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# 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 or wireline facilities, the  
13 legislature finds that it is important to regulate the  
14 deployment of small wireless or wireline facilities and small  
15 wireless or wireline facilities networks.

16           The purpose of this Act is to facilitate the deployment of  
17 high-speed broadband infrastructure, including small wireless or



1 wireline facilities and small wireless or wireline facilities  
2 networks. As to utility poles owned jointly by the State or  
3 county and private investor-owned utilities, this Act does not  
4 relieve wireless infrastructure providers from existing  
5 requirements attached to private investor-owned utility poles.

6 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended  
7 by adding a new section to part VII to be appropriately  
8 designated and to read as follows:

9 "§27- Siting of small wireless or wireline facilities  
10 and small wireless or wireline facilities networks. The State  
11 shall permit, subject only to clear and objective building  
12 permit standards, the collocation of small wireless or wireline  
13 facilities or small wireless or wireline facilities networks on  
14 state structures, state utility poles, and state light  
15 standards, provided that such structures, poles, and light  
16 standards are not the exclusive ownership of the Hawaiian  
17 Electric Companies, for the deployment of high speed wireless or  
18 wireline, or wireless broadband infrastructure, or wireline  
19 broadband infrastructure as follows:

20 (1) Small wireless or wireline facilities and small  
21 wireless or wireline facilities networks shall not be



1 subject to the standards of a special or conditional  
2 use permit in:

3 (A) All public rights-of-way and property;

4 (B) All land designated as rural or agriculture in  
5 accordance with chapter 205; and

6 (C) All land designated as urban;

7 provided that, for the purposes of this paragraph,  
8 permissible uses within the agricultural district  
9 conform to the definition of "wireless communication  
10 antenna" in accordance with section 205-4.5(a)(18);

11 (2) Small wireless or wireline facilities and small  
12 wireless or wireline facilities networks may be  
13 processed for a special or conditional use permit when  
14 the small wireless or wireline facilities and small  
15 wireless or wireline facilities networks are located  
16 on land designated as conservation, in accordance with  
17 chapter 205;

18 (3) Wireless and wireline providers shall have the right  
19 to place small wireless facilities on state utility  
20 poles, state structures and on light standards. The  
21 State may require building permits or other non-



1 discretionary permits for the collocation of small  
2 wireless or wireline facilities and small wireless or  
3 wireline facilities networks; provided that the  
4 permits are of general applicability. The State shall  
5 receive applications for, and process and issue the  
6 permits and approvals in accordance with applicable  
7 laws, including section 27-45 and subject to the  
8 following requirements:

9 (A) An applicant shall not be required to perform any  
10 services, including restoration work not directly  
11 related to the collocation, to obtain approval of  
12 an application;

13 (B) An application may be denied if it does not meet  
14 applicable laws or rules regarding construction  
15 in the public rights-of-way and building or  
16 electrical codes or standards; provided that the  
17 codes and standards are of general applicability.

18 The State shall document the basis for any  
19 denial, including the specific code provisions or  
20 standards on which the denial was based; and



1           (C) An applicant for a small wireless or wireline  
2           facilities network involving no more than twenty-  
3           five individual small wireless or wireline  
4           facilities of a substantially similar design may  
5           request and shall be permitted to file a  
6           consolidated application and receive a single  
7           permit for the installation, construction,  
8           maintenance, and repair of the small wireless or  
9           wireline facilities network instead of filing  
10           separate applications for each individual small  
11           wireless or wireline facility;

12           (4) A wireless or wireline provider may collocate small  
13           wireless or wireline facilities and small wireless or  
14           wireline facilities networks on state structures,  
15           state utility poles, and state light standards,  
16           provided that such structures, poles, and light  
17           standards are not the exclusive ownership of the  
18           Hawaiian Electric Companies, within the state's  
19           designated space, located within the land identified  
20           in paragraph (1) (A), (B), and (C), subject to rates,  
21           terms, and conditions. The annual recurring rate to



1 collocate a small wireless or wireline facility or  
2 small wireless or wireline facility network on a state  
3 structure, state utility pole, or state light standard  
4 within the state's designated space shall not exceed  
5 the rate produced by applying the formula adopted by  
6 the Federal Communications Commission for  
7 telecommunications pole attachments in 47 C.F.R.  
8 §1.1409(e)(2); provided that, if the Federal  
9 Communications Commission adopts a rate formula for  
10 small wireless or wireline facility or small wireless  
11 or wireline facility network attachments, that rate  
12 formula shall apply; and

13 (5) The State shall not require a permit for a wireless or  
14 wireline provider or wireless or wireline provider's  
15 licensed contractor to maintain, repair, or replace  
16 the providers' small wireless or wireline facilities  
17 with facilities that are substantially the same, or  
18 smaller, in size, weight, and height as the existing  
19 facilities, except as necessary to protect the public  
20 safety."



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 or wireline facilities  
5 and small wireless or wireline facilities networks. The county  
6 shall permit, subject only to clear and objective building  
7 permit standards, the collocation of small wireless or wireline  
8 facilities or small wireless or wireline facilities networks on  
9 county structures, county utility poles, and county light  
10 standards; provided that such structures, poles, and light  
11 standards are not the exclusive ownership of the Hawaiian  
12 Electric Companies, for the deployment of high speed broadband  
13 infrastructure as follows:

14 (1) Small wireless or wireline facilities and small  
15 wireless or wireline facilities networks shall not be  
16 subject to the standards of a special or conditional  
17 use permit in:

18 (A) All public rights-of-way and property;

19 (B) All land designated as rural or agriculture in  
20 accordance with chapter 205; and

21 (C) All land designated as urban;



1 provided that, for the purposes of this paragraph,  
2 permissible uses within the agricultural district  
3 conforms to the definition of "wireless communication  
4 antenna" in accordance with section 205-4.5(a)(18);

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

12 (3) Wireless providers shall have the right to place small  
13 wireless or wireline facilities on county-owned poles,  
14 county structures and light standards; provided that  
15 such structures, poles, and light standards not the  
16 exclusive ownership of the Hawaiian Electric  
17 Companies. The county may require building permits or  
18 other non-discretionary permits for the collocation of  
19 small wireless or wireline facilities and small  
20 wireless or wireline facilities networks, provided  
21 that the permits are of general applicability. The





1           county shall receive applications for, and process and  
2           issue the permits and approvals in accordance with  
3           applicable laws, including section 46-89 and subject  
4           to the following requirements:

5           (A) An applicant shall not be required to perform any  
6           services, including restoration work not directly  
7           related to the collocation, to obtain approval of  
8           applications;

9           (B) An application may be denied if it does not meet  
10           applicable laws or rules regarding construction  
11           in the public rights-of-way and building or  
12           electrical codes or standards; provided that the  
13           codes and standards are of general applicability.

14           The county shall document the basis for any  
15           denial, including the specific code provisions or  
16           standards on which the denial was based;

17           (C) An applicant for a small wireless or wireline  
18           facilities network involving no more than twenty-  
19           five individual small wireless or wireline  
20           facilities of a substantially similar design may  
21           request and shall be permitted to file a



1                   consolidated application and receive a single  
 2                   permit for the installation, construction,  
 3                   maintenance, and repair of the small wireless or  
 4                   wireline facilities network instead of filing  
 5                   separate applications for each individual small  
 6                   wireless or wireline facility; and

7                   (D) Applications for permits for the collocation of  
 8                   small wireless or wireline facilities and small  
 9                   wireless or wireline facilities networks shall be  
 10                   deemed applications for broadband-related  
 11                   permits, as defined in section 46-89(h).

12                   (4) A wireless or wireline provider may collocate small  
 13                   wireless or wireline facilities and small wireless or  
 14                   wireline facilities networks on county structures,  
 15                   county utility poles and county light standards;  
 16                   provided that such structures, poles, and light  
 17                   standards are not the exclusive ownership of the  
 18                   Hawaiian Electric Companies, within the county's  
 19                   designated space and located within the land  
 20                   identified in paragraph (1) (A), (B), and (C), subject  
 21                   to rates, terms, and conditions. The annual recurring



1 rate to collocate a small wireless or wireline  
2 facility or small wireless or wireline facility  
3 network on a county structure, county utility pole, or  
4 county light standard within the county's designated  
5 space shall not exceed the rate produced by applying  
6 the formula adopted by the Federal Communications  
7 Commission for telecommunications pole attachments in  
8 47 C.F.R. §1.1409(e)(2); provided that, if the Federal  
9 Communications Commission adopts a rate formula for  
10 small wireless or wireline facility or small wireless  
11 or wireline facility network attachments, that rate  
12 formula shall apply; and  
13 (5) The counties shall not require a permit for a wireless  
14 or wireline provider or wireless or wireline  
15 provider's licensed contractor to maintain, repair, or  
16 replace the providers' small wireless or wireline  
17 facilities and small wireless or wireline facilities  
18 networks with facilities that are substantially the  
19 same, or smaller, in size, weight, and height as the  
20 existing facilities, except as necessary to protect  
21 public safety."



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

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

12 (1) Includes small wireless or wireline facilities, radio  
13 transceivers, antennas, coaxial or fiber-optic cable,  
14 regular and backup power supplies, and comparable  
15 equipment, regardless of technological configuration;  
16 and

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

19 "General applicability" refers to laws, regulations, or  
20 processes that apply to objective requirements to all persons or



1 services in a nondiscriminatory manner and do not apply  
2 exclusively to small wireless or wireline facilities.

3 "Light standard" means a street light, light pole, lamp  
4 post, street lamp, lamp standard, or other raised source of  
5 light located inside the right-of-way of a public road or  
6 highway, or utility easement.

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

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

13 "Small wireless or wireline facilities" means wireless or  
14 wireline facilities that meet the following qualifications:

15 (1) If applicable, each individual antenna, excluding the  
16 associated equipment, is individually no more than  
17 three cubic feet in volume, and all antennas on the  
18 structure total no more than six cubic feet in volume;  
19 and

20 (2) All other wireless or wireline equipment associated  
21 with the structure, excluding cable runs for the



1           connection of power and other services, do not  
2           cumulatively exceed:

3           (A) Twenty-eight cubic feet for collocations on all  
4           non-pole structures, including but not limited to  
5           buildings and water tanks, that can support fewer  
6           than three providers;

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

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

14          (D) Twenty-eight cubic feet for pole collocations  
15          that can support at least three providers.

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

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



1       "Utility pole" means a pole or similar structure that is  
2 used in whole or in part for communications service, electric  
3 service, lighting, traffic control, signage, or similar  
4 functions.

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

- 6       (1) A provider as defined in section 440J-1;
- 7       (2) A wireless telecommunications service provider as  
8       defined in section 269-16.93; or
- 9       (3) Authorized in accordance with chapter 269 to provide  
10       facilities-based telecommunications services in the  
11       State and builds, installs, operates, or maintains  
12       facilities and equipment used to provide fixed or  
13       mobile services through small wireless facilities.

14       "Wireline" means wire or wires used for transmission  
15 between or among points specified by a user, of information of  
16 the user's choosing, including voice, data, image, graphics, and  
17 video without change in the form or content of the information,  
18 as sent and received, by means of electromagnetic transmission,  
19 or other similarly capable means of transmission, with or  
20 without benefit of any closed transmission medium."



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

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

12 (1) Includes small wireless or wireline facilities, radio  
13 transceivers, antennas, coaxial or fiber-optic cable,  
14 regular and backup power supplies, and comparable  
15 equipment, regardless of technological configuration;  
16 and

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

19 "General applicability" refers to laws, regulations, or  
20 processes that apply to objective requirements to all persons or





1 services in a nondiscriminatory manner and do not apply  
2 exclusively to small wireless or wireline facilities.

3 "Light standard" means a street light, light pole, lamp  
4 post, street lamp, lamp standard, or other raised source of  
5 light located inside the right-of-way of a public road or  
6 highway, or utility easement.

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

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

13 "Small wireless or wireline facilities" means wireless or  
14 wireline facilities that meet the following qualifications:

15 (1) Each individual antenna, excluding the associated  
16 equipment, is individually no more than three cubic  
17 feet in volume, and all antennas on the structure  
18 total no more than six cubic feet in volume; and

19 (2) All other wireless or wireline equipment associated  
20 with the structure, excluding cable runs for the



1           connection of power and other services, do not  
2           cumulatively exceed:  
3           (A) Twenty-eight cubic feet for collocations on all  
4           non-pole structures, including but not limited to  
5           buildings and water tanks, that can support fewer  
6           than three providers;  
7           (B) Twenty-one cubic feet for collocations on all  
8           pole structures, including but not limited to  
9           light poles, traffic signal poles, and utility  
10          poles, that can support fewer than three  
11          providers;  
12          (C) Thirty-five cubic feet for non-pole collocations  
13          that can support at least three providers; or  
14          (D) Twenty-eight cubic feet for pole collocations  
15          that can support at least three providers; and  
16          (3) Part of a small wireless or wireline facilities  
17          network.  
18          "Small wireless or wireline facilities network" means a  
19          group of interrelated small wireless or wireline facilities  
20          designed to deliver wireless or wireline communications service.



1       "Utility pole" means a pole or similar structure that is  
2 used in whole or in part for communications service, electric  
3 service, lighting, traffic control, signage, or similar  
4 functions.

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

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

7       (2) A wireless telecommunications service provider as  
8 defined in section 269-16.93; or

9       (3) Authorized in accordance with chapter 269 to provide  
10 facilities-based telecommunications services in the  
11 State and builds, installs, operates, or maintains  
12 facilities and equipment used to provide fixed or  
13 mobile services through small wireless facilities."

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

16       "(c) Rural districts shall include activities or uses as  
17 characterized by low density residential lots of not more than  
18 one dwelling house per one-half acre, except as provided by  
19 county ordinance pursuant to section 46-4(c), in areas where  
20 "city-like" concentration of people, structures, streets, and  
21 urban level of services are absent, and where small farms are



1 intermixed with low density residential lots except that within  
2 a subdivision, as defined in section 484-1, the commission for  
3 good cause may allow one lot of less than one-half acre, but not  
4 less than eighteen thousand five hundred square feet, or an  
5 equivalent residential density, within a rural subdivision and  
6 permit the construction of one dwelling on such lot; provided  
7 that all other dwellings in the subdivision shall have a minimum  
8 lot size of one-half acre or 21,780 square feet. Such petition  
9 for variance may be processed under the special permit  
10 procedure. These districts may include contiguous areas which  
11 are not suited to low density residential lots or small farms by  
12 reason of topography, soils, and other related characteristics.  
13 Rural districts shall also include golf courses, golf driving  
14 ranges, and golf-related facilities.

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

20 SECTION 7. Section 205-4.5, Hawaii Revised Statutes, is  
21 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  
20                 agricultural activity provides income to the family  
21                 occupying the dwelling;



- 1 (5) Public institutions and buildings that are necessary  
2 for agricultural practices;
- 3 (6) Public and private open area types of recreational  
4 uses, including day camps, picnic grounds, parks, and  
5 riding stables, but not including dragstrips,  
6 airports, drive-in theaters, golf courses, golf  
7 driving ranges, country clubs, and overnight camps;
- 8 (7) Public, private, and quasi-public utility lines and  
9 roadways, transformer stations, communications  
10 equipment buildings, solid waste transfer stations,  
11 major water storage tanks, and appurtenant small  
12 buildings such as booster pumping stations, but not  
13 including offices or yards for equipment, material,  
14 vehicle storage, repair or maintenance, treatment  
15 plants, corporation yards, or other similar  
16 structures;
- 17 (8) Retention, restoration, rehabilitation, or improvement  
18 of buildings or sites of historic or scenic interest;
- 19 (9) Agricultural-based commercial operations as described  
20 in section 205-2(d)(15);



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



- 1 (A) The employee housing is occupied by employees or
- 2 former employees of the plantation who have a
- 3 property interest in the land;
- 4 (B) The employee housing units not owned by their
- 5 occupants shall be rented or leased at affordable
- 6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be
- 8 rented or leased to agricultural business
- 9 operators or agricultural support services;
- 10 (13) Agricultural tourism conducted on a working farm, or a
- 11 farming operation as defined in section 165-2, for the
- 12 enjoyment, education, or involvement of visitors;
- 13 provided that the agricultural tourism activity is
- 14 accessory and secondary to the principal agricultural
- 15 use and does not interfere with surrounding farm
- 16 operations; and provided further that this paragraph
- 17 shall apply only to a county that has adopted
- 18 ordinances regulating agricultural tourism under
- 19 section 205-5;
- 20 (14) Agricultural tourism activities, including overnight
- 21 accommodations of twenty-one days or less, for any one





1 stay within a county; provided that this paragraph  
2 shall apply only to a county that includes at least  
3 three islands and has adopted ordinances regulating  
4 agricultural tourism activities pursuant to section  
5 205-5; provided further that the agricultural tourism  
6 activities coexist with a bona fide agricultural  
7 activity. For the purposes of this paragraph, "bona  
8 fide agricultural activity" means a farming operation  
9 as defined in section 165-2;

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

16 (16) Biofuel processing facilities, including the  
17 appurtenances associated with the production and  
18 refining of biofuels that is normally considered  
19 directly accessory and secondary to the growing of the  
20 energy feedstock; provided that biofuel processing  
21 facilities and appurtenances do not adversely impact



1 agricultural land and other agricultural uses in the  
2 vicinity.

3 For the purposes of this paragraph:

4 "Appurtenances" means operational infrastructure  
5 of the appropriate type and scale for economic  
6 commercial storage and distribution, and other similar  
7 handling of feedstock, fuels, and other products of  
8 biofuel processing facilities.

9 "Biofuel processing facility" means a facility  
10 that produces liquid or gaseous fuels from organic  
11 sources such as biomass crops, agricultural residues,  
12 and oil crops, including palm, canola, soybean, and  
13 waste cooking oils; grease; food wastes; and animal  
14 residues and wastes that can be used to generate  
15 energy;

16 (17) Agricultural-energy facilities, including  
17 appurtenances necessary for an agricultural-energy  
18 enterprise; provided that the primary activity of the  
19 agricultural-energy enterprise is agricultural  
20 activity. To be considered the primary activity of an  
21 agricultural-energy enterprise, the total acreage



1 devoted to agricultural activity shall be not less  
2 than ninety per cent of the total acreage of the  
3 agricultural-energy enterprise. The agricultural-  
4 energy facility shall be limited to lands owned,  
5 leased, licensed, or operated by the entity conducting  
6 the agricultural activity.

7 As used in this paragraph:

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

10 "Agricultural-energy enterprise" means an  
11 enterprise that integrally incorporates an  
12 agricultural activity with an agricultural-energy  
13 facility.

14 "Agricultural-energy facility" means a facility  
15 that generates, stores, or distributes renewable  
16 energy as defined in section 269-91 or renewable fuel  
17 including electrical or thermal energy or liquid or  
18 gaseous fuels from products of agricultural activities  
19 from agricultural lands located in the State.

20 "Appurtenances" means operational infrastructure  
21 of the appropriate type and scale for the economic



1 commercial generation, storage, distribution, and  
2 other similar handling of energy, including equipment,  
3 feedstock, fuels, and other products of agricultural-  
4 energy facilities;

5 (18) Construction and operation of wireless communication  
6 antennas[+], including small wireless or wireless  
7 facilities; provided that, for the purposes of this  
8 paragraph, "wireless communication antenna" means  
9 communications equipment that is either freestanding  
10 or placed upon or attached to an already existing  
11 structure and that transmits and receives  
12 electromagnetic radio signals used in the provision of  
13 all types of wireless communications services;  
14 provided further that nothing in this paragraph shall  
15 be construed to permit the construction of any new  
16 structure that is not deemed a permitted use under  
17 this subsection; provided further that "small wireless  
18 or wireline facilities" shall have the same meaning as  
19 set forth in sections 27-41.1 and 46-15.6;

20 (19) Agricultural education programs conducted on a farming  
21 operation as defined in section 165-2, for the



1 education and participation of the general public;  
2 provided that the agricultural education programs are  
3 accessory and secondary to the principal agricultural  
4 use of the parcels or lots on which the agricultural  
5 education programs are to occur and do not interfere  
6 with surrounding farm operations. For the purposes of  
7 this paragraph, "agricultural education programs"  
8 means activities or events designed to promote  
9 knowledge and understanding of agricultural activities  
10 and practices conducted on a farming operation as  
11 defined in section 165-2;

12 (20) Solar energy facilities that do not occupy more than  
13 ten per cent of the acreage of the parcel, or twenty  
14 acres of land, whichever is lesser or for which a  
15 special use permit is granted pursuant to section  
16 205-6; provided that this use shall not be permitted  
17 on lands with soil classified by the land study  
18 bureau's detailed land classification as overall  
19 (master) productivity rating class A unless the solar  
20 energy facilities are:



1 (A) Located on a paved or unpaved road in existence  
2 as of December 31, 2013, and the parcel of land  
3 upon which the paved or unpaved road is located  
4 has a valid county agriculture tax dedication  
5 status or a valid agricultural conservation  
6 easement;

7 (B) Placed in a manner that still allows vehicular  
8 traffic to use the road; and

9 (C) Granted a special use permit by the commission  
10 pursuant to section 205-6;

11 (21) Solar energy facilities on lands with soil classified  
12 by the land study bureau's detailed land  
13 classification as overall (master) productivity rating  
14 B or C for which a special use permit is granted  
15 pursuant to section 205-6; provided that:

16 (A) The area occupied by the solar energy facilities  
17 is also made available for compatible  
18 agricultural activities at a lease rate that is  
19 at least fifty per cent below the fair market  
20 rent for comparable properties;



1 (B) Proof of financial security to decommission the  
2 facility is provided to the satisfaction of the  
3 appropriate county planning commission prior to  
4 date of commencement of commercial generation;  
5 and

6 (C) Solar energy facilities shall be decommissioned  
7 at the owner's expense according to the following  
8 requirements:

9 (i) Removal of all equipment related to the  
10 solar energy facility within twelve months  
11 of the conclusion of operation or useful  
12 life; and

13 (ii) Restoration of the disturbed earth to  
14 substantially the same physical condition as  
15 existed prior to the development of the  
16 solar energy facility.

17 For the purposes of this paragraph, "agricultural  
18 activities" means the activities described in  
19 paragraphs (1) to (3);



- 1       (22) Geothermal resources exploration and geothermal
- 2             resources development, as defined under section 182-1;
- 3             or
- 4       (23) Hydroelectric facilities, including the appurtenances
- 5             associated with the production and transmission of
- 6             hydroelectric energy, subject to section 205-2;
- 7             provided that the hydroelectric facilities and their
- 8             appurtenances:
- 9             (A) Shall consist of a small hydropower facility as
- 10             defined by the United States Department of
- 11             Energy, including:
- 12             (i) Impoundment facilities using a dam to store
- 13             water in a reservoir;
- 14             (ii) A diversion or run-of-river facility that
- 15             channels a portion of a river through a
- 16             canal or channel; and
- 17             (iii) Pumped storage facilities that store energy
- 18             by pumping water uphill to a reservoir at
- 19             higher elevation from a reservoir at a lower
- 20             elevation to be released to turn a turbine
- 21             to generate electricity;





- 1 (B) Comply with the state water code, chapter 174C;
- 2 (C) Shall, if over five hundred kilowatts in
- 3 hydroelectric generating capacity, have the
- 4 approval of the commission on water resource
- 5 management, including a new instream flow
- 6 standard established for any new hydroelectric
- 7 facility; and
- 8 (D) Do not impact or impede the use of agricultural
- 9 land or the availability of surface or ground
- 10 water for all uses on all parcels that are served
- 11 by the ground water sources or streams for which
- 12 hydroelectric facilities are considered."

13 SECTION 8. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

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



**Report Title:**

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

**Description:**

Establishes the siting process of infrastructure for small wireless or wireline facilities and small wireless or wireline facilities networks on state- and county-owned land. (HB625 HD2)

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

