

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 1345

**PRINTER'S NO.** 2285

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

November 22, 2011

**PRIME SPONSOR**

Senator Folmer

**HISTORY OF BILL**

Referred to COMMUNICATIONS AND TECHNOLOGY, Nov. 22, 2011

Reported as amended, June 13, 2012

First consideration, June 13, 2012

Second consideration, June 20, 2012

Re-referred to APPROPRIATIONS, June 20, 2012

Re-reported as committed, June 25, 2012

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 1345 establishes a freestanding act known as the Wireless Broadband Collocation Act ("act"). The legislation provides for streamlined procedures for reviewing zoning ordinance and land use regulation applications for the collocation or modification of wireless communications facilities and wireless support structures.

"Collocation" refers to the placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures such as towers, electrical transmission towers, water towers, etc. "Modification" refers to the improvement, upgrade, expansion or replacement of existing wireless telecommunications facilities if there is no substantial change to the physical dimensions of the wireless support structure.

Senate Bill 1345 provides that municipalities that have adopted zoning ordinances and land use regulations for the placement of wireless support structures may not require any additional requirements on the applicant for the collocation on a wireless support structure or the modification of a wireless telecommunications facility that has the force or effect of the following:

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- Regulating the collocation, replacement or modification of antennas, accessory equipment or wireless telecommunications facilities upon an existing wireless support structure or within an existing equipment compound.
- Imposing additional costs, except the appropriate and reasonable permit fees, or operating restrictions on an applicant for the replacement, collocation or modification of wireless telecommunications facilities upon existing wireless support structures or within existing equipment compounds.
- Requiring payment of a zoning permit fee to accompany any application, the amount of which fee is in excess of the municipality's actual, reasonable costs to review and process the application or \$1,000, whichever is less.
- Requiring an applicant to provide justification for radio frequency need.
- Acting to prohibit or have the effect of prohibiting the provision of mobile service as provided in federal regulatory law.
- Requiring an applicant to justify the need for or the technical, business or service characteristics of the proposed wireless telecommunications facilities.

An application for replacement, collocation or modification of a wireless telecommunications facility or wireless support structure entitled to processing under the act shall be reviewed for conformance with the municipality's applicable building permit requirements, including requirements applicable to the added structural loading of the proposed antennas and accessory equipment, but shall not be subject to the issuance of new zoning or land use approvals or review beyond the initial zoning or land use approvals issued for the previously approved wireless support structure or wireless telecommunications facility. Replacement of wireless telecommunications facilities on existing wireless support structures or within existing equipment compounds may be performed by the applicant without obtaining building or zoning permits from the municipality.

An application shall be deemed complete when all documents, information and fees specifically enumerated in the municipality's regulations, ordinances and forms pertaining to the location, modification or operation of wireless telecommunications facilities are submitted by the applicant to the municipality. The municipality shall notify the applicant within 30 days of any information required to complete the application, and the municipality shall make its final decision to approve the application within 90 days. If the municipality fails to act within the time prescribed, the application shall be deemed approved.

The streamlined process shall apply to all applications for modification, replacement and collocation that meet the following requirements:

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- The proposed collocation, modification or replacement may not substantially change the physical dimensions of the wireless support structure. "Substantially change" is defined in the act as any increase in the height of the wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet unless necessary to avoid interference with existing antennas. A "substantial change" also refers to any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array and is not permitted unless municipal approval is received.
- The proposed collocation, modification or replacement may not increase the dimensions of the equipment compound approved by the municipality.
- The proposed collocation, modification or replacement complies with applicable conditions of approval applied to the initial wireless telecommunications facilities, equipment compound and wireless support structures.
- The proposed collocation, modification or replacement may not exceed the applicable wind loading and structural loading requirements for the wireless support structure.

The legislation provides that an applicant may, within 30 days after the action or failure to act by a municipality, commence an action or appeal in the court of common pleas of the county where the wireless support structure and facility is located. The court shall hear and decide the action on an expedited basis.

Nothing in the act shall be construed to limit or preempt the scope of the following: a municipality's review of zoning, land use or permit applications for the siting of wireless support structures; prevent a municipality from exercising its zoning power, as provided for under the Pennsylvania Municipalities Planning Code, municipal charter, municipal enabling act or other zoning or land use ordinance or regulation; prevent a municipality from regulating any modification or collocation that substantially changes an existing wireless support structure that is inconsistent with the act.

The act shall take effect in 60 days.

### **FISCAL IMPACT:**

Senate Bill 1345 will have no adverse impact on Commonwealth or local funds. The legislation provides for the payment of zoning permit fees to cover a municipality's actual, reasonable costs to review and process the streamlined applications, or \$1,000, whichever is less.