

House of Representatives, March 31, 1998. The Committee on Planning and Development reported through REP. DAVIS, 50th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE SITING OF PCS AND CELLULAR COMMUNICATION TOWERS.

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

1 Section 1. Section 8-2 of the general
2 statutes, as amended by section 2 of public act
3 97-296, is amended by adding subsection (d) as
4 follows:

5 (NEW) (d) (1) As used in this subsection
6 "cellular system" means a cellular system as
7 defined in the Code of Federal Regulations Title
8 47, Part 22, as amended, and "personal wireless
9 services" means personal wireless services as
10 defined in 47 USC 332 (c)(7).

11 (2) The zoning regulations may provide for
12 the siting of telecommunication towers, including
13 associated equipment, and antennas, including
14 associated equipment, used in a cellular system or
15 used to provide personal wireless services,
16 provided such regulations are adopted on or before
17 February 1, 1999, and are in compliance with any
18 amendments to the federal Telecommunications Act
19 of 1996 and any federal regulations adopted
20 pursuant to said act. On or before September 15,
21 1998, the zoning commission of each municipality
22 shall inform the Connecticut Siting Council if it

23 intends to adopt zoning regulations under this
24 subsection. The zoning commission shall submit a
25 copy of the regulations to the council not later
26 than the date the regulations become effective.

27 Sec. 2. (NEW) (a) Notwithstanding the
28 provisions of section 16-50i of the general
29 statutes, as amended by section 4 of this act, the
30 Connecticut Siting Council shall not have
31 jurisdiction on and after February 1, 1999, over
32 the siting of telecommunication towers, including
33 associated equipment, and antennas, including
34 associated equipment, used in a cellular system or
35 used to provide personal wireless services
36 proposed to be located in a municipality if such
37 municipality has adopted regulations under
38 subsection (d) of section 8-2, as amended by this
39 act.

40 (b) Prior to the date a municipality has
41 submitted a copy of its local zoning regulations
42 to the Connecticut Siting Council pursuant to said
43 subsection (d) of section 8-2, as amended by this
44 act, the council shall have jurisdiction over the
45 location of such cellular facilities located or
46 proposed to be located in such a municipality.

47 Sec. 3. (NEW) Not later than July 1, 1998,
48 the Connecticut Siting Council shall notify each
49 municipality that the municipality may, by
50 February 1, 1999, adopt zoning regulations that
51 specifically address the siting of facilities
52 described in subdivision (6) or (7) of subsection
53 (a) of section 16-50i of the general statutes, as
54 amended by section 4 of this act, consistent with
55 the federal Telecommunications Act of 1996. The
56 council shall specifically inform each
57 municipality that: (1) Local zoning regulations
58 may not unreasonably discriminate among wireless
59 telecommunications providers that compete against
60 one another; (2) local zoning regulations may not
61 prohibit or have the effect of prohibiting the
62 provision of wireless telecommunications service;
63 (3) a municipality must act within a reasonable
64 period of time on requests for permission to place
65 or construct wireless telecommunications
66 facilities; (4) any decision of the zoning
67 commission, planning and zoning commission or
68 zoning board of appeals denying a request for
69 permission to install or construct wireless
70 telecommunications facilities must be in writing

71 and must be based on evidence in a written record
72 before the commission or board; and (5) if a
73 wireless telecommunications facility meets
74 technical emission standards set by the Federal
75 Communications Commission, it is presumed safe,
76 and a municipality may not deny a request to
77 construct a facility on grounds that its
78 radiofrequency emissions would be harmful to the
79 environment or the health of residents if those
80 emissions meet those standards.

81 Sec. 4. Subsection (a) of section 16-50i of
82 the general statutes is repealed and the following
83 is substituted in lieu thereof:

84 (a) "Facility" means: (1) An electric
85 transmission line of a design capacity of
86 sixty-nine kilovolts or more, including associated
87 equipment but not including a transmission line
88 tap, as defined in subsection (e) of this section;
89 (2) a fuel transmission facility, except a gas
90 transmission line having a design capability of
91 less than two hundred pounds per square inch gauge
92 pressure; (3) any electric generating or storage
93 facility using any fuel, including nuclear
94 materials, including associated equipment for
95 furnishing electricity but not including an
96 emergency generating device, as defined in
97 subsection (f) of this section or a facility (i)
98 owned and operated by a private power producer, as
99 defined in section 16-243b, (ii) which is a
100 qualifying small power production facility or a
101 qualifying cogeneration facility under the Public
102 Utility Regulatory Policies Act of 1978, as
103 amended, or a facility determined by the council
104 to be primarily for a producer's own use and (iii)
105 which has, in the case of a facility utilizing
106 renewable energy sources, a generating capacity of
107 one megawatt of electricity or less and, in the
108 case of a facility utilizing cogeneration
109 technology, a generating capacity of twenty-five
110 megawatts of electricity or less; (4) any electric
111 substation or switchyard designed to change or
112 regulate the voltage of electricity at sixty-nine
113 kilovolts or more or to connect two or more
114 electric circuits at such voltage, which
115 substation or switchyard may have a substantial
116 adverse environmental effect, as determined by the
117 council established under section 16-50j, and
118 other facilities which may have a substantial

119 adverse environmental effect as the council may,
120 by regulation, prescribe; (5) [such] community
121 antenna television towers and head-end structures,
122 including associated equipment; [, which may have
123 a substantial adverse environmental effect, as
124 said council shall, by regulation, prescribe; and
125 (6) such] AND (6) IN THE CASE OF A MUNICIPALITY
126 WHICH HAS NOT ADOPTED ZONING REGULATIONS UNDER
127 SECTION 8-2, AS AMENDED BY SECTION 2 OF PUBLIC ACT
128 97-296 AND SECTION 1 OF THIS ACT, (A)
129 telecommunication towers, including associated
130 telecommunications equipment, owned or operated by
131 the state, a public service company, as defined in
132 section 16-1, or a person, firm or corporation
133 certified by the Department of Public Utility
134 Control to provide intrastate telecommunications
135 services pursuant to sections 16-247f to 16-247h,
136 inclusive, or used [in a cellular system, as
137 defined in the Code of Federal Regulations Title
138 47, Part 22, as amended, which may have a
139 substantial adverse environmental effect, as said
140 council shall, by regulation, prescribe] FOR
141 PERSONAL WIRELESS SERVICES, AS DEFINED IN 47 USC
142 332 (c) (7); AND (B) ANTENNAS, INCLUDING ASSOCIATED
143 EQUIPMENT, NOT LOCATED ON TOWERS, THAT ARE OWNED
144 OR OPERATED BY THE STATE, A PUBLIC SERVICE
145 COMPANY, A COMMUNITY ANTENNA TELEVISION COMPANY OR
146 A PERSON, FIRM OR CORPORATION CERTIFIED BY THE
147 DEPARTMENT TO PROVIDE INTRASTATE
148 TELECOMMUNICATIONS SERVICES PURSUANT TO SECTIONS
149 16-247f TO 16-247h, INCLUSIVE, OR USED FOR
150 PERSONAL WIRELESS SERVICES, AS DEFINED IN 47 USC
151 332 (c) (7).

152 Sec. 5. This act shall take effect from its
153 passage and shall apply to applications submitted
154 to the Siting Council before or after the
155 effective date of this act.

156 PD COMMITTEE VOTE: YEA 19 NAY 0 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5589

STATE IMPACT See Explanation Below
 MUNICIPAL IMPACT See Explanationn Below
 STATE AGENCY(S) Connecticut Siting Council

EXPLANATION OF ESTIMATES:

STATE IMPACT: Passage of this bill allows local zoning commissions to assume jurisdiction over siting cellular systems which are currently regulated by the Connecticut Siting Council (Council). If a local zoning commission does not choose to assume jurisdiction of the cellular technology it cedes jurisdiction of Personal Communication Systems (PCS is a relatively new technology that is superseding cellular telecommunications) to the Council. In effect this bill requires that siting of cellular and PCS technologies are under a single jurisdiction, however such jurisdiction is determined on a town by town basis by the local zoning commissions.

It is anticipated that the there will be a minimal workload decrease to the Connecticut Siting Council (Council) as towns choose to assume jurisdiction of cellular technology currently regulated by the Council. However, it is anticipated that this workload decrease will be offset by: 1)expanding the Council's jurisdiction to include PCS technology which has been ceded by local zoning commissions; and 2) requirements to notify all municipalities of the option to assume cellular jurisdiction or cede PCS jurisdiction.

MUNICIPAL IMPACT: It is anticipated that some local zoning commissions may opt to expand siting

jurisdiction to include cellular technology thus incurring a workload increase and a potential cost increase. Whereas other local zoning commissions may opt to cede jurisdiction over PCS technology to the Connecticut Siting Council, resulting in a workload decrease, and a potential cost savings.

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OLR BILL ANALYSIS

sHB 5589

AN ACT CONCERNING THE SITING OF PCS AND CELLULAR COMMUNICATION TOWERS

SUMMARY: Under current law, the Connecticut Siting Council regulates the siting of most telecommunications facilities including those used in cellular systems, but local zoning commissions have jurisdiction over the siting of personal communication systems (PCS) and related facilities. (PCS is a relatively new technology that is superseding cellular telecommunications.) This bill allows zoning commissions to assume jurisdiction over the facilities currently regulated by the Siting Council. The council must notify each municipality of this option by July 1, 1998. A zoning commission must adopt regulations by February 1, 1999 to assume jurisdiction. If the commission does not take action by that date, it cedes its jurisdiction over PCS and related facilities to the Siting Council.

EFFECTIVE DATE: Upon passage, and applicable to Siting Council applications filed before or after passage.

FURTHER EXPLANATION

Council Notice to Municipalities

By July 1, 1998, the council must notify each municipality that it can adopt zoning regulations that specifically cover the siting of the telecommunications facilities currently in the council's jurisdiction as well as those facilities currently within the jurisdiction of zoning commissions, so long as the regulations are consistent with the federal Telecommunications Act of 1996. The notice must

specifically inform the municipality that:

1. zoning regulations cannot unreasonably discriminate among wireless telecommunications providers that compete against one another;
2. the regulations cannot have the effect of prohibiting the provision of wireless services;
3. a municipality must act within a reasonable amount of time on requests to place or build wireless facilities;
4. any decision by a zoning body denying a request to build or install such facilities must be in writing and based on the written record; and
5. if a facility meets radio frequency emission standards established by the Federal Communications Commission, it is presumed to be safe, and a municipality cannot deny a request to build the facility on health grounds.

These provisions parallel Section 704 of the Telecommunications Act of 1996, which sets the parameters for regulating telecommunications facility siting.

Jurisdiction over Telecommunications Facilities

Under current law, the Siting Council has jurisdiction over telecommunication towers that (1) are owned or operated by the state, utilities, and telecommunications companies such as long-distance carriers or (2) are used in a cellular telecommunications system. It does not have jurisdiction over facilities used to provide other wireless services, most notably PCS. As a result, zoning commissions have jurisdiction over them under zoning regulations. Zoning commissions also have jurisdiction over antennas that are not located on towers.

The bill allows a municipality to assume jurisdiction over PCS and related wireless service facilities by

adopting zoning regulations to this effect by February 1, 1999. The zoning commission must notify the council of its intent to adopt regulations by September 15, 1998. The regulations must be consistent with the Telecommunications Act of 1996 and related federal regulations. The commission must submit a copy of its regulations to the council by their effective date. The council retains its jurisdiction over existing and proposed cellular facilities until the municipality submits the copy of the regulations. It appears that the zoning commission would assume jurisdiction over the other facilities from the effective date of the regulations. The bill explicitly allows the regulations to address cellular and wireless facilities; it appears to transfer jurisdiction over the remaining types of telecommunication facilities by default.

If a municipality does not adopt the regulations by February 1, 1999, the council assumes jurisdiction over (1) towers used to provide wireless services and (2) antennas not located on towers that are owned or operated by the state, utilities, cable TV companies, or telecommunication companies or that are used for wireless services. Under current law, the council's jurisdiction over telecommunication and cable TV towers is limited to those that may create substantial environmental harm as determined by council regulations. The bill extends the council's jurisdiction to include all such towers, regardless of their environmental effects.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 19 Nay 0