



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3173

Introduced 2/6/2024, by Sen. Donald P. DeWitte

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1189 new
65 ILCS 5/11-117-15 new
220 ILCS 5/13-202

from Ch. 111 2/3, par. 13-202

Amends the Counties Code and the Illinois Municipal Code. Provides that a county or municipality may undertake local broadband projects and the provision of services in connection with local broadband projects, may lease infrastructure that it owns or controls relating to local broadband projects or services, may aggregate customers or demand for broadband services, and may apply for and receive funds or technical assistance to undertake local broadband projects to address the level of broadband access available to its businesses and residents. Provides that, to the extent that it seeks to serve as a retail provider of telecommunications services, the county or municipality must obtain appropriate certification from the Illinois Commerce Commission as a telecommunications carrier. Provides that certification of a county or municipality serving as a retail provider of telecommunication services is an exclusive power and function of the State. Amends the Public Utilities Act to make a conforming change.

LRB103 37811 AWJ 67941 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 5-1189 as follows:

6 (55 ILCS 5/5-1189 new)

7 Sec. 5-1189. Local broadband projects and services.

8 (a) A county may undertake local broadband projects and
9 the provision of services in connection with local broadband
10 projects, may lease infrastructure that it owns or controls
11 relating to local broadband projects or services, may
12 aggregate customers or demand for broadband services, and may
13 apply for and receive funds or technical assistance to
14 undertake local broadband projects to address the level of
15 broadband access available to its businesses and residents.

16 (b) To the extent that it seeks to serve as a retail
17 provider of telecommunications services, the county must
18 obtain appropriate certification from the Illinois Commerce
19 Commission as a telecommunications carrier. The certification
20 of a county serving as a retail provider of telecommunication
21 services is an exclusive power and function of the State. A
22 home rule county may not modify the certification requirements
23 of this subsection. This subsection is a denial and limitation

1 of home rule powers and functions under subsection (h) of
2 Section 6 of Article VII of the Illinois Constitution.

3 Section 10. The Illinois Municipal Code is amended by
4 adding Section 11-117-15 as follows:

5 (65 ILCS 5/11-117-15 new)

6 Sec. 11-117-15. Local broadband projects and services.

7 (a) A municipality may undertake local broadband projects
8 and the provision of services in connection with local
9 broadband projects, may lease infrastructure that it owns or
10 controls relating to local broadband projects or services, may
11 aggregate customers or demand for broadband services, and may
12 apply for and receive funds or technical assistance to
13 undertake local broadband projects to address the level of
14 broadband access available to its businesses and residents.

15 (b) To the extent that it seeks to serve as a retail
16 provider of telecommunications services, the municipality must
17 obtain appropriate certification from the Illinois Commerce
18 Commission as a telecommunications carrier. The certification
19 of a municipality serving as a retail provider of
20 telecommunication services is an exclusive power and function
21 of the State. A home rule municipality may not modify the
22 certification requirements of this subsection. This subsection
23 is a denial and limitation of home rule powers and functions
24 under subsection (h) of Section 6 of Article VII of the

1 Illinois Constitution.

2 (c) This Section is not subject to the other provisions of
3 this Division.

4 Section 15. The Public Utilities Act is amended by
5 changing Section 13-202 as follows:

6 (220 ILCS 5/13-202) (from Ch. 111 2/3, par. 13-202)

7 (Section scheduled to be repealed on December 31, 2026)

8 Sec. 13-202. "Telecommunications carrier" means and
9 includes every corporation, company, association, joint stock
10 company or association, firm, partnership or individual, their
11 lessees, trustees or receivers appointed by any court
12 whatsoever that owns, controls, operates or manages, within
13 this State, directly or indirectly, for public use, any plant,
14 equipment or property used or to be used for or in connection
15 with, or owns or controls any franchise, license, permit or
16 right to engage in the provision of, telecommunications
17 services between points within the State which are specified
18 by the user. "Telecommunications carrier" includes an Electing
19 Provider, as defined in Section 13-506.2. Telecommunications
20 carrier does not include, however:

21 (a) except as provided in Section 5-1189 of the
22 Counties Code and Section 11-117-15 of the Illinois
23 Municipal Code, telecommunications carriers that are owned
24 and operated by any political subdivision, public or

1 private institution of higher education or municipal
2 corporation of this State, for their own use, or
3 telecommunications carriers that are owned by such
4 political subdivision, public or private institution of
5 higher education, or municipal corporation and operated by
6 any of its lessees or operating agents, for their own use;

7 (b) telecommunications carriers which are purely
8 mutual concerns, having no rates or charges for services,
9 but paying the operating expenses by assessment upon the
10 members of such a company and no other person but does
11 include telephone or telecommunications cooperatives as
12 defined in Section 13-212;

13 (c) a company or person which provides
14 telecommunications services solely to itself and its
15 affiliates or members or between points in the same
16 building, or between closely located buildings, affiliated
17 through substantial common ownership, control or
18 development; or

19 (d) a company or person engaged in the delivery of
20 community antenna television services as described in
21 subdivision (c) of Section 13-203, except with respect to
22 the provision of telecommunications services by that
23 company or person.

24 (Source: P.A. 100-20, eff. 7-1-17.)