

Updating Section 248a*

Now is the Time to Update the Statute
Regulating Towers and Antennas for Wireless Service

Testimony to House Energy & Technology Committee

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**Act 248 is the mental health confinement law*

Section 248a

Empowers Telecom Industry

Disempowers Towns, Neighbors, and Interested Parties

- Written by Telecom Industry in 2007 with the goal of building out cell service
- One of the most prescriptive statutes in Vermont law
- Ties the hands of the PUC
- Updated once in about 2011 to give municipal plans “substantial deference” — despite that, PUC has used “public good” to overrule town ordinances
- Hardly any public participation by towns or members of the public
- Tremendous impediment to communities having a voice on siting
- Is a virtual Rubber Stamp

Purpose of the Sunset

- According to discussions in Senate Finance Committee this year, the purpose of the statute's sunset every three years is to provide the opportunity to update it, as technologies change. Update was done once ~2011.
- Original bill made Section 248a permanent.
- After hearing testimony, moved the sunset out 5 years and inserted a request for the PUC to come back next year with suggestions for updating Section 248a.
- As written, the bill kicks the can down the road, with zero incentive for legislative committees to take up the PUC's recommendations next year, if they have any.
- Now is the time to update Section 248a as new technologies with new frequencies are being deployed closer to homes, more new towers are being proposed closer to communities, and federal funding for more new wireless infrastructure is likely in 2021.

Recommended Changes to Section 248a

Revise and Simplify Categories and Improve Public Process

- All New Towers and Utility Poles regardless of height go through “Regular” full process, with notification to municipalities and adjoiningers
- All New Antennas and Swapping Out Antennas go through “*de minimis*” process that requires notification to municipalities and adjoiningers
- Eliminate “Limited Size and Scope” Category
- Direct the PUC to create a document that Petitioners send to Service List informing them of their opportunities to comment and let the PUC know what they think of the proposal, and *encourage them to participate*.
- Provide Municipalities with the opportunity to do siting, especially of a network of small cells.
- Towns and neighbors now feel totally disempowered and feel there is no point, as “the state decides.”

Compliance With FCC Standards

Amend Section o

- Enable municipalities and adjoiners to request pre- and post-construction monitoring and reporting to the PUC to assure compliance with FCC standards for new facilities and with each addition or changes of antennas

or, better

- Require pre- and post-construction monitoring and reporting to the PUC for all new towers, new antennas, and swapping out of antennas

Act 250, Section 248a Sunset

- Close the Act 250 loophole.
- Eliminate the option of going through Act 250.
- Make Section 248a permanent, if recommended changes are made
- If recommended changes are not made, sunset Section 248a in 2021 and take testimony on proposed changes next year.