



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
SENATE COMMUNICATIONS AND
TECHNOLOGY COMMITTEE**

ON

SB 1345 (*PN 1815*)

PRESENTED BY

**ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

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HARRISBURG, PA**

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Chairman Folmer and members of the Senate Communications and Technology Committee:

Good morning. My name is Elam M. Herr, assistant executive director for the Pennsylvania State Association of Township Supervisors. We are a non-profit and non-partisan association appearing before you today on behalf of the 1,455 townships in Pennsylvania that we represent. Thank you for this opportunity to participate today on the issue of collocation of wireless facility towers.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.5 million Pennsylvanians — nearly 44 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to more populated communities with populations approaching 60,000 residents.

Since the early days of cellular phones, our Association has long supported and encouraged the collocation of cellular antennas to prevent, to the extent possible, the unnecessary proliferation of towers, while urging the industry to collocate on existing cell towers, water towers, silos, and other tall structures that may provide a suitable range. We understand that the public rely on cellular and smartphones in ever increasing numbers, which requires the providers to offer ample coverage to their customers.

We appreciate the sponsor and committee's attempt at streamlining the municipal approval process in a further attempt to remove barriers to collocation. We support the concept of collocation, but believe that the legislation, **SB 1345 (PN 1815)** needs fine-tuning. We offer the following comments and suggestions for improvements to the bill.

We believe that several changes are needed in the definition section. First, the definition of "application" currently would allow for both new construction and modification of an existing facility. We believe that the inclusion of "construct" goes beyond the intent of streamlining collocation.

The definition of "collocation" should be amended to replace "wireless facilities" with "antenna," otherwise it appears that collocation would be placing a base station on top of an existing wireless support structure instead of on the ground. Although this may be absurd, it needs to be properly defined in order to prevent extreme situations that could end up in court. In addition, this definition should be expanded to allow other structures not classified as wireless support structures, such as water towers, that may be used for the placement or installation of antennas if approved by the municipality. Finally, we do not believe that the phrase "in a manner that negates the need to construct a new freestanding wireless support structure" is necessary since this is the intent of the legislation.

The definition of "local government authority" should be rewritten to state "municipality" or replace this term with "municipality" throughout the document. Municipal authorities do not adopt land use ordinances under the Pennsylvania Municipalities Planning Code and do not regulate zoning and land use. In addition, since

municipalities are required to zone for every use within their communities, or be found to have engaged in illegal spot zoning, the phrase “for all or the majority of land uses” and “or has adopted separate regulations pertaining to the location, construction, modification, or operation of wireless facilities” should be deleted.

The definition of “modification” or “modify” should be revised to replace “wireless facilities” with antenna and add “the improvement, upgrade, or expansion of the wireless facilities” before “within an existing equipment compound.”

The definition of wireless facility needs to be revised. In its current form, it is confusing and appears to overlap with the definition of “accessory equipment” and of “antenna.”

The definition of “wireless support structure” also should be revised, as it currently appears to allow for the location of wireless facilities on “alternative structures” and it is unclear who would determine the suitability of the alternative structure. We believe this is a role for the municipality, since the “alternative structure” was originally allowed as another separate use.

In Section 3, we believe that (a) should be deleted since a municipality that regulates land use must by law plan for every use.

Subsection 3(b)(1) should be revised to allow a municipality to correct current deficiencies from an existing approval. Just because a collocation is requested should not override conditions from an existing approval. Municipalities need to be sure all permits and approvals are in compliance.

Subsection 3(b)(2) is confusing and should be deleted. We believe that if an applicant requests a variance from the existing requirements for the structure and needs to appear before the municipality, that the applicant should be required to pay application fees and meet the additional requirements in the waiver.

Subsection 3(b)(3) is unclear and we question whether the term “coverage area” should be used in place of “frequency.”

Subsection 3(b)(4) is unclear in what is intended and needs to be better defined or deleted.

Subsection 4(a) seems to imply that collocations would not have to comply with the same conditions as original approvals and, as such, we oppose this section. Collocations must comply with the same requirements, restrictions, and approvals as the original facility. Also, “special permit” should be amended to say “special exception permit.”

Subsection 4(b)(3) is not clear as to what “and subsequently adopted amendments to the conditions of approval” means. This needs to be better defined or deleted.

Subsection 4(c) assumes that new equipment is lighter and will not stress the existing structure and, as such, bars the municipality from requiring documentation that the existing structure will not be stressed by the additional antenna. In addition, we are unclear how a municipality could effectively limit “excess structures” if they do not know the coverage area of the collocation or where the cell would be located. As written, we oppose this section and request that it either be deleted or changed.

In Subsection 5(a), we request that “wireless facilities provider” be deleted since the wireless facilities provider does not and would not act on applications for collocation under the Municipalities Planning Code.

We support the language in Section 6 that preserves municipal zoning power under the Municipalities Planning Code and clarifies that the legislation would not limit or preempt the scope of a municipality’s review or approval process for the siting of wireless support structures.

One last suggestion is to amend the legislation to address the issue of collocation for emergency service providers’ communications equipment. It is common for municipalities to require space for emergency service providers’ communications equipment on wireless support structures when they are approved. The bill should be amended to specifically allow municipal requests for space on a structure as part of the approval process.

Finally, you will probably hear comments today about the changes that were made at the federal level for wireless facilities deployment with the passage of the “Middle Class Tax Relief and Job Creation Act of 2012.” Although the federal changes do mandate states and local governments to approve collocation of new transmission equipment, it does not totally preempt the ability of states and local governments to require standards for the safe and secure construction and location of wireless facilities as will be implied by others today. We believe that the state has the right to ensure safe and secure standards not only for the placement of wireless facilities and structures, but also for the collocation of wireless facilities and structures, while still complying with federal law.

In closing, we support collocation and the efforts of the sponsor and committee to streamline the process. We have offered our suggestions for your consideration and look forward to working with the committee and the interested parties as we move forward on this issue.

Thank you for the opportunity to comment today and I will now attempt to answer any questions that you may have.