
A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the efficient
2 deployment of broadband infrastructure and technology is
3 important for Hawaii's future global connectivity and economic
4 viability. Among the benefits afforded by an advanced broadband
5 infrastructure system are increased and enhanced educational
6 opportunities, telehealth capacity, safety and civil defense
7 communications, economic competitiveness, consumer privileges,
8 and tourism services.

9 To ensure that consumers throughout the State may benefit
10 from these services as soon as possible, and to provide wireless
11 and wireline providers with a fair and predictable process for
12 the deployment of small wireless facilities, the legislature
13 finds that it is important to regulate the deployment of small
14 wireless facilities and small wireless facilities networks.

15 The purpose of this Act is to facilitate the deployment of
16 high-speed broadband infrastructure, including small wireless
17 facilities and small wireless facilities networks. A



1 collocation permit application, review, and application process
2 is established by the Act for telecommunications companies
3 proposing to install broadband infrastructure on utility poles,
4 buildings, structures, or light standards owned jointly by the
5 State or county and private investor-owned utilities. This Act,
6 however, does not relieve wireless infrastructure providers from
7 existing requirements attached to private investor-owned utility
8 poles including compliance with applicable provisions of Hawaii
9 Administrative Rules 6-73.

10 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended
11 by adding two new sections to part VII to be appropriately
12 designated and to read as follows:

13 "§27- Collocation permits; application; review;
14 approval. (a) A telecommunications carrier proposing to
15 install broadband infrastructure shall submit an application for
16 a permitted use permit to a State or county agency with
17 jurisdiction over utility poles, light standards, buildings, or
18 structures. The application shall include:

19 (1) A geographic description of the project area;



1 (2) A listing and description of the utility pole, light
2 standard, building, or structure included in the
3 project for the installation, mounting, operation,
4 and placement of broadband infrastructure,
5 including an assessment of the identifying
6 information, location, and ownership of the listed
7 utility pole, light standard, building, or
8 structure; and

9 (3) A description of the equipment associated with the
10 facilities to be installed in the project area,
11 including radio transceivers, antennas, coaxial or
12 fiber-optic cables, power supplies, and related
13 equipment, and the size and weight of the equipment
14 to be installed on each utility pole, light
15 standard, building, or structure.

16 (b) The agency shall evaluate the impact of collocating
17 the broadband infrastructure described in the application to
18 insure that:

19 (1) The equipment installed on the pole, light standard,
20 building, or structure is done in a manner to protect



1 public health and safety, and safe travel in the
2 public rights-of-way;
3 (2) The utility pole or light standard is able to bear the
4 additional weight of the equipment and that the
5 equipment is not a hazard or obstruction to the
6 public; and
7 (3) The project equipment and broadband infrastructure
8 does not interfere with government systems for public
9 safety communication operations and emergency
10 services.
11 (c) The agency shall notify the applicant that:
12 (1) The permit is approved;
13 (2) The permit is approved with specified modifications;
14 or
15 (3) The application is returned with a list of specific
16 questions seeking answers, clarification, or
17 additional detailed information and resubmission of
18 the application with answers to the questions shall be
19 required.



1 §27- Siting of small wireless facilities and small
2 wireless facilities networks. The State may permit, as a
3 permitted use not subject to zoning review but subject only to
4 clear and objective building permit standards, the collocation
5 of small wireless facilities or small wireless facilities
6 networks on state structures, state utility poles, and state
7 light standards for the deployment of high speed wireless or
8 wireless broadband infrastructure as follows:

9 (1) Small wireless facilities and small wireless
10 facilities networks shall not be subject to the
11 standards of a special or conditional use permit in:
12 (A) All public rights-of-way and property;
13 (B) All land designated as rural or agriculture in
14 accordance with chapter 205; and
15 (C) All land designated as urban;
16 provided that permissible uses within the agricultural
17 district conform to the definition of "wireless
18 communication antenna" in accordance with section 205-
19 4.5(a)(18);



- 1 (2) Small wireless facilities and small wireless
2 facilities networks may be processed for a special or
3 conditional use permit when the small wireless
4 facilities and small wireless facilities networks are
5 located on land designated as conservation, in
6 accordance with chapter 205;
- 7 (3) Wireless providers shall have the right to place small
8 wireless facilities on state utility poles, state
9 structures, state buildings, and state light
10 standards. The State may require building permits or
11 other non-discretionary permits and approvals for the
12 collocation of small wireless facilities and small
13 wireless facilities networks; provided that the
14 permits and approvals are of general applicability.
15 The State shall receive applications for, and process
16 and issue the permits and approvals in accordance with
17 applicable laws, including section 27-45 and subject
18 to the following requirements:
- 19 (A) An applicant shall not be required to perform any
20 services, including restoration work not directly



1 related to the collocation, to obtain approval of
2 an application;
3 (B) An application may be denied if it does not meet
4 applicable laws or rules regarding construction
5 in the public rights-of-way and building or
6 electrical codes or standards; provided that the
7 codes and standards are of general applicability.
8 The State shall document the basis for any
9 denial, including the specific code provisions or
10 standards on which the denial was based; and
11 (C) An applicant for a small wireless facilities
12 network involving no more than twenty-five
13 individual small wireless facilities of a
14 substantially similar design may request and
15 shall be permitted to file a consolidated
16 application and receive a single permit for the
17 installation, construction, maintenance, and
18 repair of the small wireless facilities network
19 instead of filing separate applications for each
20 individual small wireless facility;



1 (4) A wireless provider may collocate small wireless
2 facilities and small wireless facilities networks on
3 state structures, state utility poles, state
4 buildings, and state light standards within the
5 state's designated space, located within the land
6 identified in paragraph (1) (A), (B), and (C), subject
7 to rates, terms, and conditions. The annual recurring
8 rate to collocate a small wireless facility or small
9 wireless facility network on a state structure, state
10 utility pole, state building, or state light standard
11 within the state's designated space shall not exceed
12 the rate produced by applying the formula adopted by
13 the Federal Communications Commission for
14 telecommunications pole attachments in 47 C.F.R.
15 §1.1409(e) (2); provided that, if the Federal
16 Communications Commission adopts a rate formula for
17 small wireless facility or small wireless facility
18 network attachments, that rate formula shall apply;
19 and



- 1 (5) The State shall not require a permit for a wireless
- 2 provider or wireless provider's licensed contractor to
- 3 maintain, repair, or replace the providers' small
- 4 wireless facilities with facilities that are
- 5 substantially the same, or smaller, in size, weight,
- 6 and height as the existing facilities, except as
- 7 necessary to protect the public safety;
- 8 (6) Nothing in section shall be construed to:
- 9 (A) Provide state-based access rights to poles or
- 10 structures solely-owned by an investor-owned
- 11 electric utility or telephone utility;
- 12 (B) Impair access rights provided under title 47
- 13 United States Code section 224 or its
- 14 implementing regulations; or
- 15 (C) Relieve a wireless provider from complying with
- 16 existing lawful joint-pole committee processes
- 17 for attaching to jointly-owned poles, including
- 18 compliance with the applicable provisions of
- 19 Hawaii Administrative Rules 6-73."



1 SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to part V to be appropriately designated
3 and to read as follows:

4 "§46- Siting of small wireless facilities and small
5 wireless facilities networks. The county may permit, subject
6 only to clear and objective building permit standards, the
7 collocation of small wireless facilities or small wireless
8 facilities networks on county structures, county utility poles,
9 county buildings, and county light standards for the deployment
10 of high speed broadband infrastructure as follows:

11 (1) Small wireless facilities and small wireless
12 facilities networks shall not be subject to the
13 standards of a special or conditional use permit in:

14 (A) All public rights-of-way and property;
15 (B) All land designated as rural or agriculture in
16 accordance with chapter 205; and

17 (C) All land designated as urban;
18 provided that, for the purposes of this paragraph,
19 permissible uses within the agricultural district



1 conforms to the definition of "wireless communication
2 antenna" in accordance with section 205-4.5(a)(18);

3 (2) Small wireless facilities and small wireless
4 facilities networks may be processed for a special or
5 conditional use permit when the small wireless
6 facilities and small wireless facilities networks are
7 located on land designated as conservation, in
8 accordance with chapter 205;

9 (3) Wireless providers shall have the right to place small
10 wireless facilities on county-owned poles, county
11 structures, county buildings, and county light
12 standards. The county may require building permits or
13 other non-discretionary permits for the collocation of
14 small wireless facilities and small wireless
15 facilities networks, provided that the permits and
16 approvals are of general applicability. The county
17 shall receive applications for, and process and issue
18 the permits and approvals in accordance with
19 applicable laws, including section 46-89 and subject
20 to the following requirements:



- 1 (A) An applicant shall not be required to perform any
2 services, including restoration work not directly
3 related to the collocation, to obtain approval of
4 applications;
- 5 (B) An application may be denied if it does not meet
6 applicable laws or rules regarding construction
7 in the public rights-of-way and building or
8 electrical codes or standards; provided that the
9 codes and standards are of general applicability.
10 The county shall document the basis for any
11 denial, including the specific code provisions or
12 standards on which the denial was based;
- 13 (C) An applicant for a small wireless facilities
14 network involving no more than twenty-five
15 individual small wireless facilities of a
16 substantially similar design may request and
17 shall be permitted to file a consolidated
18 application and receive a single permit for the
19 installation, construction, maintenance, and
20 repair of the small wireless facilities network



1 instead of filing separate applications for each
2 individual small wireless facility; and
3 (D) Applications for permits for the collocation of
4 small wireless facilities and small wireless
5 facilities networks shall be deemed applications
6 for broadband-related permits, as defined in
7 section 46-89(h).

8 (4) A wireless provider may collocate small wireless
9 facilities and small wireless facilities networks on
10 county structures, county buildings, county utility
11 poles, and county light standards within the county's
12 designated space and located within the land
13 identified in paragraph (1) (A), (B), and (C), subject
14 to rates, terms, and conditions. The annual recurring
15 rate to collocate a small wireless facility or small
16 wireless facility network on a county structure,
17 county building, county utility pole, or county light
18 standard within the county's designated space shall
19 not exceed the rate produced by applying the formula
20 adopted by the Federal Communications Commission for



1 telecommunications pole attachments in 47 C.F.R.
2 §1.1409(e)(2); provided that, if the Federal
3 Communications Commission adopts a rate formula for
4 small wireless facility or small wireless facility
5 network attachments, that rate formula shall apply;
6 (5) The counties shall not require a permit for a wireless
7 provider or wireless provider's licensed contractor to
8 maintain, repair, or replace the providers' small
9 wireless facilities and small wireless facilities
10 networks with facilities that are substantially the
11 same, or smaller, in size, weight, and height as the
12 existing facilities, except as necessary to protect
13 public safety; and
14 (6) Nothing in section shall be construed to:
15 (A) Provide county-based access rights to poles or
16 structures solely-owned by an investor-owned
17 electric utility or telephone utility;
18 (B) Impair access rights provided under title 47
19 United States Code section 224 or its
20 implementing regulations; or



1 (C) Relieve a wireless provider from complying with
2 existing lawful joint-pole committee processes
3 for attaching to jointly-owned poles, including
4 compliance with the applicable provisions of
5 Hawaii Administrative Rules 6-73."

6 SECTION 4. Section 27-41.1, Hawaii Revised Statutes, is
7 amended by adding eleven new definitions to be appropriately
8 inserted and to read as follows:

9 "Collocation" means the installation, mounting,
10 maintenance, modification, operation, or replacement of wireless
11 or wireless broadband service equipment on a tower, utility
12 pole, light standard, building, or other existing structure for
13 the purpose of transmitting or receiving radio frequency signals
14 for communications purposes. For purposes of this definition,
15 "wireless or wireless broadband service equipment":

16 (1) Includes small wireless facilities, radio
17 transceivers, antennas, coaxial or fiber-optic cable,
18 regular and backup power supplies, and comparable
19 equipment, regardless of technological configuration;
20 and



1 (2) Does not include the structure or improvements on,
2 under, or within which the equipment is collocated.

3 "General applicability" refers to laws, regulations, or
4 processes that apply to objective requirements to all persons or
5 services in a nondiscriminatory manner and do not favor the
6 small wireless facilities.

7 "Light standard" means a street light, light pole, lamp
8 post, street lamp, lamp standard, or other raised source of
9 light located inside the right-of-way of a public road or
10 highway, or utility easement.

11 "Public property" means property owned or controlled by the
12 State, state agencies, or a county and includes buildings, water
13 tanks, decorative poles, and light standards.

14 "Rights-of-way" means the areas on, below, or above a
15 public roadway, highway, street, sidewalk, alley, utility
16 easement, or similar property.

17 "Small wireless facilities" means wireless facilities that
18 meet the following qualifications:

19 (1) If applicable, each individual antenna, excluding the
20 associated equipment, is individually no more than



1 three cubic feet in volume, and all antennas on the
2 structure total no more than six cubic feet in volume;
3 (2) All other wireless equipment associated with the
4 structure, excluding cable runs for the connection of
5 power and other services, do not cumulatively exceed:
6 (A) Twenty-eight cubic feet for collocations on all
7 non-pole structures including buildings and water
8 tanks, that can support fewer than three
9 providers;
10 (B) Twenty-one cubic feet for collocations on all
11 pole structures including light poles, traffic
12 signal poles, and utility poles, that can support
13 fewer than three providers;
14 (C) Thirty-five cubic feet for non-pole collocations
15 that can support at least three providers; or
16 (D) Twenty-eight cubic feet for pole collocations
17 that can support at least three providers; and
18 (3) Minimizes, to the greatest extent possible, visual
19 blight.



1 "Small wireless facilities network" means a group of
2 interrelated small wireless facilities designed to deliver
3 wireless communications service.

4 "Telecommunications service" or "telecommunications" shall
5 have the same meaning as defined in section 269-1.

6 "Utility pole" means a pole or similar structure that is
7 used in whole or in part for communications service, electric
8 service, lighting, traffic control, signage, or similar
9 functions.

10 "Wireless provider" means a person or entity that is:

- 11 (1) A provider as defined in section 440J-1;
12 (2) A provider of wireless telecommunications service; or
13 (3) Authorized in accordance with chapter 269 to provide
14 facilities-based telecommunications services in the
15 State and builds, installs, operates, or maintains
16 facilities and equipment used to provide fixed or
17 mobile services through small wireless facilities.

18 SECTION 5. Section 46-15.6, Hawaii Revised Statutes, is
19 amended by adding nine new definitions to be appropriately
20 inserted and to read as follows:



1 "Collocation" means the installation, mounting,
 2 maintenance, modification, operation, or replacement of wireless
 3 or wireless broadband service equipment on a tower, utility
 4 pole, light standard, building, or other existing structure for
 5 the purpose of transmitting or receiving radio frequency signals
 6 for communications purposes. For purposes of this definition,
 7 "wireless", or "wireless broadband service equipment":

8 (1) Includes small wireless facilities, radio
 9 transceivers, antennas, coaxial or fiber-optic cable,
 10 regular and backup power supplies, and comparable
 11 equipment, regardless of technological configuration;
 12 and

13 (2) Does not include the structure or improvements on,
 14 under, or within which the equipment is collocated.

15 "General applicability" refers to laws, regulations, or
 16 processes that apply to objective requirements to all persons or
 17 services in a nondiscriminatory manner and do not apply
 18 exclusively to small wireless facilities.

19 "Light standard" means a street light, light pole, lamp
 20 post, street lamp, lamp standard, or other raised source of



1 light located inside the right-of-way of a public road or
2 highway, or utility easement.

3 "Public property" means property owned or controlled by the
4 State, state agencies, or a county and includes buildings, water
5 tanks, decorative poles, and light standards.

6 "Rights-of-way" means the areas on, below, or above a
7 public roadway, highway, street, sidewalk, alley, utility
8 easement, or similar property.

9 "Small wireless facilities" means wireless facilities that
10 meet the following qualifications:

11 (1) Each individual antenna, excluding the associated
12 equipment, is individually no more than three cubic
13 feet in volume, and all antennas on the structure
14 total no more than six cubic feet in volume;

15 (2) All other wireless equipment associated with the
16 structure, excluding cable runs for the connection of
17 power and other services, do not cumulatively exceed:

18 (A) Twenty-eight cubic feet for collocations on all
19 non-pole structures, including but not limited to



1 buildings and water tanks, that can support fewer
2 than three providers;

3 (B) Twenty-one cubic feet for collocations on all
4 pole structures, including but not limited to
5 light poles, traffic signal poles, and utility
6 poles, that can support fewer than three
7 providers;

8 (C) Thirty-five cubic feet for non-pole collocations
9 that can support at least three providers; or

10 (D) Twenty-eight cubic feet for pole collocations
11 that can support at least three providers;

12 (3) Part of a small wireless facilities network; and

13 (4) Minimizes, to the greatest extent possible, visual
14 blight.

15 "Small wireless facilities network" means a group of
16 interrelated small wireless facilities designed to deliver
17 wireless communications service.

18 "Utility pole" means a pole or similar structure that is
19 used in whole or in part for communications service, electric



1 service, lighting, traffic control, signage, or similar
2 functions.

3 "Wireless provider" means a person or entity that is:

4 (1) A provider as defined in section 440J-1;

5 (2) A provider of wireless telecommunications service; or

6 (3) Authorized in accordance with chapter 269 to provide

7 facilities-based telecommunications services in the

8 State and builds, installs, operates, or maintains

9 facilities and equipment used to provide fixed or

10 mobile services through small wireless facilities."

11 SECTION 6. Section 205-2, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Rural districts shall include activities or uses as
14 characterized by low density residential lots of not more than
15 one dwelling house per one-half acre, except as provided by
16 county ordinance pursuant to section 46-4(c), in areas where
17 "city-like" concentration of people, structures, streets, and
18 urban level of services are absent, and where small farms are
19 intermixed with low density residential lots except that within
20 a subdivision, as defined in section 484-1, the commission for



1 good cause may allow one lot of less than one-half acre, but not
 2 less than eighteen thousand five hundred square feet, or an
 3 equivalent residential density, within a rural subdivision and
 4 permit the construction of one dwelling on such lot; provided
 5 that all other dwellings in the subdivision shall have a minimum
 6 lot size of one-half acre or 21,780 square feet. Such petition
 7 for variance may be processed under the special permit
 8 procedure. These districts may include contiguous areas which
 9 are not suited to low density residential lots or small farms by
 10 reason of topography, soils, and other related characteristics.
 11 Rural districts shall also include golf courses, golf driving
 12 ranges, and golf-related facilities.

13 In addition to the uses listed in this subsection, rural
 14 districts shall include geothermal resources exploration and
 15 geothermal resources development, as defined under section
 16 182-1, and wireless communication antenna, as defined under
 17 section 205-4.5(a)(18), as permissible uses."

18 SECTION 7. Section 205-4.5, Hawaii Revised Statutes, is
 19 amended by amending subsection (a) to read as follows:



1 "(a) Within the agricultural district, all lands with soil
2 classified by the land study bureau's detailed land
3 classification as overall (master) productivity rating class A
4 or B and for solar energy facilities, class B or C, shall be
5 restricted to the following permitted uses:

- 6 (1) Cultivation of crops, including crops for bioenergy,
7 flowers, vegetables, foliage, fruits, forage, and
8 timber;
- 9 (2) Game and fish propagation;
- 10 (3) Raising of livestock, including poultry, bees, fish,
11 or other animal or aquatic life that are propagated
12 for economic or personal use;
- 13 (4) Farm dwellings, employee housing, farm buildings, or
14 activities or uses related to farming and animal
15 husbandry. "Farm dwelling", as used in this
16 paragraph, means a single-family dwelling located on
17 and used in connection with a farm, including clusters
18 of single-family farm dwellings permitted within
19 agricultural parks developed by the State, or where



- 1 agricultural activity provides income to the family
2 occupying the dwelling;
- 3 (5) Public institutions and buildings that are necessary
4 for agricultural practices;
- 5 (6) Public and private open area types of recreational
6 uses, including day camps, picnic grounds, parks, and
7 riding stables, but not including dragstrips,
8 airports, drive-in theaters, golf courses, golf
9 driving ranges, country clubs, and overnight camps;
- 10 (7) Public, private, and quasi-public utility lines and
11 roadways, transformer stations, communications
12 equipment buildings, solid waste transfer stations,
13 major water storage tanks, and appurtenant small
14 buildings such as booster pumping stations, but not
15 including offices or yards for equipment, material,
16 vehicle storage, repair or maintenance, treatment
17 plants, corporation yards, or other similar
18 structures;
- 19 (8) Retention, restoration, rehabilitation, or improvement
20 of buildings or sites of historic or scenic interest;



- 1 (9) Agricultural-based commercial operations as described
- 2 in section 205-2(d) (15);
- 3 (10) Buildings and uses, including mills, storage, and
- 4 processing facilities, maintenance facilities,
- 5 photovoltaic, biogas, and other small-scale renewable
- 6 energy systems producing energy solely for use in the
- 7 agricultural activities of the fee or leasehold owner
- 8 of the property, and vehicle and equipment storage
- 9 areas that are normally considered directly accessory
- 10 to the above-mentioned uses and are permitted under
- 11 section 205-2(d);
- 12 (11) Agricultural parks;
- 13 (12) Plantation community subdivisions, which as used in
- 14 this chapter means an established subdivision or
- 15 cluster of employee housing, community buildings, and
- 16 agricultural support buildings on land currently or
- 17 formerly owned, leased, or operated by a sugar or
- 18 pineapple plantation; provided that the existing
- 19 structures may be used or rehabilitated for use, and
- 20 new employee housing and agricultural support



1 buildings may be allowed on land within the
2 subdivision as follows:

3 (A) The employee housing is occupied by employees or
4 former employees of the plantation who have a
5 property interest in the land;

6 (B) The employee housing units not owned by their
7 occupants shall be rented or leased at affordable
8 rates for agricultural workers; or

9 (C) The agricultural support buildings shall be
10 rented or leased to agricultural business
11 operators or agricultural support services;

12 (13) Agricultural tourism conducted on a working farm, or a
13 farming operation as defined in section 165-2, for the
14 enjoyment, education, or involvement of visitors;
15 provided that the agricultural tourism activity is
16 accessory and secondary to the principal agricultural
17 use and does not interfere with surrounding farm
18 operations; and provided further that this paragraph
19 shall apply only to a county that has adopted



1 ordinances regulating agricultural tourism under
2 section 205-5;

3 (14) Agricultural tourism activities, including overnight
4 accommodations of twenty-one days or less, for any one
5 stay within a county; provided that this paragraph
6 shall apply only to a county that includes at least
7 three islands and has adopted ordinances regulating
8 agricultural tourism activities pursuant to section
9 205-5; provided further that the agricultural tourism
10 activities coexist with a bona fide agricultural
11 activity. For the purposes of this paragraph, "bona
12 fide agricultural activity" means a farming operation
13 as defined in section 165-2;

14 (15) Wind energy facilities, including the appurtenances
15 associated with the production and transmission of
16 wind generated energy; provided that the wind energy
17 facilities and appurtenances are compatible with
18 agriculture uses and cause minimal adverse impact on
19 agricultural land;



1 (16) Biofuel processing facilities, including the
2 appurtenances associated with the production and
3 refining of biofuels that is normally considered
4 directly accessory and secondary to the growing of the
5 energy feedstock; provided that biofuel processing
6 facilities and appurtenances do not adversely impact
7 agricultural land and other agricultural uses in the
8 vicinity.

9 For the purposes of this paragraph:

10 "Appurtenances" means operational infrastructure
11 of the appropriate type and scale for economic
12 commercial storage and distribution, and other similar
13 handling of feedstock, fuels, and other products of
14 biofuel processing facilities.

15 "Biofuel processing facility" means a facility
16 that produces liquid or gaseous fuels from organic
17 sources such as biomass crops, agricultural residues,
18 and oil crops, including palm, canola, soybean, and
19 waste cooking oils; grease; food wastes; and animal



1 residues and wastes that can be used to generate
2 energy;
3 (17) Agricultural-energy facilities, including
4 appurtenances necessary for an agricultural-energy
5 enterprise; provided that the primary activity of the
6 agricultural-energy enterprise is agricultural
7 activity. To be considered the primary activity of an
8 agricultural-energy enterprise, the total acreage
9 devoted to agricultural activity shall be not less
10 than ninety per cent of the total acreage of the
11 agricultural-energy enterprise. The agricultural-
12 energy facility shall be limited to lands owned,
13 leased, licensed, or operated by the entity conducting
14 the agricultural activity.

15 As used in this paragraph:

16 "Agricultural activity" means any activity
17 described in paragraphs (1) to (3) of this subsection.

18 "Agricultural-energy enterprise" means an
19 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy
2 facility.

3 "Agricultural-energy facility" means a facility
4 that generates, stores, or distributes renewable
5 energy as defined in section 269-91 or renewable fuel
6 including electrical or thermal energy or liquid or
7 gaseous fuels from products of agricultural activities
8 from agricultural lands located in the State.

9 "Appurtenances" means operational infrastructure
10 of the appropriate type and scale for the economic
11 commercial generation, storage, distribution, and
12 other similar handling of energy, including equipment,
13 feedstock, fuels, and other products of agricultural-
14 energy facilities;

15 (18) Construction and operation of wireless communication
16 antennas[+], including small wireless facilities or
17 small wireless facilities networks; provided that, for
18 the purposes of this paragraph, "wireless
19 communication antenna" means communications equipment
20 that is either freestanding or placed upon or attached



1 to an already existing structure and that transmits
 2 and receives electromagnetic radio signals used in the
 3 provision of all types of wireless communications
 4 services; provided further that nothing in this
 5 paragraph shall be construed to permit the
 6 construction of any new structure that is not deemed a
 7 permitted use under this subsection; provided further
 8 that "small wireless facilities" shall have the same
 9 meaning as set forth in sections 27-41.1 and 46-15.6;

10 (19) Agricultural education programs conducted on a farming
 11 operation as defined in section 165-2, for the
 12 education and participation of the general public;
 13 provided that the agricultural education programs are
 14 accessory and secondary to the principal agricultural
 15 use of the parcels or lots on which the agricultural
 16 education programs are to occur and do not interfere
 17 with surrounding farm operations. For the purposes of
 18 this paragraph, "agricultural education programs"
 19 means activities or events designed to promote
 20 knowledge and understanding of agricultural activities



1 and practices conducted on a farming operation as
2 defined in section 165-2;
3 (20) Solar energy facilities that do not occupy more than
4 ten per cent of the acreage of the parcel, or twenty
5 acres of land, whichever is lesser or for which a
6 special use permit is granted pursuant to section
7 205-6; provided that this use shall not be permitted
8 on lands with soil classified by the land study
9 bureau's detailed land classification as overall
10 (master) productivity rating class A unless the solar
11 energy facilities are:
12 (A) Located on a paved or unpaved road in existence
13 as of December 31, 2013, and the parcel of land
14 upon which the paved or unpaved road is located
15 has a valid county agriculture tax dedication
16 status or a valid agricultural conservation
17 easement;
18 (B) Placed in a manner that still allows vehicular
19 traffic to use the road; and



- 1 (C) Granted a special use permit by the commission
2 pursuant to section 205-6;
- 3 (21) Solar energy facilities on lands with soil classified
4 by the land study bureau's detailed land
5 classification as overall (master) productivity rating
6 B or C for which a special use permit is granted
7 pursuant to section 205-6; provided that:
- 8 (A) The area occupied by the solar energy facilities
9 is also made available for compatible
10 agricultural activities at a lease rate that is
11 at least fifty per cent below the fair market
12 rent for comparable properties;
- 13 (B) Proof of financial security to decommission the
14 facility is provided to the satisfaction of the
15 appropriate county planning commission prior to
16 date of commencement of commercial generation;
17 and
- 18 (C) Solar energy facilities shall be decommissioned
19 at the owner's expense according to the following
20 requirements:



1 (i) Removal of all equipment related to the
2 solar energy facility within twelve months
3 of the conclusion of operation or useful
4 life; and

5 (ii) Restoration of the disturbed earth to
6 substantially the same physical condition as
7 existed prior to the development of the
8 solar energy facility.

9 For the purposes of this paragraph, "agricultural
10 activities" means the activities described in
11 paragraphs (1) to (3);

12 (22) Geothermal resources exploration and geothermal
13 resources development, as defined under section 182-1;
14 or

15 (23) Hydroelectric facilities, including the appurtenances
16 associated with the production and transmission of
17 hydroelectric energy, subject to section 205-2;
18 provided that the hydroelectric facilities and their
19 appurtenances:



- 1 (A) Shall consist of a small hydropower facility as
2 defined by the United States Department of
3 Energy, including:
- 4 (i) Impoundment facilities using a dam to store
5 water in a reservoir;
- 6 (ii) A diversion or run-of-river facility that
7 channels a portion of a river through a
8 canal or channel; and
- 9 (iii) Pumped storage facilities that store energy
10 by pumping water uphill to a reservoir at
11 higher elevation from a reservoir at a lower
12 elevation to be released to turn a turbine
13 to generate electricity;
- 14 (B) Comply with the state water code, chapter 174C;
- 15 (C) Shall, if over five hundred kilowatts in
16 hydroelectric generating capacity, have the
17 approval of the commission on water resource
18 management, including a new instream flow
19 standard established for any new hydroelectric
20 facility; and



1 (D) Do not impact or impede the use of agricultural
2 land or the availability of surface or ground
3 water for all uses on all parcels that are served
4 by the ground water sources or streams for which
5 hydroelectric facilities are considered."

6 SECTION 8. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on July 1, 2050;
9 provided that this Act shall apply to permit applications filed
10 with the State or county after January 1, 2018.



Report Title:

Broadband; Small Wireless Facilities; Siting Process; State and County Land; Permits

Description:

Establishes a collocation permitting, application, review and approval process for telecommunications companies proposing to install broadband infrastructure on State or County structures, utility poles, light standards, or buildings. Establishes the siting process. (HB625 HD3)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

