

AMENDMENTS TO LB520

Introduced by Transportation and Telecommunications.

1 1. Strike the original section and insert the following new section:

2 Section 1. (1) For purposes of this section:

3 (a) Authority means any county, city of the first class, city of the  
4 second class, or village whose authorization is necessary prior to the  
5 deployment of a wireless facility;

6 (b)(i) Base station means a structure or equipment at a fixed  
7 location that enables Federal Communications Commission-licensed or  
8 authorized wireless communications between user equipment and a  
9 communications network. The term does not encompass a tower as defined in  
10 this section or any equipment associated with a tower. The term includes,  
11 but is not limited to:

12 (A) Equipment associated with wireless communications services such  
13 as private, broadcast, and public safety services, as well as unlicensed  
14 wireless services and fixed wireless services such as microwave backhaul;

15 (B) Radio transceivers, antennas, coaxial or fiber-optic cable,  
16 regular and backup power supplies, and comparable equipment, regardless  
17 of technological configuration, including distributed antenna systems and  
18 small-cell networks; and

19 (C) Any structure other than a tower that, at the time the relevant  
20 application is filed with the authority, supports or houses equipment  
21 described in subdivision (1)(b)(i)(A) or (B) of this section that has  
22 been reviewed and approved under the applicable zoning or siting process,  
23 or under another state or local regulatory review process, even if the  
24 structure was not built for the sole or primary purpose of providing such  
25 support.

26 (ii) Base station does not include any structure that, at the time  
27 the relevant application is filed with the authority, does not support or

1 house equipment described in subdivision (1)(b)(i)(A) or (B) of this  
2 section;

3 (c) Collocate or collocation means the mounting or installation of  
4 transmission equipment on an eligible support structure for the purpose  
5 of transmitting or receiving radio frequency signals for communications  
6 purposes;

7 (d) Eligible facilities request means any request for modification  
8 of an existing tower or base station that does not substantially change  
9 the physical dimensions of such tower or base station involving (i)  
10 collocation of new transmission equipment, (ii) removal of transmission  
11 equipment, or (iii) replacement of transmission equipment;

12 (e) Eligible support structure means any tower or base station as  
13 defined in this section that is existing at the time the relevant  
14 application is filed with the authority;

15 (f) Site means for towers other than towers in the public rights-of-  
16 way, the current boundaries of the leased or owned property surrounding  
17 the tower and any access or utility easements currently related to the  
18 site, and, for other eligible support structures, further restricted to  
19 that area in proximity to the structure and to other transmission  
20 equipment already deployed on the ground. The current boundaries of a  
21 site are the boundaries that existed as of the date that the original  
22 support structure or a modification to that structure was last reviewed  
23 and approved by a state or local government, if the approval of the  
24 modification occurred prior to the passage of the federal Middle Class  
25 Tax Relief and Job Creation Act of 2012 or otherwise outside of the  
26 process provided in section 6409(a) of such act;

27 (g) Small wireless facility has the same meaning as in section  
28 86-1226;

29 (h) Substantially change means a modification that substantially  
30 changes the physical dimensions of an eligible support structure if such  
31 modification meets any of the following criteria:

1           (i) For towers other than towers in the public rights-of-way, it  
2 increases the height of the tower by more than ten percent or by the  
3 height of one additional antenna array with separation from the nearest  
4 existing antenna not to exceed twenty feet, whichever is greater. For  
5 other eligible support structures, it increases the height of the  
6 structure by more than ten percent or more than ten feet, whichever is  
7 greater. Changes in height should be measured from the original support  
8 structure in cases where deployments are or will be separated  
9 horizontally, such as on building rooftops. In other circumstances,  
10 changes in height should be measured from the dimensions of the tower or  
11 base station, inclusive of originally approved appurtenances and any  
12 modifications that were approved prior to the passage of the federal  
13 Middle Class Tax Relief and Job Creation Act of 2012;

14           (ii) For towers other than towers in the public rights-of-way, it  
15 involves adding an appurtenance to the body of the tower that would  
16 protrude from the edge of the tower more than twenty feet, or more than  
17 the width of the tower structure at the level of the appurtenance,  
18 whichever is greater. For other eligible support structures, it involves  
19 adding an appurtenance to the body of the structure that would protrude  
20 from the edge of the structure by more than six feet;

21           (iii) For any eligible support structure, it involves installation  
22 of more than the standard number of new equipment cabinets for the  
23 technology involved, but not to exceed four cabinets, or, for towers in  
24 the public rights-of-way and base stations, it involves installation of  
25 any new equipment cabinets on the ground if there are no pre-existing  
26 ground cabinets associated with the structure, or involves installation  
27 of ground cabinets that are more than ten percent larger in height or  
28 overall volume than any other ground cabinets associated with the  
29 structure;

30           (iv) It entails any excavation or deployment outside the current  
31 site, except that for towers other than towers in the public rights-of-

1 way, it entails any excavation or deployment of transmission equipment  
2 outside of the current site by more than thirty feet in any direction.  
3 The site boundary from which the thirty feet is measured excludes any  
4 access or utility easements currently related to the site;

5 (v) It would defeat the concealment elements of the eligible support  
6 structure; or

7 (vi) It does not comply with conditions associated with the siting  
8 approval of the construction or modification of the eligible support  
9 structure or base station equipment, except that this limitation does not  
10 apply to any modification that is noncompliant only in a manner that  
11 would not exceed the thresholds identified in subdivisions (1)(h)(i)  
12 through (iv) of this section;

13 (i) Tower means any structure built for the sole or primary purpose  
14 of supporting any Federal Communications Commission-licensed or  
15 authorized antennas and their associated facilities, including structures  
16 that are constructed for wireless communications services, including, but  
17 not limited to, private, broadcast, and public safety services, as well  
18 as unlicensed wireless services and fixed wireless services such as  
19 microwave backhaul, and the associated site;

20 (j) Transmission equipment means equipment that facilitates  
21 transmission for any Federal Communications Commission-licensed or  
22 authorized wireless communication service, including, but not limited to,  
23 radio transceivers, antennas, coaxial or fiber-optic cable, and regular  
24 and backup power supply. The term includes equipment associated with  
25 wireless communications services, including, but not limited to, private,  
26 broadcast, and public safety services, as well as unlicensed wireless  
27 services and fixed wireless services such as microwave backhaul;

28 (k)(i) Wireless facility means equipment at a fixed location that  
29 enables wireless communications between user equipment and a  
30 communications network including (A) equipment associated with wireless  
31 communications and (B) radio transceivers, antennas, coaxial or fiber-

1 optic cable, regular power supply, and small back-up battery, regardless  
2 of technological configuration.

3 (ii) Wireless facility does not include a small wireless facility.  
4 Wireless facility does not include (A) the structure or improvements on,  
5 under, or within the equipment which is collocated, (B) coaxial or fiber-  
6 optic cable that is between wireless structures or utility poles or that  
7 is otherwise not immediately adjacent to, or directly associated with, a  
8 particular antenna, or (C) a wireline backhaul facility;

9 (1) Wireless support structure means a structure, such as a tower or  
10 other existing or proposed structure, designed to support or capable of  
11 supporting wireless facilities other than a structure designed solely for  
12 the collocation of a small wireless facility; and

13 (m) Wireline backhaul facility has the same meaning as in section  
14 86-1235.

15 (2)(a) Subject to the limitations in this section, an authority may  
16 fix and charge an application fee for the submission, processing, and  
17 review of an eligible facilities request to collocate a new wireless  
18 facility, site a new wireless support structure, or substantially change  
19 an existing wireless facility or wireless support structure. The  
20 application fee shall be based on the authority's actual, direct, and  
21 objectively reasonable costs as determined by the authority incurred for  
22 all aspects of an application review process. Any costs incurred by an  
23 authority for review by an outside consultant shall be included in the  
24 application fee, be based on objectively reasonable costs as determined  
25 by the authority, and not exceed the usual and customary fee charged for  
26 the services provided. The charges included in the application fee or  
27 amended application fee shall be itemized and separately identified and  
28 disclosed to the applicant.

29 (b) In lieu of an application fee, an authority may require an  
30 escrow account to support the authority's objectively reasonable costs  
31 incurred. For either the escrow account or fee payment method, a final

1 inspection of the project shall be required. After the final inspection  
2 is completed and all punch list items have been resolved, the authority  
3 shall return any funds in an escrow account to the applicant that are not  
4 needed to support the authority's objectively reasonable costs incurred.  
5 As part of the application, the applicant shall provide the name of the  
6 person or entity to whom any escrow funds shall be returned.

7 (c) The application fee or escrow account imposed by an authority  
8 shall not be used for (i) travel time or expenses, meals, or overnight  
9 accommodations incurred in the review of an application by an outside  
10 consultant or (ii) reimbursement for a consultant that is based on a  
11 contingent fee or a results-based arrangement.

12 (3) Nothing in this section shall be construed to otherwise limit,  
13 alter, or expand an authority's ability to charge an applicant a rate or  
14 fee for the use of or access to a public right-of-way for the  
15 construction, installation, maintenance, modification, or operation of  
16 fiber-optic cables, coaxial cables, or conduit facilities to support  
17 personal wireless service radio receivers, antennas, or any comparable  
18 equipment, regardless of technological configuration, including, but not  
19 limited to, antenna systems and small-cell networks.

20 (4) Nothing in this section shall be construed to apply to an  
21 application submitted to an authority pursuant to the Small Wireless  
22 Facilities Deployment Act.

23 (5) A reviewing authority shall be subject to a sixty-day shot clock  
24 to review and approve or deny an application for an eligible facilities  
25 request or modification. For purposes of this subsection, the authority  
26 shall follow the guidelines set by the Federal Communications Commission  
27 in its decisions issued in FCC 14-153, 29 FCC Record 12865 (16), and FCC  
28 20-75, 35 FCC Record 5977 (7), as guidance for compliance with section  
29 6409(a) of the federal Middle Class Tax Relief and Job Creation Act of  
30 2012, 47 U.S.C. 1455, and 47 C.F.R. 1.6100(c)(2), as such order, ruling,  
31 section, act, and regulations existed on January 1, 2022.

1           (6) This section shall terminate on September 30, 2026, unless  
2   extended by the Legislature.