



General Assembly

January Session, 2011

Raised Bill No. 833

LCO No. 2535

02535_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

**AN ACT CONCERNING THE APPROVAL AND SITING OF CERTAIN
TELECOMMUNICATION TOWER APPLICATIONS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 16-50x of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Notwithstanding any other provision of the general statutes,
4 except as provided in section 16-243 and this section, the council shall
5 have exclusive jurisdiction over the location and type of facilities and
6 over the location and type of modifications of facilities subject to the
7 provisions of subsection (d) of this section. When evaluating an
8 application for a telecommunication tower within a particular
9 municipality, the council shall consider any location preferences or
10 criteria (1) provided to the council pursuant to section 16-50gg, or (2)
11 that may exist in the zoning regulations of said municipality as of the
12 submission date of the application to the council. When evaluating an
13 application for a telecommunication tower to be sited not more than
14 two hundred fifty feet from a residential dwelling, place of worship or
15 school, the council shall not approve or certify such application unless:
16 (A) Such applicant has the approval of the planning and zoning

17 commission of the municipality where such telecommunication tower
18 is proposed to be located, or (B) the municipality where such
19 telecommunication tower will be located, by vote of its legislative
20 body, yielded the approval authority described in subparagraph (A) of
21 this subsection to the council for such application. In ruling on
22 applications for certificates or petitions for a declaratory ruling for
23 facilities and on requests for shared use of facilities, the council shall
24 give such consideration to other state laws and municipal regulations
25 as it shall deem appropriate. Whenever the council certifies a facility
26 pursuant to this chapter, such certification shall satisfy and be in lieu of
27 all certifications, approvals and other requirements of state and
28 municipal agencies in regard to any questions of public need,
29 convenience and necessity for such facility.

30 (b) Whenever the council has certified a facility pursuant to this
31 chapter, any person joining in the application for such certification
32 shall be empowered to exercise its powers of eminent domain, granted
33 by the general statutes or any special act, to acquire property for such
34 facility for the benefit of all persons receiving such certificates.

35 (c) Whenever the council has certified a facility pursuant to this
36 chapter and the applicant for such certificate thereafter initiates
37 condemnation proceedings to acquire property for such facility, and it
38 shall appear to the court or judge before whom such proceedings are
39 pending that the public interest will be prejudiced by delay, said court
40 or judge may direct that said applicant be permitted to enter
41 immediately upon the property to be taken and devote it temporarily
42 to the public use specified in the application instituting such
43 proceeding upon the deposit with said court of a sum to be fixed by
44 said court or judge, upon notice to the parties of not less than ten days,
45 and such sum when fixed and paid shall be applied to the payment of
46 any assessment of damages which may be made, with interest thereon
47 from the date of such entry upon said property, and the remainder, if
48 any, returned to said applicant. If such application is dismissed, no
49 assessment of damages is made, or the proceedings are abandoned by

50 said applicant, said court or judge shall direct that the money so
51 deposited, so far as it may be necessary, shall be applied to the
52 payment of any damages that the owner of said property or other
53 parties in interest may have sustained by such entry upon and use of
54 such property, including reasonable attorneys', engineers' and
55 appraisers' fees and other reasonable expenses incurred by such owner
56 or other parties in interest in connection with such proceedings, and
57 the costs and expenses of such proceedings. Such damages shall be
58 ascertained by said court or judge or a committee to be appointed for
59 that purpose, and if the sum so deposited shall be insufficient to pay
60 such damages and all costs and expenses so assessed, judgment shall
61 be entered against said applicant for the deficiency to be enforced and
62 collected in the same manner as a judgment in the Superior Court, and
63 the possession of such property shall be restored to the owner or
64 owners thereof.

65 (d) Any town, city or borough zoning commission and inland
66 wetland agency may regulate and restrict the proposed location of a
67 facility, as defined in subdivisions (3) and (4) of subsection (a) of
68 section 16-50i. Such local bodies may make all orders necessary to the
69 exercise of such power to regulate and restrict, which orders shall be in
70 writing and recorded in the records of their respective communities,
71 and written notice of any order shall be given to each party affected
72 thereby. Such a local body shall make any such order (1) not more than
73 sixty-five days after an application has been filed with the council for
74 the siting of a facility described in subdivision (3) of subsection (a) of
75 section 16-50i, or (2) not more than thirty days after an application has
76 been filed with the council for the siting of a facility described in
77 subdivision (4) of subsection (a) of section 16-50i. Each such order
78 shall be subject to the right of appeal within thirty days after the giving
79 of such notice by any municipality required to be served with a copy of
80 the application under subdivision (1) of subsection (b) of section 16-50/
81 or by any party aggrieved to the council, which shall have jurisdiction,
82 in the course of any proceeding on an application for a certificate or
83 otherwise, to affirm, modify or revoke such order or make any order in

84 substitution thereof by a vote of six members of the council.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	16-50x

Statement of Purpose:

To provide municipalities with approval authority for the siting of certain telecommunication towers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]