

File No. 675

(Reprint of File No. 236)

Substitute House Bill No. 5589
As Amended by House Amendment
Schedules "A" and "C"

Approved by the Legislative Commissioner
May 3, 1998

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 the
12 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 zoning regulations under
38 subsection (d) of section 8-2 of the general
39 statutes, as amended by section 1 of this 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
43 subsection (d) of section 8-2 of the general
44 statutes, as amended by section 1 of this act, the
45 council shall have jurisdiction over the location
46 of such cellular facilities located or proposed to
47 be located in such a municipality.

48 Sec. 3. (NEW) Not later than July 1, 1998, the
49 Connecticut Siting Council shall notify each
50 municipality that the municipality may, by
51 February 1, 1999, adopt zoning regulations under
52 subsection (d) of section 8-2 of the general
53 statutes, as amended by section 1 of this act,
54 that specifically address the siting of
55 telecommunication towers, including associated
56 equipment, and antennas, including associated
57 equipment, used in a cellular system or used to
58 provide personal wireless services. The council
59 shall specifically inform each municipality that:
60 (1) Local zoning regulations may not unreasonably
61 discriminate among wireless telecommunications
62 providers that compete against one another; (2)
63 local zoning regulations may not prohibit or have
64 the effect of prohibiting the provision of
65 wireless telecommunications service; (3) a
66 municipality must act within a reasonable period
67 of time on requests for permission to place or
68 construct wireless telecommunications facilities;
69 (4) any decision of the zoning commission,

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

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

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

118 adverse environmental effect, as determined by the
119 council established under section 16-50j, and
120 other facilities which may have a substantial
121 adverse environmental effect as the council may,
122 by regulation, prescribe; (5) [such] community
123 antenna television towers and head-end structures,
124 including associated equipment; [, which may have
125 a substantial adverse environmental effect, as
126 said council shall, by regulation, prescribe;] and
127 (6) [such] telecommunication towers, including
128 associated telecommunications equipment, owned or
129 operated by the state, a public service company,
130 as defined in section 16-1, or a person, firm or
131 corporation certified by the Department of Public
132 Utility Control to provide intrastate
133 telecommunications services pursuant to sections
134 16-247f to 16-247h, inclusive, [or] AND, EXCEPT,
135 IN THE CASE OF A MUNICIPALITY WHICH HAS ADOPTED
136 ZONING REGULATIONS UNDER SUBSECTION (d) OF SECTION
137 8-2, AS AMENDED BY SECTION 1 OF THIS ACT,
138 TELECOMMUNICATION TOWERS, INCLUDING ASSOCIATED
139 EQUIPMENT, AND ANTENNAS, INCLUDING ASSOCIATED
140 EQUIPMENT, used in a cellular system, as defined
141 in the Code of Federal Regulations Title 47, Part
142 22, as amended, [which may have a substantial
143 adverse environmental effect, as said council
144 shall, by regulation, prescribe] OR USED TO
145 PROVIDE PERSONAL WIRELESS SERVICES, AS DEFINED IN
146 47 USC 332(c)(7).

147 Sec. 5. (NEW) The zoning commission of a
148 municipality may require an applicant proposing
149 the location in a residential area of an antenna
150 or tower for personal communication services, as
151 defined in 47 CFR 24.5, or a cellular system, as
152 defined in the Code of Federal Regulations Title
153 47, Part 22, as amended, to provide detailed
154 analysis of the site which shall include an
155 evaluation of alternative sites. An application
156 shall be approved only if it is consistent with
157 zoning regulations and federal law, including the
158 Telecommunications Act of 1996, and is compatible
159 with existing residential development.

160 Sec. 6. This act shall take effect from its
161 passage and sections 1 to 4, inclusive, shall
162 apply to applications submitted to the Connecticut
163 Siting Council before or after the effective date
164 of this act.

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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 Explanation Below
STATE AGENCY(S) Connecticut Siting Council

EXPLANATION OF ESTIMATES:

STATE IMPACT: The bill as amended 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 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.

Additionally, the bill as amended allows municipalities to require an applicant seeking to site certain types of facilities to provide additional information including an evaluation of alternative sites. There is no fiscal impact associated with this provision.

House "A" strikes the original bill and its associated fiscal impact.

House "C" allows municipalities to require an applicant proposing to site in a residential area to provide certain information, including an evaluation of alternate sites. This amendment has no fiscal impact to the state or municipalities.

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OLR AMENDED BILL ANALYSIS

SHB 5589 (as amended by House "A" and "C")*

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 siting cellular facilities if they adopt regulations by February 1, 1999 to assume jurisdiction. The council must notify each municipality of this option by July 1, 1998. If the commission does not take action by that date, it cedes its jurisdiction over PCS and related facilities to the Siting Council, which would also retain its jurisdiction over cellular facilities.

Under the bill, a municipal zoning commission may require a person seeking to site a PCS antenna in a residential area to provide a detailed analysis of the site. The analysis must include an evaluation of alternative sites. To be approved the application must be consistent with zoning regulations and federal law

(including the Telecommunications Act of 1996) and must be compatible with existing residential development.

*House Amendment "A" allows municipalities to claim jurisdiction over cellular facilities, rather than all telecommunication facilities currently within the council's jurisdiction.

*House Amendment "C" adds the provisions on siting PCS antennas in residential areas.

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 cellular facilities 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