

[Second Reprint]

**ASSEMBLY, No. 1116**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

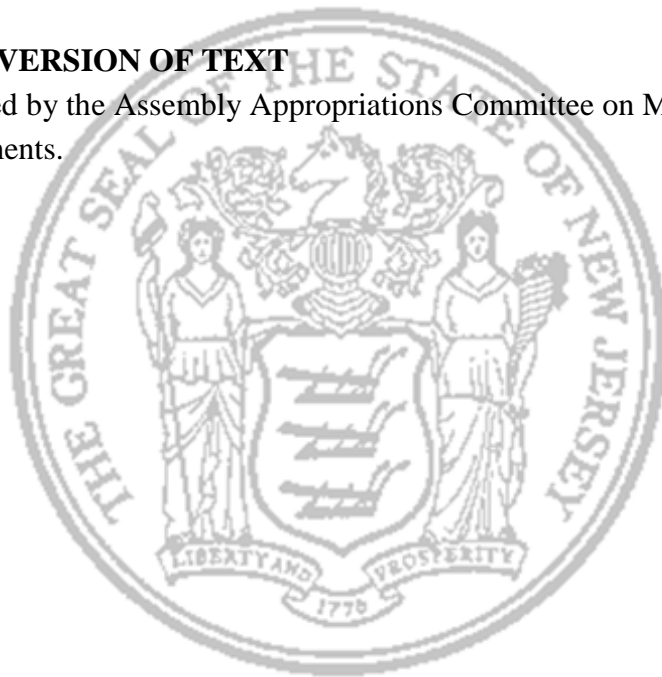
**Assemblymen Zwicker, Calabrese and Karabinchak**

**SYNOPSIS**

Provides for uniform regulation of small wireless facility deployment in this State.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on March 17, 2021, with amendments.



**(Sponsorship Updated As Of: 12/10/2020)**

1 AN ACT concerning deployment of small wireless facilities and  
2 supplementing Title 40 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. The Legislature finds and declares that:

8 a. The deployment of small wireless facilities and other next-  
9 generation wireless and broadband network facilities is a matter of  
10 federal and statewide concern and interest;

11 b. Wireless and broadband products and services are a  
12 significant and continually growing part of the State's economy and  
13 encouraging the development of strong and robust wireless and  
14 broadband communications networks throughout the State is  
15 integral to the State's economic competitiveness;

16 c. Rapid deployment of small wireless facilities will serve  
17 important Statewide goals, such as: meeting the growing consumer  
18 demand for wireless data; increasing competitive options for  
19 communications services available to the State's residents;  
20 promoting the ability of the State's residents to communicate with  
21 their neighbors and with their State and local governments; and  
22 promoting public safety;

23 d. Small wireless facilities, including facilities commonly  
24 referred to as small cells and distributed antenna systems, are <sup>1</sup>most  
25 cost-effective for a wireless service provider when<sup>1</sup> deployed  
26 <sup>1</sup>most effectively<sup>1</sup> in <sup>1</sup>right-of-way rights-of-way<sup>1</sup>;

27 e. To meet the key objectives of federal law and P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill), wireless  
29 providers <sup>1</sup>need to have<sup>1</sup> must be granted<sup>1</sup> access to <sup>1</sup>the right-of-  
30 way<sup>1</sup> rights-of-way<sup>1</sup> and <sup>1</sup>have<sup>1</sup> the ability to attach to  
31 infrastructure in <sup>1</sup>the right-of-way<sup>1</sup> rights-of-way<sup>1</sup> to densify  
32 wireless networks and to provide next-generation wireless services;

33 f. Rates and fees for the permitting and deployment of small  
34 wireless facilities in <sup>1</sup>right-of-way<sup>1</sup> rights-of-way<sup>1</sup> and on  
35 authority infrastructure, including utility poles, throughout the  
36 State, consistent with federal law, is reasonable and will encourage  
37 the development of robust next-generation wireless and broadband  
38 networks for the benefit of residents throughout the State;

39 <sup>1</sup>g. Authorities actively manage rights-of-way, acting as trustees  
40 of this limited public asset, to protect residents' safety, preserve the  
41 character of communities, and maintain availability for current and  
42 future uses;<sup>1</sup> and

43 <sup>1</sup>g. <sup>1</sup>h. The procedures, rates, and fees established in P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill) should be

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ATU committee amendments adopted December 10, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted March 17, 2021.

1 consistent with federal law and are fair, reasonable, and further the  
2 State's interest in facilitating and supporting a robust, reliable, and  
3 technologically-advanced wireless and broadband network and  
4 reflect a balancing of the interests of the wireless providers  
5 deploying new small wireless facilities and the interests of  
6 authorities in <sup>1</sup>managing and<sup>1</sup> recovering the cost of managing  
7 <sup>1</sup>~~access to the right-of-way~~ the rights-of-way<sup>1</sup>.

8  
9 2. As used in P.L. , c. (C. ) (pending before the  
10 Legislature as this bill):

11 "Antenna" means an apparatus designed for the purpose of  
12 emitting radio frequency, to be operated or operating from a fixed  
13 location pursuant to Federal Communications Commission  
14 authorization, for the provision of personal wireless service and any  
15 commingled information services. "Antenna" shall not include an  
16 unintentional radiator, mobile station, or device authorized pursuant  
17 to 47 C.F.R. Part 15.

18 "Antenna equipment" means equipment, switches, wiring,  
19 cabling, power sources, shelters, or cabinets associated with an  
20 antenna, located at the same fixed location as the antenna, and,  
21 when collocated on a structure, is mounted or installed at the same  
22 time as the antenna.

23 "Antenna facility" means an antenna and associated antenna  
24 equipment.

25 "Applicable codes" means uniform building, fire, electrical,  
26 plumbing, or mechanical codes adopted by the Commissioner of the  
27 Department of Community Affairs pursuant to P.L.1975, c.217  
28 (C.52:27D-119 et seq.) <sup>1</sup>, or authority amendments to those codes  
29 that are of general application<sup>1</sup> and are consistent with P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill).

31 "Applicant" means any person who submits an application and is  
32 a wireless provider.

33 "Application" means a request submitted by an applicant to an  
34 authority for a permit to: collocate a small wireless facility; install,  
35 modify, or replace a pole on which a small wireless facility will be  
36 collocated, mounted, or installed; mount or install a small wireless  
37 facility on a new or replacement pole; or install associated antenna  
38 equipment adjacent to a structure on which a small wireless facility  
39 is or will be collocated, mounted, or installed.

40 "Authority" means <sup>1</sup>~~a~~ the State and any<sup>1</sup> unit of local  
41 government, and any board, commission, committee, authority,  
42 agency, office, officer, or employee thereof, which has jurisdiction  
43 and control over the use of a <sup>1</sup>~~public~~ right-of-way<sup>1</sup> for the  
44 placement of a wireless facility within the <sup>1</sup>~~public~~ right-of-way<sup>1</sup>  
45 or has zoning or land use control for the placement of a wireless  
46 facility not within a <sup>1</sup>~~public~~ right-of-way<sup>1</sup>. "Authority" shall not  
47 mean a State court having jurisdiction over an authority.

1 "Authority pole" means a pole or utility pole owned or operated  
2 by an authority in a <sup>1</sup>["public"]<sup>1</sup> right-of-way.

3 "Collocate" or "collocation" means: mounting or installing an  
4 antenna facility on a pre-existing structure; or modifying a structure  
5 for the purpose of mounting or installing an antenna facility on that  
6 structure.

7 "Communications facility" means the equipment and network  
8 components that provide communications services, including wires,  
9 cables, and associated facilities used by: a cable operator, as  
10 defined in 47 U.S.C. s.522; a telecommunications carrier, as defined  
11 in 47 U.S.C. s.153; a provider of an information service, as defined  
12 in 47 U.S.C. s.153; or a wireless service provider, as defined  
13 pursuant to this section.

14 "Communications service" means: cable service, as defined  
15 pursuant to 47 U.S.C. s.522, as amended; information service, as  
16 defined pursuant to 47 U.S.C. s.153, as amended;  
17 telecommunications service, as defined in 47 U.S.C. s.153, as  
18 amended; mobile service, as defined pursuant to 47 U.S.C. s.153, as  
19 amended; or wireless service other than mobile service.

20 "Communications service provider" means: a cable operator, as  
21 defined pursuant to 47 U.S.C. s.522, as amended; a provider of  
22 information service, as defined pursuant to <sup>1</sup>["24 of"]<sup>1</sup> 47 U.S.C.  
23 s.153, as amended; a telecommunications carrier, as defined  
24 pursuant to 47 U.S.C. s.153, as amended; or a wireless service  
25 provider as defined pursuant to this section.

26 "Decorative pole" means an authority pole <sup>1</sup>, or a pole that is  
27 subsidized by an authority.<sup>1</sup> that is specially designed and placed  
28 for aesthetic purposes <sup>1</sup>["and on which no appurtenances or  
29 attachments, other than a small wireless facility, lighting, specially  
30 designed informational or directional signage, or temporary holiday  
31 or special event attachments, have been placed or are permitted to  
32 be placed according to non-discriminatory authority rules or  
33 codes"]<sup>1</sup>.

34 "Facility" means an antenna facility or a structure that is used for  
35 the provision of personal wireless service, whether the personal  
36 wireless service is provided on a stand-alone basis or comingled  
37 with other wireless communications services.

38 "FCC" means the Federal Communications Commission of the  
39 United States.

40 "Fee" means a one-time, nonrecurring charge.

41 "Historic district" or "historic landmark" means a building,  
42 property, or site, or group of buildings, properties, or sites that are  
43 either:

44 a. listed on the National Register of Historic Places or formally  
45 determined eligible for listing by the keeper of the National  
46 Register of Historic Places, the individual who has been delegated  
47 the authority by the federal agency to list properties and determine

1 their eligibility for the National Register of Historic Places,  
2 pursuant to 47 C.F.R. Part 1, Appendix C; or

3 b. **1[ Listed ] listed<sup>1</sup>** on the New Jersey Register of Historic  
4 Places **1or identified in an authority’s master plan adopted pursuant**  
5 **to the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et**  
6 **seq.)<sup>1</sup>.**

7 "Law" means a federal or State statute, common law, code, rule,  
8 regulation, order, or local ordinance, or resolution.

9 "Make-ready work" means the process of ensuring that an  
10 authority pole is in suitable condition to receive a small wireless  
11 facility and associated antenna equipment.

12 "Micro wireless facility" means an antenna facility that is not  
13 larger in dimension than 24 inches in length, 15 inches in width,  
14 and 12 inches in height, and that has an exterior antenna, if any, no  
15 longer than 11 inches.

16 "Permit" means **1an<sup>1</sup>** authorization **1[, written or otherwise,]<sup>1</sup>**  
17 required by an authority to perform an action or initiate, continue,  
18 or complete a project for the deployment of antenna facilities at a  
19 specified location in a right-of-way.

20 "Person" means an individual, corporation, limited liability  
21 company, partnership, association, trust, or other entity or  
22 organization, including an authority.

23 "Personal wireless service" means "commercial mobile service,"  
24 "unlicensed wireless services," and "common carrier wireless  
25 exchange access services," as those terms are defined pursuant to 47  
26 U.S.C. s.332, and "commercial mobile data service," as defined  
27 pursuant to 47 U.S.C. s.1401.

28 "Pole" means a pole in the right-of-way that is or may be used in  
29 whole or in part by or for wireline communications, electric  
30 distribution, lighting, traffic control, signage, or a similar function,  
31 or for the collocation of small wireless facilities. "Pole" shall not  
32 mean a: tower, either guyed or self-supporting, built for the sole or  
33 primary purpose of supporting wireless equipment other than a  
34 small wireless facility; building; billboard; or electric transmission  
35 structure.

36 "Public utility" shall have the same meaning as provided in  
37 R.S.48:2-13.

38 "Rate" means a recurring charge.

39 "Right-of-way" means the area on, below, or above a public  
40 roadway, highway, street, public sidewalk, alley, or utility easement  
41 dedicated for compatible use, but shall not include a federal  
42 interstate highway.

43 "Small wireless facility" means a facility that meets each of the  
44 following conditions: the facility is mounted on a structure 50 feet  
45 or less in height, including the antenna or is mounted on a structure  
46 no more than 10 percent taller than other adjacent structures or does  
47 not extend existing structures on which they are located to a height  
48 of more than 50 feet or by more than 10 percent, whichever is

1 greater; each antenna associated with the deployment, excluding  
2 associated antenna equipment, is no more than three cubic feet in  
3 volume; all other wireless equipment associated with the structure,  
4 including wireless equipment associated with the antenna and any  
5 pre-existing associated <sup>1</sup>antenna<sup>1</sup> equipment on the structure, is no  
6 more than 28 cubic feet in volume; the facility does not require  
7 antenna structure registration under 47 C.F.R. Part 17; the facility is  
8 not located on tribal lands, as defined pursuant to 36 C.F.R.  
9 s.800.16; and the facility does not result in human exposure to radio  
10 frequency in excess of the applicable safety standards specified  
11 pursuant <sup>1</sup>to<sup>1</sup> 47 C.F.R. s.1.1307.

12 “Structure” means a pole, tower, base station, as defined  
13 pursuant <sup>1</sup>to<sup>1</sup> 47 C.F.R. s.1.6100, or other building, whether or not  
14 it has an existing antenna facility, which is used or is to be used for  
15 the provision of personal wireless service.

16 “Technically feasible” means that, by virtue of engineering or  
17 spectrum usage, the proposed placement for a small wireless  
18 facility, or its design, concealment measures, or site location can be  
19 implemented without a <sup>1</sup>material<sup>1</sup> reduction in the functionality of  
20 the small wireless facility.

21 “Tower” shall have the same meaning as defined pursuant to 47  
22 C.F.R. <sup>1</sup>s.<sup>1</sup>1.6100.

23 “Wireless infrastructure provider” means any person, including a  
24 person authorized to provide telecommunications service in the  
25 State, that builds or installs facilities for the provision of wireless  
26 service, but that is not a wireless service provider.

27 “Wireless provider” means a wireless infrastructure provider or a  
28 wireless service provider.

29 “Wireless service” means any services provided to the general  
30 public and made available on a non-discriminatory basis using  
31 licensed or unlicensed spectrum, whether at a fixed location or  
32 mobile, provided using <sup>1</sup>**[wireless facilities]** an antenna facility<sup>1</sup>.

33 “Wireless service provider” means a person who provides  
34 wireless services.

35 “Wireline backhaul facility” means an above-ground or  
36 underground wireline facility used to transport communications  
37 data or other electric communications from an antenna facility to a  
38 communications network.

39

40 3. a. An authority may not enter into an exclusive  
41 arrangement with any person or entity for the use of the right-of-  
42 way for:

43 (1) <sup>1</sup>the<sup>1</sup> collocation of a small wireless facility;

44 (2) the mounting or installation of a small wireless facility on  
45 new or replacement poles;

46 (3) the installation of associated antenna equipment adjacent to  
47 a structure on which a small wireless facility is or will be  
48 collocated, mounted, or installed; or

1 (4) the installation, operation, marketing, modification,  
2 maintenance, or replacement of associated poles.

3 b. Subject to the provisions of this section, a wireless provider  
4 shall have the right, as a permitted use not subject to zoning review  
5 or approval, and without the need for **‘[municipal] authority’**  
6 consent, **‘[pursuant to R.S.48:3-19,]’** to:

7 (1) collocate small wireless facilities;

8 (2) mount or install small wireless facilities on new or  
9 replacement poles;

10 (3) install associated antenna equipment adjacent to a structure  
11 on which a small wireless facility is or will be collocated, mounted,  
12 or installed; or

13 (4) install, modify, or replace its own poles, or, with the  
14 permission of the owner, a third party’s poles, associated with a  
15 small wireless facility, along, across, upon, and under the right-of-  
16 way.

17 Small wireless facilities, antenna equipment, and poles  
18 collocated or installed pursuant to this section shall be installed and  
19 maintained as not to obstruct or hinder the usual travel or public  
20 safety in a right-of-way or obstruct the legal use of a right-of-way  
21 by a public utility.

22  
23 4. a. A new, replaced, or modified pole installed in a right-of-  
24 way after the effective date of P.L. , c. (C. ) (pending  
25 before the Legislature as this bill) for the purpose of collocating,  
26 mounting, or installing a small wireless facility shall not exceed 50  
27 feet in height above ground level or **‘[ten] 10’** percent taller than  
28 the tallest existing pole in place as of the effective date of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill) in the  
30 same right-of-way within 500 feet of the new, replaced, or modified  
31 pole, whichever is greater.

32 b. A new small wireless facility installed in a right-of-way after  
33 the effective date of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) may not extend more than 10 percent above  
35 the existing structure on which they are located or 50 feet above  
36 ground level, whichever is greater.

37 c. A wireless provider shall have the right to collocate, mount,  
38 or install a small wireless facility and install, maintain, modify, and  
39 replace a pole that exceeds the height limits pursuant to subsections  
40 a. and b. of this section along, across, upon, and under the right-of-  
41 way, subject to section 3 of P.L. , c. (C. ) (pending before  
42 the Legislature as this bill) and applicable zoning regulations.

43 **1d. A wireless provider shall not apply to install a new pole**  
44 **unless it has determined after diligent investigation that it cannot**  
45 **meet its service objectives by collocating on an existing pole or**  
46 **other structure on which:**

1       (1) the wireless provider has the right to collocate subject to  
2 reasonable terms and conditions, including the right to pole mount  
3 antenna equipment; and

4       (2) that collocation would not impose technical limitations or  
5 significant additional costs. The wireless provider shall certify that  
6 it has made such a determination in good faith, based on the  
7 assessment of a licensed engineer, and shall provide a written  
8 summary of the basis for that determination.

9       e. For applications for new poles in the right-of-way in areas  
10 zoned for residential use, the authority may propose an alternate  
11 location in the right-of-way within 100 feet of the location set forth  
12 in the application, and the wireless provider shall use the authority's  
13 proposed alternate location unless the location imposes technical  
14 limits or significant additional costs. The wireless provider shall  
15 certify that it has made the determination in good faith, based on the  
16 assessment of a licensed engineer, and it shall provide a written  
17 summary of the basis for that determination.<sup>1</sup>

18  
19       5. a. An authority may adopt aesthetics requirements  
20 governing the deployment of small wireless facilities and associated  
21 antenna equipment and poles in a right-of-way, <sup>1</sup>which may include  
22 pre-approved designs for new poles in specified areas,<sup>1</sup> subject to  
23 the following:

24       (1) the aesthetic requirements shall be reasonable, in that they  
25 are technically feasible and reasonably directed at avoiding or  
26 remedying unsightly or out-of-character deployments, are no more  
27 burdensome than those applied to <sup>1</sup>**[other types of]** functionally  
28 equivalent<sup>1</sup> infrastructure deployments, and are <sup>1</sup>**[objective and]**<sup>1</sup>  
29 published in advance;

30       (2) any design or concealment measures are not considered a  
31 part of the small wireless facility for purposes of the size  
32 parameters in the definition of small wireless facility; <sup>1</sup>and<sup>1</sup>

33       (3) an authority may deny an application for not complying with  
34 an aesthetic requirement only if the authority finds that the denial  
35 does not prohibit or have the effect of prohibiting the provision of  
36 wireless service <sup>1</sup>**[.].**<sup>1</sup>

37       b. Aesthetic requirements applicable to deployment of small  
38 wireless facilities on decorative poles and in historic districts shall,  
39 in addition to the requirements of subsection a. of this section,  
40 comply with the following:

41       (1) a wireless provider shall be permitted to collocate small  
42 wireless facilities on, <sup>1</sup>or<sup>1</sup> modify <sup>1</sup>**[.]**<sup>1</sup> or replace <sup>1</sup><sub>2</sub><sup>1</sup> decorative  
43 poles when necessary to deploy a small wireless facility <sup>1</sup>**[. An]**,  
44 provided that an<sup>1</sup> authority may require the collocation or  
45 decorative pole replacement to reasonably conform to the design  
46 aesthetics of the original decorative pole or poles <sup>1</sup>**[**, provided the  
47 aesthetic requirements are technically feasible<sup>1</sup>].



1 (2) an authority may adopt aesthetic requirements applicable in  
2 historic districts that comply with this section.

3  
4 6. a. A wireless provider shall comply with undergrounding  
5 requirements that are consistent with subsection a. of section 5 of  
6 P.L. , c. (C. ) (pending before the Legislature as this bill)  
7 when:

8 (1) the authority has required all electric and  
9 telecommunications lines to be placed underground by a date  
10 certain that is three months prior to the submission of the  
11 application;

12 (2) a pole the authority allows to remain shall be made available  
13 to wireless providers for the collocation of small wireless facilities,  
14 and a pole may be modified or replaced by a wireless provider to  
15 accommodate the collocation, mounting, or installation of small  
16 wireless facilities, in compliance with P.L. , c. (C. )  
17 (pending before the Legislature as this bill); and

18 (3) subject to the application process established pursuant to  
19 section 11 of P.L. , c. (C. ) (pending before the Legislature  
20 as this bill),<sup>1</sup> a wireless provider may install a new pole in the  
21 designated area that otherwise complies with P.L. , c. (C. )  
22 (pending before the Legislature as this bill) when the wireless  
23 provider is not able to provide wireless service by collocating on a  
24 remaining structure.

25 b. For small wireless facilities installed before an authority  
26 adopts requirements that electric and telecommunications lines be  
27 placed underground, an authority adopting these requirements shall  
28 permit:

29 (1) a wireless provider to maintain the small wireless facilities  
30 in place on any pole not required to be removed, subject to any  
31 applicable pole attachment agreement with the pole owner; or

32 (2) a wireless provider to replace an existing pole within 50 feet  
33 of the prior location.

34  
35 7. **1**【The authority may require a】 **A**<sup>1</sup> wireless provider **1**【to】  
36 shall<sup>1</sup> repair all damage to a right-of-way caused by the activities of  
37 the wireless provider and **1**【to】<sup>1</sup> return the right-of-way to its  
38 functional <sup>1</sup>and aesthetic<sup>1</sup> equivalence before the damage, pursuant  
39 to the competitively neutral, reasonable requirements and  
40 specifications of the authority. If the wireless provider fails to make  
41 the repairs required by the authority within a reasonable time after  
42 written notice, the authority may make those repairs and charge the  
43 applicable party the reasonable, documented cost of the repairs.

44  
45 8. A wireless provider shall not be required to replace or  
46 upgrade an existing pole except for reasons of structural necessity  
47 or compliance with applicable codes. A wireless provider may, with  
48 the permission of the pole owner, replace or modify the existing

1 pole, but any replacement or modification shall be consistent with  
2 the design aesthetics of the pole being modified or replaced.

3  
4 9. A wireless provider is required to notify the authority at  
5 least 30 days before the abandonment of a small wireless facility.  
6 Following receipt of the notice, the authority shall direct the  
7 wireless provider to remove all or any portion of the small wireless  
8 facility and associated antenna equipment that the authority  
9 determines would be in the best interest of <sup>1</sup>the public <sup>1</sup>【safety】<sup>1</sup>.  
10 If the wireless provider fails to remove the abandoned small  
11 wireless facility within 90 days after the notice, the authority may  
12 undertake to remove the small wireless facility and recover the  
13 actual and reasonable expenses of the removal from the wireless  
14 provider, its successors, or assigns.

15  
16 10. Except as provided in P.L. , c. (C. ) (pending before  
17 the Legislature as this bill), an authority may not prohibit, regulate,  
18 or charge for the collocation, mounting, or installation of a small  
19 wireless facility on a new, modified, or replacement pole, or the  
20 installation, modification, or replacement of an associated pole or  
21 antenna equipment that may be permitted in P.L. , c. (C. )  
22 (pending before the Legislature as this bill).

23  
24 11. a. An authority may require an applicant to obtain a permit  
25 for:

26 (1) the collocation of a small wireless facility not subject to the  
27 provisions of P.L.2011, c.199 (C.40:55D-46.2);

28 (2) <sup>1</sup>the mounting or installation of a small wireless facility on  
29 a new, modified, or replacement pole; or

30 (3) the installation, modification, or replacement of <sup>1</sup>【an  
31 associated】 <sup>1</sup>a pole or antenna equipment as provided in section 3  
32 of P.L. , c. (C. ) (pending before the Legislature as this bill).

33 Each permit issued pursuant to this section shall be of general  
34 applicability and shall not apply exclusively to a small wireless  
35 facility. Only one application shall be required for all activities  
36 associated with a permit issued pursuant to this section.

37 b. An authority shall receive and process applications subject  
38 to the following requirements:

39 (1) small wireless facilities shall be classified as permitted uses  
40 and not subject to zoning review or approval if they are located in  
41 the right-of-way in any zone;

42 (2) an authority may not directly or indirectly require an  
43 applicant to perform services or provide goods unrelated to the  
44 permit, such as in-kind contributions to the authority including, but  
45 not limited to, reserving fiber, conduit, or pole space for the  
46 authority;

47 (3) an applicant shall not be required to provide additional  
48 information to obtain a permit than communications service

1 providers that are not wireless providers, provided that an applicant  
2 may be required to include construction and engineering drawings  
3 and information demonstrating compliance with the criteria in  
4 paragraph (9) of this subsection;

5 (4) an authority may not require:

6 (a) the collocation, mounting, or installation of a small wireless  
7 facility on any specific pole or category of poles or require multiple  
8 antenna facilities on a single pole;

9 (b) the use of specific pole types or configurations when  
10 installing a new or replacement pole; or

11 (c) the underground placement of a small wireless facility or  
12 antenna equipment that is or are designated in an application to be  
13 pole-mounted or ground-mounted <sup>1</sup>, provided that an authority may:

14 (i) require, pursuant to section 6 of P.L. , c. (C. ) (pending  
15 before the Legislature as this bill), that a wireless provider place  
16 underground fiber that is part of a small wireless facility and not in  
17 or on a pole; or

18 (ii) prohibit, pursuant to section 6 of P.L. , c. (C. )  
19 (pending before the Legislature as this bill), ground-mounted  
20 antenna equipment<sup>1</sup>;

21 (5) <sup>1</sup>subject to the provisions of subparagraph (d) of paragraph  
22 (9) of subsection b. of this section,<sup>1</sup> an authority may not limit the  
23 collocation of a small wireless facility or the mounting or  
24 installation of a small wireless facility on a new <sup>1</sup>【, modified,】<sup>1</sup> or  
25 replacement pole by minimum horizontal separation distance  
26 requirements from an existing small wireless facility <sup>1</sup>【or  
27 structure】<sup>1</sup>;

28 (6) the authority may require an applicant to include an  
29 attestation that the small wireless facility <sup>1</sup>【will】 shall<sup>1</sup> be  
30 operational for use by a wireless service provider within one year  
31 after the permit issuance date, unless the authority and the applicant  
32 agree to extend this period or a delay is caused by lack of  
33 commercial power, communications <sup>1</sup>【transport】<sup>1</sup> facilities to the  
34 site, or any other factors outside of the applicant's control;

35 (7) within <sup>1</sup>【ten】 10<sup>1</sup> days of receiving an application, an  
36 authority shall determine and notify the applicant in writing  
37 whether the application is complete. If an application is incomplete,  
38 an authority shall specifically identify the missing information in  
39 writing. The processing deadline provided in paragraph (8) of this  
40 subsection shall restart on the date the applicant provides the  
41 missing information to complete the application;

42 (8) an authority shall process an application in a non-  
43 discriminatory manner and the application shall be deemed  
44 approved if the authority fails to approve or deny the application  
45 within:

1 (a) 60 days of receipt of an application for a permit involving  
2 collocation of a small wireless facility using an existing structure;  
3 and

4 (b) 90 days for an application for a permit involving deployment  
5 of a small wireless facility using a new or replacement pole.

6 <sup>1</sup>If an authority provides written notification to the applicant  
7 within 10 days of receiving an application certifying that it is  
8 experiencing an unusually high overall level of permitting activity  
9 <sup>2</sup>[, which] or other circumstances beyond the authority's control  
10 that<sup>2</sup> prevents the authority from reviewing and processing the  
11 application by the deadline, the processing deadline may be  
12 extended automatically for up to 30 days.<sup>1</sup>

13 The processing deadline may be tolled by agreement of the  
14 applicant and the authority;

15 (9) an authority may deny the application for collocation,  
16 mounting, or installation of a small wireless facility on a new or  
17 replacement pole, or the installation or replacement of an associated  
18 pole or antenna equipment that meets the requirements in section 4  
19 of P.L. , c. (C. ) (pending before the Legislature as this  
20 bill), if the authority finds that the proposed work:

21 (a) <sup>1</sup>**【materially】**<sup>1</sup> interferes with the safe operation of traffic  
22 control equipment;

23 (b) <sup>1</sup>**【materially】**<sup>1</sup> interferes with sight lines or clear zones for  
24 transportation or pedestrians;

25 (c) <sup>1</sup>**【materially】**<sup>1</sup> interferes with compliance with the federal  
26 "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et  
27 seq.), or similar federal or State standards regarding pedestrian  
28 access or movement;

29 (d) fails to comply with reasonable and non-discriminatory  
30 horizontal spacing requirements of general application adopted by  
31 ordinance that concern the location of ground-mounted antenna  
32 equipment and new poles and which shall not prevent a wireless  
33 provider from serving any location;

34 (e) <sup>1</sup>**【designates the location of a new pole for the purpose of**  
35 **mounting or installing a small wireless facility within seven feet in**  
36 **any direction of an electrical conductor, unless the wireless provider**  
37 **obtains the written consent of the public utility that owns or**  
38 **manages the electrical conductor;**

39 (f) <sup>1</sup>**【】**<sup>1</sup> fails to comply with applicable codes; or

40 <sup>1</sup>**【(g)】** (f)<sup>1</sup> fails to comply with sections 4, 5, or 6 of P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill);

42 (10) the authority shall document the basis for an application  
43 denial, including the specific code, rule, or statutory provisions on  
44 which the denial was based, and send the documentation to the  
45 applicant on or before the day the authority denies an application.  
46 The applicant may cure the deficiencies identified by the authority  
47 and resubmit the application within 30 days of the denial without

1 paying an additional application fee. The authority shall approve or  
2 deny the revised application within 30 days of resubmission and  
3 limit its review to the deficiencies cited in the denial;

4 (11) an applicant seeking to collocate, mount, or install more  
5 than one small wireless facility within the jurisdiction of a single  
6 authority may file a consolidated application for small wireless  
7 facilities and associated poles and antenna equipment and receive a  
8 single permit for the collocation, mounting, or installation of  
9 <sup>1</sup>~~multiple~~ up to 25<sup>1</sup> small wireless facilities and the placement of  
10 associated poles and antenna equipment <sup>1</sup>~~;~~<sup>1</sup> provided <sup>1</sup>~~,~~  
11 however, that all small wireless facilities within the consolidated  
12 application are substantially the same type and proposed for  
13 collocation on substantially the same types of structures;

14 (12) an applicant may not file within a 60-day period, three  
15 consolidated applications; or multiple applications that collectively  
16 seek permits for a combined total of more than 75 small wireless  
17 facilities and associated poles and antenna equipment;

18 (13)<sup>1</sup> the denial of one or more small wireless facilities in a  
19 consolidated application shall not delay processing of any other  
20 small wireless facilities, poles, or antenna equipment in the same  
21 consolidated application. A consolidated application shall be  
22 collectively processed in accordance with the procedures in this  
23 section. A consolidated application that includes a new or  
24 replacement pole deployment shall be subject to a 90-day timeframe  
25 for approval;

26 <sup>1</sup>~~[(12)]~~ (14)<sup>1</sup> installations, mountings, modifications,  
27 replacements, and collocations for which a permit is granted  
28 pursuant to this section shall be completed by the applicant within  
29 one year after the permit issuance date unless the authority and the  
30 applicant agree to extend this period, or a delay is caused by the  
31 lack of commercial power or communications facilities at the site  
32 <sup>1</sup>~~].~~<sup>1</sup>

33 <sup>1</sup>~~[(13)]~~ (15)<sup>1</sup> approval of an application authorizes the applicant  
34 to:

35 (a) undertake the installation, modification, replacement or  
36 collocation of the approved small wireless facility and any  
37 associated pole and antenna equipment; and

38 (b) subject to applicable relocation requirements and the  
39 applicant's right to terminate at any time, operate and maintain the  
40 small wireless facility and any associated pole and antenna  
41 equipment covered by the permit for a period of not less than 10  
42 years, which must be renewed for equivalent durations so long as  
43 the facilities comply with the criteria set forth in paragraph (9) of  
44 this subsection;

45 <sup>1</sup>~~[(13)]~~ (16)<sup>1</sup> an authority may not institute, either expressly or  
46 de facto, a moratorium on:

47 (a) filing, receiving, or processing applications; or

1 (b) issuing permits or other required approvals, if any, for the  
2 collocation, mounting, or installing of a small wireless facility or  
3 the installation, modification, or replacement of associated antenna  
4 equipment or poles.

5 <sup>1</sup>If the State or another authority has declared an emergency and  
6 the State or another authority institutes a temporary moratorium that  
7 is generally applicable and competitively neutral, is necessary to  
8 address the emergency, disaster, or related public safety needs  
9 within the authority's jurisdiction, is targeted to those geographic  
10 areas that are affected by the disaster or emergency, and applies  
11 only for the duration of declaration of emergency, then the  
12 provisions of subparagraphs (a) and (b) of this paragraph shall not  
13 apply.<sup>1</sup>

14 c. An authority shall not require an application for:

15 (1) routine maintenance;

16 (2) the replacement of a small wireless facility or antenna  
17 equipment <sup>1</sup>[with a] , provided the replacement<sup>1</sup> small wireless  
18 facility or antenna equipment <sup>1</sup>[that]<sup>1</sup> is substantially similar <sup>1</sup>to<sup>1</sup>  
19 or the same size <sup>1</sup>as<sup>1</sup> or smaller <sup>1</sup>[as the replacement] than the  
20 original small wireless facility or antenna equipment and continues  
21 to meet all other requirements of the original permit<sup>1</sup>; or

22 (3) the installation, placement, maintenance, operation, or  
23 replacement of a micro wireless facility that is suspended on cables  
24 that are strung between existing poles, in compliance with the  
25 applicable codes.

26 An authority may require a permit for work pursuant to  
27 subsection a. of this section that requires excavation or closure of  
28 sidewalks or vehicular lanes within the right-of-way and the permit  
29 shall be issued to the applicant on a non-discriminatory basis upon  
30 terms and conditions applied to any other person's activities in the  
31 right-of-way that require excavation, closing of sidewalks, or  
32 vehicular lanes.

33  
34 12. A person owning, managing, or controlling an authority pole  
35 in the right-of-way may not enter into an exclusive arrangement  
36 with any person for the right to attach to the pole. A person who  
37 purchases or otherwise acquires an authority pole is subject to the  
38 requirements of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill).

40  
41 13. An authority shall allow the collocation of a small wireless  
42 facility and the installation of associated antenna equipment on an  
43 existing authority pole, <sup>1</sup>and<sup>1</sup> the mounting or installation of a small  
44 wireless facility and the installation of associated antenna  
45 equipment on a replacement authority <sup>1</sup>[poles] pole,<sup>1</sup> on non-  
46 discriminatory terms and conditions using the standards in section 5  
47 of P.L. , c. (C. ) (pending before the Legislature as this bill)

1 and the application requirements in section 11 of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill).

3  
4 14. a. The rates, fees, and terms and conditions for any make-  
5 ready work to collocate, mount, or install a small wireless facility  
6 on an authority pole and to install associated antenna equipment  
7 shall be non-discriminatory, competitively neutral, commercially  
8 reasonable, and shall comply with P.L. , c. (C. ) (pending  
9 before the Legislature as this bill).

10 b. The authority shall provide a good faith estimate for any  
11 make-ready work necessary to enable the authority pole to support  
12 the requested collocation, mounting, or installation by a wireless  
13 provider, including authority pole replacement if necessary, within  
14 60 days after receipt of a complete application. Make-ready work  
15 including any authority pole replacement shall be completed within  
16 60 days of written acceptance of the good faith estimate by the  
17 applicant. An authority may require replacement of the authority  
18 pole only if it demonstrates that the collocation would make the  
19 authority pole structurally unsound.

20 c. The person owning, managing, or controlling the authority  
21 pole shall not require more make-ready work than required to meet  
22 applicable codes or industry standards. Fees for make-ready work  
23 shall not include costs related to pre-existing or prior damage or  
24 noncompliance. Fees for make-ready work, including any pole  
25 replacement, shall not exceed either actual costs or the amount  
26 charged to other communications service providers for similar work  
27 and shall not include any revenue or contingency-based consultant's  
28 fees or expenses.

29  
30 15. a. All rates and fees established pursuant to subsection b. of  
31 this section shall be a reasonable approximation of the authority's  
32 reasonable costs, and shall be applied by the authority in a non-  
33 discriminatory manner. An authority may not require a wireless  
34 provider to pay any rates, fees, or compensation to the authority or  
35 other person other than what is expressly authorized by P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill) for the  
37 right to use or occupy the right-of-way for the collocation,  
38 mounting, or installation of a small wireless facility on a pole in the  
39 right-of-way, or for the installation, maintenance, modification, or  
40 replacement of associated antenna equipment or a pole in the right-  
41 of-way.

42 b. Application fees for any permit issued pursuant to P.L. ,  
43 c. (C. ) (pending before the Legislature as this bill) shall not  
44 exceed:

45 (1) \$500 for a single up-front application for collocation of a  
46 small wireless facility that includes up to five small wireless  
47 facilities, with an additional \$100 for each small wireless facility  
48 included in the same application thereafter;

1 (2) \$250 for the modification or replacement of an existing pole,  
2 together with the mounting or installation of an associated small  
3 wireless facility in the right-of-way; <sup>1</sup>and<sup>1</sup>

4 (3) \$1,000 for the installation of a new pole, together with the  
5 mounting or installation of an associated small wireless facility in  
6 the right of way <sup>1</sup>]; and

7 (4) subject to subsection a. of this section, if ].

8 c. Notwithstanding the provisions of any law, rule, regulation,  
9 or order to the contrary,<sup>1</sup> an authority <sup>1</sup>[elects] may elect<sup>1</sup> to charge  
10 for use of the right-of-way or the collocation of a small wireless  
11 facility on an authority pole in the right-of-way, <sup>1</sup>provided,  
12 however, that<sup>1</sup> the rate <sup>1</sup>for that use<sup>1</sup> shall not exceed <sup>1</sup>[\$20]  
13 <sup>2</sup>[\$50<sup>1</sup>] <sup>2</sup>\$200<sup>2</sup> per small wireless facility per year for right-of-way  
14 access and <sup>1</sup>[\$100] <sup>2</sup>[\$220<sup>1</sup>] <sup>2</sup>\$70<sup>2</sup> per authority pole per year for a  
15 small wireless facility collocated, mounted, or installed on an  
16 authority pole. The rates established pursuant to this paragraph,  
17 together with a one-time application fee, shall be the total  
18 compensation that the wireless provider is required to pay the  
19 authority for the deployment of each small wireless facility in the  
20 right-of-way and any associated antenna equipment or pole.

21  
22 16. a. An authority shall not have or exercise any jurisdiction  
23 or authority over the design, engineering, construction, installation,  
24 or operation of a small wireless facility located in an interior  
25 structure or upon the site of a campus, stadium, or athletic facility  
26 not owned or controlled by the authority, other than to require  
27 compliance with applicable codes.

28 b. Except as it relates to small wireless facilities subject to the  
29 permit and fee requirements established pursuant to P.L. ,

30 c. (C. ) (pending before the Legislature as this bill) or  
31 otherwise specifically authorized by State or federal law, an  
32 authority shall not adopt or enforce any regulations or requirements  
33 on the placement or operation of communications facilities in the  
34 right-of-way by a communications service provider authorized by  
35 federal, State, or local law to operate in a right-of-way, regulate any  
36 communications services, or impose or collect any tax, fee, rate, or  
37 charge for the provision of additional communications service over  
38 the communications service provider's communications facilities in  
39 a right-of-way.

40  
41 17. a. An authority may adopt an ordinance that makes  
42 available to wireless providers rates, fees, and other terms and  
43 conditions that comply with P.L. , c. (C. ) (pending before  
44 the Legislature as this bill). <sup>1</sup>[Pursuant to the provisions of this  
45 section, in] In<sup>1</sup> the absence of an ordinance <sup>1</sup>[that fully complies  
46 with P.L. , c. (C. ) (pending before the Legislature as this  
47 bill) and until a compliant ordinance is adopted]<sup>1</sup>, a wireless



1 provider may install and operate a small wireless facility and any  
 2 associated poles and antenna equipment under the requirements of  
 3 P.L. , c. (C. ) (pending before the Legislature as this bill).  
 4 An authority may not require a wireless provider to enter into an  
 5 agreement to implement P.L. , c. (C. ) (pending before the  
 6 Legislature as this bill), but agreements are permissible if voluntary  
 7 and non-discriminatory.

8 b. An ordinance or agreement <sup>1</sup>or any provision thereof<sup>1</sup> that  
 9 does not <sup>1</sup>**fully**<sup>1</sup> comply with P.L. , c. (C. ) (pending  
 10 before the Legislature as this bill) shall apply only to small wireless  
 11 facilities and any associated poles and antenna equipment that were  
 12 operational before the effective date of P.L. , c. (C. )  
 13 (pending before the Legislature as this bill) and shall be deemed  
 14 invalid and unenforceable beginning on the 181st day after the  
 15 effective date of P.L. , c. (C. ) (pending before the  
 16 Legislature as this bill) unless amended to <sup>1</sup>**fully**<sup>1</sup> comply with  
 17 P.L. , c. (C. ) (pending before the Legislature as this bill). If  
 18 an ordinance or agreement <sup>1</sup>or any provision thereof<sup>1</sup> is invalid  
 19 pursuant to this subsection, small wireless facilities and associated  
 20 poles and antenna equipment that became operational before the  
 21 effective date of P.L. , c. (C. ) (pending before the  
 22 Legislature as this bill), pursuant to the ordinance or agreement,  
 23 may remain installed and be operated under the requirements of <sup>1</sup>the  
 24 remaining valid portions of the ordinance or agreement or<sup>1</sup> P.L. ,  
 25 c. (C. ) (pending before the Legislature as this bill) <sup>1</sup>, as  
 26 applicable<sup>1</sup>.

27 c. <sup>1</sup>**An** <sup>1</sup>Any provision of an<sup>1</sup> agreement or ordinance that  
 28 applies to small wireless facilities and associated poles and antenna  
 29 equipment that becomes operational on or after the effective date of  
 30 P.L. , c. (C. ) (pending before the Legislature as this bill) is  
 31 invalid and unenforceable unless it <sup>1</sup>**fully**<sup>1</sup> complies with P.L. ,  
 32 c. (C. ) (pending before the Legislature as this bill). In the  
 33 absence of an ordinance or agreement that <sup>1</sup>**fully**<sup>1</sup> complies with  
 34 P.L. , c. (C. ) (pending before the Legislature as this bill), a  
 35 wireless provider may install and operate a small wireless facility  
 36 and associated poles and antenna equipment in a right-of-way  
 37 pursuant to the requirements of <sup>1</sup>the remaining valid portions of the  
 38 ordinance or agreement or<sup>1</sup> P.L. , c. (C. ) (pending before  
 39 the Legislature as this bill) <sup>1</sup>, as applicable<sup>1</sup>.

40

41 18. a. An authority may adopt reasonable indemnification,  
 42 insurance, and bonding requirements related to a small wireless  
 43 facility and associated pole permits and antenna equipment pursuant  
 44 to the requirements of this section and section 6 of P.L. ,  
 45 c. (C. ) (pending before the Legislature as this bill).

46 b. <sup>1</sup>**An** authority shall not require a wireless provider to  
 47 indemnify and hold the authority and its officers and employees

1 harmless against any claims, lawsuits, judgments, costs, liens,  
2 losses, expenses, or fees, except when a court of competent  
3 jurisdiction has found that the negligence of the wireless provider  
4 while installing, repairing, or maintaining a small wireless facility  
5 or associated poles and antenna equipment caused the harm that  
6 created the claims, lawsuits, judgments, costs, liens, losses,  
7 expenses, or fees. Any wireless provider that owns or operates  
8 small wireless facilities or utility poles in the right-of-way shall  
9 indemnify, protect, defend, and hold the authority and its elected  
10 officials, officers and, employees, agents, and volunteers harmless  
11 against any and all claims, lawsuits, judgments, costs, liens, losses,  
12 expenses, fees including reasonable attorney fees and costs of  
13 defense, proceedings, actions, demands, causes of action, liability,  
14 and suits of any kind and nature, including but not limited to  
15 personal or bodily injury or death, property damage or other harm  
16 for which recovery of damages is sought, to the extent that it is  
17 caused by the negligence of the wireless provider who owns or  
18 operates small wireless facilities or utility poles in the right-of-way,  
19 any agent, officer, director, representative, employee, affiliate, or  
20 subcontractor of the wireless provider, or their respective officers,  
21 agents, employees, directors, or representatives while installing,  
22 repairing, operating, or maintaining facilities in rights-of-way<sup>1</sup>.

23 c. <sup>1</sup>[An authority may require a wireless provider to have in  
24 effect insurance coverage consistent with this section, so long as the  
25 authority imposes similar requirements on other right-of-way users  
26 and the requirements are reasonable and non-discriminatory.

27 (1) An authority may not require a wireless provider to obtain  
28 insurance naming the authority or its officers and employees an  
29 additional insured.

30 (2) An authority may require a wireless provider to furnish  
31 proof of insurance, if required, prior to the effective date of any  
32 permit issued for a small wireless facility work. Except for a  
33 wireless provider with an existing agreement to occupy and operate  
34 in the rights-of-way, during the period in which the wireless  
35 provider's facilities are located on the authority improvements or  
36 rights-of-way, the authority may require the wireless provider to  
37 carry, at the wireless provider's own cost and expense, the  
38 following insurance:

39 (a) property insurance for its property's replacement cost  
40 against all risks;

41 (b) workers' compensation insurance, as required by law; or

42 (c) commercial general liability insurance with respect to its  
43 activities on the authority improvements or rights-of-way to afford  
44 minimum protection limits consistent with its requirements of other  
45 users of authority improvements or rights-of-way, including  
46 coverage for bodily injury and property damage. An authority may  
47 require a wireless provider to include the authority as an additional  
48 insured on the commercial general liability policy and provide

1 certification and documentation of inclusion of the authority in a  
 2 commercial general liability policy as reasonably required by the  
 3 authority.

4 A wireless provider may self-insure all or a portion of the  
 5 insurance coverage and limit requirements required by an authority.  
 6 A wireless provider that self-insures is not required, to the extent of  
 7 the self-insurance, to comply with the requirement for the naming  
 8 of additional insureds under this section. A wireless provider that  
 9 elects to self-insure shall provide to the authority evidence  
 10 sufficient to demonstrate its financial ability to self-insure the  
 11 insurance coverage and limits required by the authority<sup>1</sup>.

12 d. <sup>1</sup>**[An authority may adopt bonding requirements for small**  
 13 **wireless facilities if the authority imposes similar requirements in**  
 14 **connection with permits issued for other right-of-way users.**

15 (1) The purpose of the bonds shall be to:

16 (a) provide for the removal of abandoned or improperly  
 17 maintained small wireless facilities, including those that an  
 18 authority determines need to be removed to protect public health,  
 19 safety, or welfare;

20 (b) restoration of the right-of-way in connection with removals  
 21 as provided for in P.L. , c. (C. ) (pending before the  
 22 Legislature as this bill); or

23 (c) recoup rates or fees that have not been paid by a wireless  
 24 provider in over 12 months, so long as the wireless provider has  
 25 received reasonable notice from the authority of any non-  
 26 compliance pursuant to P.L. , c. (C. ) (pending before the  
 27 Legislature as this bill) and given a reasonable opportunity to cure.

28 (2) Bonding requirements may not exceed \$200 per small  
 29 wireless facility. For wireless providers with multiple small  
 30 wireless facilities within the jurisdiction of a single authority, the  
 31 total bond amount across all facilities may not exceed \$10,000,  
 32 which may be combined into one bond instrument **]** An authority  
 33 may impose reasonable and non-discriminatory requirements for  
 34 bonds, escrow deposits, letters of credit, or any other type of  
 35 financial surety to ensure removal of abandoned or unused wireless  
 36 facilities or damage to the right-of-way or authority property caused  
 37 by the wireless provider or its agent<sup>1</sup>.

38  
 39 19. a. Nothing in P.L. , c. (C. ) (pending before the  
 40 Legislature as this bill) shall be construed to allow any person or  
 41 entity to provide cable services regulated pursuant to 47 U.S.C.  
 42 s.521 through 47 U.S.C. s.573 without compliance with all laws  
 43 applicable to those cable operators, nor shall it be interpreted to  
 44 impose any new requirements on cable operators for the provision  
 45 of cable service in this State.

46 b. Nothing in P.L. , c. (C. ) (pending before the  
 47 Legislature as this bill) shall be construed to allow any entity to  
 48 provide communications services without compliance with all laws

1 applicable to communications service providers, nor shall it be  
2 construed to authorize the collocation, installation, placement,  
3 maintenance, or operation of any communications facility,  
4 including a wireline backhaul facility, in the right-of-way, other  
5 than a small wireless facility.

6 c. Nothing in P.L. , c. (C. ) (pending before the  
7 Legislature as this bill) shall authorize the State or any political  
8 subdivision thereof, including an authority, to require small wireless  
9 facility deployment or to regulate wireless service.

10 d. Nothing in P.L. , c. (C. ) (pending before the  
11 Legislature as this bill) shall <sup>2</sup>**[apply to poles owned by an investor-**  
12 **owned public utility]** authorize a person to collocate a small  
13 wireless facility on property owned by a public utility without  
14 consent of the public utility nor be construed to impact, modify, or  
15 supersede any construction standard, engineering practice, tariff  
16 provision, collective bargaining agreement, contractual obligation  
17 or right, or federal or State law or regulation relating to facilities or  
18 equipment owned or controlled by a public utility or its affiliate, an  
19 electric cooperative, or an independent electric transmission  
20 company, that is not a wireless provider<sup>2</sup>, except as it concerns a  
21 wireless provider's <sup>2</sup>application for<sup>2</sup> access to a right-of-way and  
22 permits for the collocation, mounting, or installation of a small  
23 wireless facility on <sup>2</sup>**[investor-owned]**<sup>2</sup> public utility poles pursuant  
24 to a pole attachment agreement between the wireless provider and  
25 the <sup>2</sup>**[investor-owned]**<sup>2</sup> public utility.

26  
27 20. A court of competent jurisdiction shall have jurisdiction to  
28 determine disputes arising pursuant to P.L. , c. (C. )  
29 (pending before the Legislature as this bill). Pending resolution of a  
30 dispute concerning rates for collocation, mounting, and installation  
31 of small wireless facilities on authority poles in the right-of-way  
32 and the installation of associated antenna equipment, the authority  
33 owning or controlling the pole shall allow the collocating person or  
34 entity to collocate at annual rates established pursuant to section 15  
35 of P.L. , c. (C. ) (pending before the Legislature as this  
36 bill), with rates to be reconciled upon final resolution of the dispute.  
37 A dispute shall be pursued in accordance with accelerated docket or  
38 complaint procedures, where available.

39  
40 21. This act shall take effect on the first day of the seventh  
41 month next following enactment.