wireless  
10          support structure or wireless facility. The intent of this  
11          section is to allow previously approved wireless support  
12          structures and wireless facilities to be modified or accept  
13          collocations without additional zoning or land use review  
14          beyond that which is typically required by the local governing  
15          authority for the issuance of building or electrical permits  
16          for wireless support facilities or wireless facilities.

17                 (b) The collocation or modification of a wireless  
18          facility shall meet all of the following requirements:

19                         (1) It shall not increase the overall height or  
20          width of the wireless support structure to which the wireless  
21          facilities are to be attached or the loading on the structure,  
22          nor increase the load or weight placed on the support  
23          structure.

24                         (2) It shall not increase the dimensions of the  
25          equipment compound approved by the local governing authority.

26                         (3) It shall comply with applicable conditions of  
27          approval, if any, applied to the initial wireless facilities

1 and wireless support structure, as well as any subsequently  
2 adopted amendments to such conditions of approval.

3 (4) It shall not exceed the applicable weight limits  
4 for the wireless support structure, as demonstrated by a  
5 structural report with calculations from a structural engineer  
6 licensed to practice in this state.

7 (c) (1) A review by a local governing authority of an  
8 application to modify or collocate wireless facilities on an  
9 existing wireless support structure may not include an  
10 evaluation of the non-safety-related technical, business, or  
11 service characteristics of such proposed wireless facilities.

12 (2) The local governing authority may not require an  
13 applicant to submit radio frequency analyses or any other  
14 documentation intended to demonstrate the proposed service  
15 characteristics of the proposed collocated wireless  
16 facilities, to illustrate the need for such wireless  
17 facilities, or to justify the business decision to collocate  
18 such wireless facilities.

19 (3) The local governing authority may require the  
20 applicant to provide a letter from a radio frequency engineer  
21 certifying the applicant's proposed wireless facilities will  
22 not interfere with emergency communications.

23 (d) Within 90 calendar days of the date a complete  
24 application for modification or collocation of wireless  
25 facilities is filed with the local governing authority, unless  
26 another date is specified in a written agreement between the

1 local governing authority and the applicant, the local  
2 governing authority shall:

3 (1) Make its final decision on an application within  
4 90 days of the receipt of a complete application.

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

7 (e) Within 30 calendar days of the date an  
8 application for modification or collocation is filed with the  
9 local governing authority, the local governing authority shall  
10 notify the applicant in writing of any information required to  
11 complete the application. To the extent additional information  
12 is required to complete the application, the time required by  
13 the applicant to provide such information shall not be counted  
14 toward the 90-calendar-day review period set forth in  
15 subsection (d).

16 Section 5. All laws or parts of laws which conflict  
17 with this act are repealed.

18 Section 6. This act shall become effective following  
19 its passage and approval by the Governor, or its otherwise  
20 becoming law.