

Stop 5G Together Illinois

Vote “No” on HB2379, the extension bill of SB1451. The best solution is having no bill, as local governments and their residents are the ones to decide what is best for their municipality. You can protect Illinois constituents and return local control without prohibiting wireless service. Illinois consumers can still benefit from the services. Providers of wireless access can still have a fair and predictable process for the deployment of small wireless facilities.

Explanation of SB1451/HB2379 (extension bill) with Suggested Amendments

Our second choice was to add protective amendments to SB1451/HB2379. We have retained an attorney to review the bill and create the language of the amendments. These were the top 15 amendment "topics" we made protective. We were prepared to discuss the amendments if we had a seat at the table; if our voices were allowed to have been heard.

In order to fully rectify the top 15 topics, additional changes throughout the law/bill may be warranted.

The topics are listed in importance. Red represents new language.

Top 15 to Amend	Topic	Page	Lines	Section	Explanation	Solution
1.	Local government rights to regulate!!!!	8	14-18	15 Regulation of Small Wireless Facilities (d)(2)	-This is the most important information that strips away the TCA- all local government rights to regulate. -This is the worst part of the bill because it wipes out entire zoning codes. -The Telecommunications Act of 1996 in Section 332(c)(7)(B)(iii) prescribes that a local government cannot deny any application for a wireless facility unless the denial is based upon “substantial evidence.” -A local zoning board can’t deny the application unless they obtain from	-Taking this out preserves the general authority of local governments to regulate the placement of these small wireless facilities. <u>Amend as follows:</u> -Strikethrough lines 14-18 ending with “however.”

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					<p>the applicant “substantial evidence” which can support a finding by the local zoning board that the applicant does not suffer from a significant gap in its personal wireless services, or that its proposed installation is not the least intrusive means of remedying that gap.</p> <p>-Local zoning board can’t deny any cell tower, small cell, or DAS system regardless of how horrendous the proposed installation would be.</p> <p>-Local authority is also completely powerless to defend itself in a federal lawsuit if they denied the application due to lack of “substantive evidence.”</p>	
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
2.	Collocate or collocation	2 3	25 1-2	10 Definitions	<p>-Allows installation of a “new” pole</p> <p>-Allows installation of the new pole on privately-owned residential property</p> <p>-True definition of collocation is to place together on existing facility based on available space.</p>	<p>-No new pole.</p> <p>-Not allowed on privately-owned residential property.</p> <p>-Amend as follows: "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace wireless facilities on an existing or adjacent to a wireless support structure or utility pole, not including any poles that are situated on privately-owned residential properties.</p> <p>-Need to strikethrough “new pole” throughout the bill: p. 2 Line 16 p. 10 line 1, line 26</p>

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						<p>p. 11 line 6 p. 13 line 7 p. 13 lines 9-12 p. 18 lines 22,23 lines p. 20 line 12 p. 21 line 19 p. 28 line 15 p. 34 line 7?, line 9, line 10</p>
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
2.	Application	2	13-17	10-Definitions	<p>-Includes installation of “new” utility poles -“facilities”-references the idea of multiple facilities in one application</p>	<p>-Allow a single small wireless facility per application -<u>Amend as follows:</u> "Application" means a request submitted by an applicant to an authority for a permit to collocate a single small wireless facilities, and a request that includes the installation of a new on a pre-existing utility pole for such collocation, as well as any applicable fee for the review of such application. -May include “replacement” of a utility pole.</p>
3.	Right-of-way	5	1-4	10 Definitions	<p>-Includes any utility easement: water, sewage, electrical, cable, and gas -Allows small wireless installations on privately-owned residential property</p>	<p><u>Amend as follows:</u> “Right-of way” means the area on, below, or above a public roadway, highway, street, public sidewalk, or alley, or utility easement dedicated for compatible use which is not located upon privately-owned property. "Right-of-way" does not include authority-owned aerial lines or privately-owned property.</p>
3.	Protecting Private	29	2-9	(j)	<p>This allows the small wireless facilities on our private property and easements.</p>	<p>-<u>Amend as follows:</u> Strikethrough all of (j)</p>

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	Property and Easements					
3.	Protecting Private Property and Easements	22	23-24	(g)	Not protecting privately owned property	-Amend as follows: Strikethrough “is not located within rights of way, subject to subsection (j) of this Section,
4.	Small wireless facility	5	5-19	10 Definitions	-Includes any wireless facility – therefore the definition includes small cells up to macro towers	-Amend as follows: -Strikethrough lines 6-19 -“Small wireless facility” means a wireless facility that is limited to small cells and DAS nodes.
4.	Micro wireless facility	4	10-13	10 Definitions	-Includes dimensions in order to reference a smaller (in size), small cell facility. -Allows this type of facility to be installed on electrical/cable wires without any application or permit.	- Amend as follows: Strike through entire definition. There should be no exception to small wireless facilities. All small wireless facilities should be defined under the definition of small wireless facilities.
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
4.	Micro Wireless Facilities Regulation	22	6-17	(f)	-Same size or smaller does not affect the amount of microwave radiation emitted from a “small wireless facility.” There could be an increased amount of radiation from a smaller wireless facility. -Micro wireless facilities need to be required to have an application process like every other wireless facility. -Strips an authority from requiring applications, permits and fees for micro wireless facilities	- Amend as follows: Strikethrough (ii)the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the authority at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of subparagraphs (D) of paragraph (2) of subsection (d) of this section, or (iii)the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended

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						on cables that are strung between existing utility poles in compliance with applicable safety codes.
4.	Wireless support structure	7	3-8		-This authorizes companies to install wireless facilities upon any existing structure, which is merely capable of holding up their transmission equipment. This does not only include poles but all buildings and any other "structure" which just happens to be strong enough.	- Amend as follows: -"Wireless support structure" means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole. structures which are designed to be used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
4.	Classification of small wireless facilities	7	17-22	15- Regulation of small wireless facilities	This allows for wireless facilities to be built "in" or "adjacent to" "rights of way in any zone" (line 20) and "shall not be subject to zoning review or approval" (line 19). This means that these facilities can be built virtually anywhere, entirely exempt from local zoning review.	-Amend as follows: Strikethrough lines 17-22 from "except as provided..."
5.	Applicant proving gap in coverage	9	Between 21-22		-This is a void in the bill that is extremely important to add. -This related back to the Telecommunications Act of 1996 that talks about gap in coverage.	-Amend as follows: -Insert a section (G) -Add "Drive test data recorded by an independent radio frequency engineer chosen by the authority, to establish the existence or absence of a significant gap in personal wireless service and whether the proposed installation is the least intrusive

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						means of remedying any such significant gap in service, to be paid for by the wireless provider or other applicant.”
6.	Legislative Purpose for which the law is enacted. If litigated, the law has to be applied in the manner consistent with the intent.	1	6-22	5-Legislative Intent	-Benefits telecom: “small wireless facilities are critical, integral role of delivery, vital interest, specifies how local authorities may regulate the collocation of Small Wireless Facilities” -No mention of protecting public safety, informing constituents for consent or reducing adverse impacts	-Amend as follows: Represent the wireless industry and Illinois constituents equally: We draft this law to enable the state to derive any benefit of the rollout of new technologies while not unnecessarily limiting the power of local governments to protect their communities against the irresponsible placement of wireless facilities. To ensure that providers of wireless access have a fair and predictable process for the deployment of small wireless facilities.
7.	Providing Notice	30	18-21	(1)	There is no notice to private property owners of an application for a small wireless facility.	
7.	Providing Notice/ADA Accommodations	30		(2)	Since there is no notice to private property owners of an application, this is especially problematic for those with disabilities under the ADA that require the opportunity to have reasonable accommodations made for the location of the wireless facility to be placed in the least intrusive means. If a small cell is installed it is no longer reasonable to move the location due to the cost. However, it is reasonable	-Amend as follows: -Add “(1) The authority may require that any applicant for a new small wireless facility provide notice to property owners within 500-feet of proposed location. The wireless provider must notify all property owners by certified mail, return receipt requested, and first class mail. The authority must require a public hearing 30 days from the date of notification, and at any public hearing any applicant shall be

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					to discuss the location before installation to ensure a person’s rights to quiet enjoyment of their property should not be violated.	required to provide drive test data, recorded by and independent radio frequency engineer chosen by the authority, to support any propagation maps submitted in its support of its application. “ -Add “(2) Any local zoning code pertaining to applications for wireless facilities must include a provision for anyone who is disabled within the meaning of the ADA to serve a demand for reasonable accommodation in the context of the zoning process and to be discussed at the public hearing to allow for any reasonable accommodations.”
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
8.	Batch Applications	15	25	(7)	Local governments are not given adequate time to process more than one application. If an application has multiple locations, 30 days is not adequate to process and review the applications.	-Amend as follows: Add “Within 30 days after receiving an application the authority must determine whether the application is complete and notify the applicant unless the applicant submits more than one application or an application for more than one facility which must be contemporaneously processed by the local zoning authority in which case the zoning authority may have 30 days for each application to run consecutively.”
8.	Batch Applications	19	11-22	(11)	Again this allows for consolidated application up to 25 small wireless facilities with only 30 days.	-Amend as follows: Strikethrough “An applicant seeking to collocate small wireless facilities . . . that is approved in a consolidated application”. All of section (11)
9.	Wireless Services Definition	6	22-26		-Doesn’t match the Federal Telecommunications Act of 1996, 47 U.S.C. 332:	-Amend as follows: “Personal Wireless services” means any services provided to the general public,

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					Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services	including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities. as defined under the Federal Telecommunications Act of 1996, 47 U.S.C. 332
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
10.	Maximum Height	10	19-26	(5)	-This allows a 65 ft. cell tower to be put on private-residential property. -35 ft. + 10 ft. + 20 ft. = 65 ft. -Utility poles are 35-45 ft. tall. -Line 20 allows an extension of 10-ft. on top of the pole height. -Under the Middle Class Tax Relief and Job Creation Act of 2012 another 20 feet can be added. -Monopole macro towers are 40 ft.-200 ft. in height	-Amend as follows: (5) An authority may limit the maximum height of a small wireless facility to no more than 5 10 -feet above the top of the existing utility pole or wireless support structure on which the small wireless facility to which it is being attached. is collocated..... -Continue to strikethrough to the end of line 26.
10.	Maximum Height	11	1-13			-Amendment continues as follows: Strikethrough for lines 1-13.
11.	Section 35 Insurance	32	12-17		According to Attorney Mark Pollock, when the certificate of insurance is produced, it will be a different entity than the one that signed the contract. We are trying to hold the operators and anyone that signed the application accountable so the city isn't left holding the bag of liability.	-Amend as follows: (a) Except for a Any wireless provider and applicant signatories with an existing franchise to occupy and operate in the rights-of-way , during the period in which the wireless provider's facilities are located on the authority improvements or rights-of-way, the authority may shall require the any wireless provider and applicant signatories to carry, at the wireless provider's and applicant

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						signatories own cost and expense, the following insurance:
11.	Section 35 Insurance	33	6-14	(b)	One of telecoms tricks is offering the city indemnity in lieu of the insurance – posting a shell company to be the indemnitor.	-Amend as follows: (b) A wireless provider and any other applicant signatories may self-insure all or a portion of the insurance coverage and limit requirements required by an authority. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the naming of additional insureds under this Section. A wireless provider and any other applicant signatories that elects to self-insure shall provide to the authority the list of their Board of Directors, the assets of the corporation, and a copy of the policy of insurance evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limits required by the authority.
12.	Deemed Approved	16	1-6		If the authority misses the 30-day deadline, the application shall be deemed complete with no room for any mistake.	-Amend as follows: Strikethrough “An application shall be deemed complete if the authority fails to provide notification to the applicant within 30 days after when all documents, information, and fees specifically enumerated in the authority’s permit application form are submitted by the applicant to the authority.”

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12.	Deemed Approved	16	15-26	(8)(A)	Additional time is warranted for each proposed small wireless facility for which a respective applicant seeks contemporaneous approval.	-Amend as follows: Strikethrough “and deemed approved if the authority fails to approve or deny the application within 90 days; however meet the requirements of this act.” -Add “The authority has 90 days for each application unless an applicant submits more than one application which must be processed during the period. In which case the authority shall have 90 days for each application filed to run consecutively.”
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
12.	Deemed Approved	17	1-3	(8)(A)	Deemed approved again	-Amend as follows: Strikethrough “approved notice shall not preclude the authority’s denial of the permit request within the time limit provided under this Act; and
12.	Deemed Approved	17	4-21	(8)(B)	Deemed approved again	-Amend as follows: Strikethrough all of section (B)
12.	Deemed Approved	18	4-9	(9)	Deemed approved again	-Amend as follows: Strikethrough “The authority must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies and application.”
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
12.	Deemed Approved	18	15-25	(9)	Deemed approved again	- Amend as follows: Strikethrough “or it is deemed approved; however the applicant must . . . with the small wireless facility.”

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12.	Deemed Approved	25	15	(4)	Rates, fees within 2 months of the Act	- <u>Amend as follows:</u> Strikethrough “Within 2 months after the effective date of this Act, “
12.	Deemed Approved	25 26	23-26 1		This is not protective of the municipalities that don’t have an ordinance. They need 6-12 months to come up with a protective ordinance This penalizes municipalities that don’t have a wireless ordinance and just allows telecom to come in and just collocate small wireless facilities and install utility poles.	- <u>Amend as follows:</u> Strikethrough “(4) In the absence of such an ordinance or agreement that complies with this Act, and until such a compliant ordinance or agreement is adopted, wireless providers may collocate small wireless facilities and install utility poles under the requirements of this Act.”
13.	Fees	21	13-16	(e)(1)	-An authority can charge up to \$650 for a single small wireless facility, but can only charge up to \$350 when more than one small wireless facility is collocated.	- <u>Amend as follows:</u> Strikethrough “and up to \$350 for each small wireless facility addressed in an application to collocate more than one small wireless facility on existing utility poles or wireless support structures.”
13.	Fees	21	17-20	(e)(2)	-Again includes a new utility pole.	- <u>Amend as follows:</u> Strikethrough (2)” An authority may charge an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility for such collocation.”
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
13.	Fees	28 29	10-26 1	(E)	-If a provider has an existing agreement with an authority and they've agreed to pay the authority more money than what's in this the statue, the wireless provider can get out of the agreement/contract that requires them to pay more money by simply notifying the authority that	- <u>Amend as follows:</u> Strikethrough all of (E)

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					they accept the new lower rates. This is deceptive to the authority.	
14.	Horizontal Distance	10	15-18		-Strips an authority's right to regulate horizontal separation distances	-Amend as follows: Strikethrough lines 15-18
15.	Historic Districts and Landmarks	15	4-22	(l)	Doesn't allow local governments to apply any restrictions for the preservation of a historic district or in close proximity to historic landmarks.	-Amend as follows: -Strikethrough lines 4-22 -Add " Local governments may enact reasonable restrictions including but not limited to concealment measures intended to preserve the integrity of historic districts and or historic landmarks including but not limited to imposing design and concealment measures and any other types of regulatory requirements apply to other structures being built or proposed to be built in historic districts and in close proximity to historic landmarks in furtherance of historic preservation of such districts and landmarks."
Top 15 to Amend	Topic	Page(s)	Lines	Section	Explanation	Solution
16.	Section 90. Repeal.	33	21		-It would be best to let this bill sunset. However, If enough protective amendments are added, that give back local control and the citizens of Illinois are protected and have a voice, then it would be best to have it sunset again in three years. Since technology is changing quickly, this bill will need to be addressed again in a few years.	-Amend as follows: Strikethrough "2021" Add-"2024"