

40:55D-46.2
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2011 **CHAPTER:** 199

NJSA: 40:55D-46.2 (Exempts certain collocations of wireless equipment from site plan approval)

BILL NO: S2989 (Substituted for A3949)

SPONSOR(S) Codey and others

DATE INTRODUCED: June 29, 2011

COMMITTEE: **ASSEMBLY:** Housing and Local Government
 SENATE: Economic Growth

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 9, 2012
 SENATE: January 9, 2012

DATE OF APPROVAL: January 17, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third reprint enacted)

S2989

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3949

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KR

P.L.2011, CHAPTER 199, *approved January 17, 2012*
Senate, No. 2989 (*Third Reprint*)

1 AN ACT concerning the collocation of wireless communications
2 equipment and supplementing P.L.1975, c.291 (C.40:55D-1 et
3 seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. An application for development to collocate wireless
9 communications equipment on a wireless communications support
10 structure ²or in an existing equipment compound² shall ¹not¹ be
11 **['deemed a minor]** subject to¹ site plan **['for which the**
12 requirements of notice and public hearing shall be waived, subject
13 to] review provided the application meets¹ the following
14 requirements:

15 (1) the wireless communications support structure shall have
16 been previously granted all necessary approvals by the appropriate
17 approving authority;

18 (2) the proposed collocation shall not increase ¹(a)¹ the overall
19 height **['or]** of the wireless communications support structure by
20 more than ten percent of the original height of the wireless
21 communications support structure, (b) the¹ width of the wireless
22 communications support structure ¹,¹ or ¹(c)¹ the square footage of
23 the existing equipment compound ¹to an area greater than 2,500
24 square feet¹;

25 (3) the proposed collocation complies with the final approval of
26 the wireless communications support structure and all conditions
27 attached thereto ³and does not create a condition for which variance
28 relief would be required pursuant to P.L.1975, c.291 (C.40:55D-1 et
29 seq.), or any other applicable law, rule or regulation³.

30 b. For purposes of this section:

31 “Equipment compound” means an area surrounding or adjacent
32 to the base of a wireless communications support structure within
33 which is located wireless communications equipment.

34 “Collocate” means to place or install wireless communications
35 equipment on a wireless communications support structure.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted September 19, 2011.

²Assembly AHO committee amendments adopted November 21, 2011.

³Senate amendments adopted in accordance with Governor's recommendations January 9, 2012.

1 “Wireless communications equipment” means the set of
2 equipment and network components used in the provision of
3 wireless communications services: including, but not limited to,
4 antennas, transmitters, receivers, base stations, equipment shelters,
5 cabinets, emergency generators, power supply cabling, and coaxial
6 and fiber optic cable, but excluding wireless communications
7 support structures.

8 “Wireless communications support structure” means a structure
9 that is designed to support, or is capable of supporting, wireless
10 communications equipment, including a monopole, self-supporting
11 lattice tower, guyed tower, water tower, utility pole, or building.

12

13 2. This act shall take effect immediately.

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18 Exempts certain collocations of wireless equipment from site
19 plan approval.

SENATE, No. 2989

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 29, 2011

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides certain collocations of wireless equipment, minor site plan status.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the collocation of wireless communications
2 equipment and supplementing P.L.1975, c.291 (C.40:55D-1 et
3 seq.).

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. An application for development to collocate wireless
9 communications equipment on a wireless communications support
10 structure shall be deemed a minor site plan for which the
11 requirements of notice and public hearing shall be waived, subject
12 to the following requirements:

13 (1) the wireless communications support structure shall have
14 been previously granted all necessary approvals by the appropriate
15 approving authority;

16 (2) the proposed collocation shall not increase the overall height
17 or width of the wireless communications support structure or the
18 square footage of the existing equipment compound;

19 (3) the proposed collocation complies with the final approval of
20 the wireless communications support structure and all conditions
21 attached thereto.

22 b. For purposes of this section:

23 "Equipment compound" means an area surrounding or adjacent
24 to the base of a wireless communications support structure within
25 which is located wireless communications equipment.

26 "Collocate" means to place or install wireless communications
27 equipment on a wireless communications support structure.

28 "Wireless communications equipment" means the set of
29 equipment and network components used in the provision of
30 wireless communications services: including, but not limited to,
31 antennas, transmitters, receivers, base stations, equipment shelters,
32 cabinets, emergency generators, power supply cabling, and coaxial
33 and fiber optic cable, but excluding wireless communications
34 support structures.

35 "Wireless communications support structure" means a structure
36 that is designed to support, or is capable of supporting, wireless
37 communications equipment, including a monopole, self-supporting
38 lattice tower, guyed tower, water tower, utility pole, or building.

39
40 2. This act shall take effect immediately.

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STATEMENT

45 This bill would supplement the "Municipal Land Use Law,"
46 P.L.1975, c.291 (C.40:55D-1 et seq.), in order to allow for
47 streamlined approvals of applications to collocate wireless
48 communications equipment on existing support structures under

1 certain circumstances. Wireless services are integral to the lives of
2 the citizens of New Jersey, and further the public safety, economic
3 development, and overall general welfare of the State. Collocation
4 of wireless communications equipment on existing wireless
5 communications support structures is an efficient method of
6 deploying wireless infrastructure that serves the joint goals of local
7 communities and wireless service providers.

8 Oftentimes, approvals of wireless communications support
9 structures anticipate the addition of antennas and equipment at later
10 points in time. Under the bill, when a structure has been previously
11 granted all necessary approvals and a proposed collocation of
12 additional antennas and equipment will be substantially consistent
13 with the terms and conditions of the underlying approvals, the
14 application for collocation will be deemed a minor site plan. This
15 designation will allow for approval of the application without
16 having to comply with the more formal aspects of land use
17 approval, such as the requirements of notice and public hearings.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2989

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2011

The Senate Economic Growth Committee reports favorably Senate Bill, No. 2989 with committee amendments.

This bill, as amended, would supplement the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to exempt from site plan review the collocation of wireless communications equipment on existing support structures provided that: (1) the structure has been previously granted all necessary approvals, (2) the proposed collocation of additional antennas and equipment will not increase the wireless communication support structure's height by more than ten percent or expand the width of any existing equipment compound beyond 2,500 square feet, and (3) the structure will be substantially consistent with the terms and conditions of the underlying approvals.

The committee amendments:

1) Broaden the bills relief, for wireless equipment collocations, from land use regulation from a waiver of notice and a public hearing to a full exemption from site plan review; and

2) Revise a restriction that to be eligible for the relief, neither the height of the equipment's support structure or the area of the compound at its base could change by allowing (a) an increase in height by up to ten percent of the height of the original structure and (b) an increase in the compound area to no more than 2,500 square feet.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 2989

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 2011

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Senate Bill No. 2989 (1R).

As amended by the committee, would supplement the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to exempt from site plan review the collocation of wireless communications equipment on existing support structures provided that: (1) the structure has been previously granted all necessary approvals, (2) the proposed collocation of additional antennas and equipment will not increase the wireless communication support structure's height by more than ten percent or expand the width of any existing equipment compound beyond 2,500 square feet, and (3) the structure will be substantially consistent with the terms and conditions of the underlying approvals.

When antennas are added to existing wireless infrastructure, they are often accompanied by ground equipment necessary for the provision of wireless services. The committee amended the bill to clarify that the equipment associated with wireless antennas can be added to the wireless facilities compound under the streamlined review process proposed by the bill.

This bill is identical to Assembly Bill No. 3949 (1R) (Chivukula/Manior), which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendment clarifies that the equipment associated with wireless antennas can be added to the wireless facilities compound under the streamlined review process proposed by the bill.

SENATE BILL NO. 2989
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2989 (Second Reprint) with my recommendations for reconsideration.

This bill would revise the Municipal Land Use Law to provide that, once a wireless communications support structure has been built in accordance with all local permits, requirements and approvals, the subsequent collocation of additional equipment on the structure would be exempt from site plan review under certain circumstances.

While I appreciate the sponsors' interest in providing for the expeditious approval of minor revisions to wireless communications support structures, I am mindful of the fact that site plan review requires a public hearing and vetting by a local land use board. As such, I do not take exemptions from site plan review for local development projects lightly. Such processes should be open, transparent, and accessible by the public and any curtailment of local control and public involvement should be narrowly tailored.

I am encouraged by the bill's provisions that limit the exemption from site plan review to proposed collocations that would not increase the height of the original wireless communications support structure by more than ten percent, would not increase the overall width of the original structure, and would not increase the tower's equipment compound to an area greater than 2,500 square feet. However, I am concerned that the bill's provisions do not explicitly retain the requirement for site plan review when a proposed collocation will result in a deviation from a local unit's zoning

standards. I believe that continued involvement by municipal officials is warranted when a development application concerning such a structure would require a variance from local zoning laws. Also, I strongly believe that the public should have the opportunity to be heard whenever a variance condition is created under these circumstances.

Revising the bill to retain the site plan review process when a proposed collocation creates the need for a variance would advance the laudable public policy goal of preserving local control and public involvement in appropriate circumstances. Moreover, such a revision would not diminish the bill's primary purpose of reducing unnecessary delays in the application process for minor collocation applications and providing the wireless industry with the ability to efficiently and expeditiously respond to changing consumer needs and market demands.

Accordingly, I herewith return Senate Bill No. 2989 (Second Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Line 27:

After "attached thereto" insert "and does not create a condition for which variance relief would be required pursuant to P.L. 1975, c. 291 (C.40:55D-1 et seq.), or any other applicable law, rule or regulation"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Kevin M. O'Dowd

Deputy Chief Counsel to the Governor

ASSEMBLY, No. 3949

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 5, 2011

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman CHARLES MAINOR

District 31 (Hudson)

Assemblywoman CELESTE M. RILEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Provides certain collocations of wireless equipment, minor site plan status.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/22/2011)

1 AN ACT concerning the collocation of wireless communications
2 equipment and supplementing P.L.1975, c.291 (C.40:55D-1 et
3 seq.).

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. a. An application for development to collocate wireless
9 communications equipment on a wireless communications support
10 structure shall be deemed a minor site plan for which the
11 requirements of notice and public hearing shall be waived, subject
12 to the following requirements:

13 (1) the wireless communications support structure shall have
14 been previously granted all necessary approvals by the appropriate
15 approving authority;

16 (2) the proposed collocation shall not increase the overall height
17 or width of the wireless communications support structure or the
18 square footage of the existing equipment compound;

19 (3) the proposed collocation complies with the final approval of
20 the wireless communications support structure and all conditions
21 attached thereto.

22 b. For purposes of this section:

23 "Equipment compound" means an area surrounding or adjacent
24 to the base of a wireless communications support structure within
25 which is located wireless communications equipment.

26 "Collocate" means to place or install wireless communications
27 equipment on a wireless communications support structure.

28 "Wireless communications equipment" means the set of
29 equipment and network components used in the provision of
30 wireless communications services: including, but not limited to,
31 antennas, transmitters, receivers, base stations, equipment shelters,
32 cabinets, emergency generators, power supply cabling, and coaxial
33 and fiber optic cable, but excluding wireless communications
34 support structures.

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38 lattice tower, guyed tower, water tower, utility pole, or building.

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40 2. This act shall take effect immediately.

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STATEMENT

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45 This bill would supplement the "Municipal Land Use Law,"
46 P.L.1975, c.291 (C.40:55D-1 et seq.), in order to allow for
47 streamlined approvals of applications to collocate wireless
48 communications equipment on existing support structures under

1 certain circumstances. Wireless services are integral to the lives of
2 the citizens of New Jersey, and further the public safety, economic
3 development, and overall general welfare of the State. Collocation
4 of wireless communications equipment on existing wireless
5 communications support structures is an efficient method of
6 deploying wireless infrastructure that serves the joint goals of local
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15 designation will allow for approval of the application without
16 having to comply with the more formal aspects of land use
17 approval, such as the requirements of notice and public hearings.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3949

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 2011

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 3949.

As amended by the committee, this bill would supplement the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to exempt from site plan review the collocation of wireless communications equipment on existing support structures provided that: (1) the structure has been previously granted all necessary approvals, (2) the proposed collocation of additional antennas and equipment will not increase the wireless communication support structure's height by more than ten percent or expand the width of any existing equipment compound beyond 2,500 square feet, (3) the structure will be substantially consistent with the terms and conditions of the underlying approvals, and (4) clarify that the equipment associated with wireless antennas can be added to the wireless facilities compound under the streamlined review process proposed by the bill.

These amendments make this bill identical Senate Bill No. 2989 (2R) (Codey/Van Drew) which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendments:

- 1) broaden the bill's relief, for wireless equipment collocations, from land use regulation from a waiver of notice and a public hearing to a full exemption from site plan review;
- 2) revise a restriction that to be eligible for the relief, neither the height of the equipment's support structure nor the area of the compound at its base could change by allowing an increase in height by up to ten percent of the height of the original structure and an increase in the compound area to no more than 2,500 square feet; and
- 3) clarify that the equipment associated with wireless antennas can be added to the wireless facilities compound under the streamlined review process proposed by the bill.