

ELIMINATING STATES' RIGHTS, LOCAL PERMITTING AUTHORITY, AND ENVIRONMENTAL REVIEWS

4 BILLS PROPOSED IN CONGRESS

► **HR 3557 American Broadband Deployment Act: Eliminates Local Authority and Does Not Address the Digital Divide**

Forces states and local governments to approve virtually all wireless and communications facility applications, including cell towers and small cells.

Enables unlimited antennas to be attached to any structure, including schools and homes.

Restricts local government control over cable networks and enforcing cable contracts.

Includes the same environmental and historic preservation exemptions as HR 4141 below.

► **HR 4141 BARS Act: Exempts Most Communications Facilities from NEPA, NHPA**

Exempts a wide range of wireless and communications facilities from the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), including cell towers and all small cells.

► **HR 3280 TRUSTED Broadband Networks Act**

Allows communications equipment replaced under the Secure and Trusted Communications Networks Act (a.k.a. "Rip and Replace") to be expanded while avoiding review under NEPA and NHPA

► **HR 4006 Amateur Radio Emergency**

Preparedness Act Preempts local zoning authority for amateur radio antennas, with similar provisions as HR 3557.

"United States Conference of Mayors opposes HR 3557 and urges the House and Senate not to pass this legislation."

— US Conference of Mayors

FLAWS IN THESE BILLS

Lack of Oversight. Allows a massive proliferation of wireless antennas and radiofrequency (RF) emissions, despite no federal assessment of safety for humans or the environment. (See ehtrust.org/congress for more on the lack of regulatory oversight)

Lack of Environmental Review. Worsens the regulatory gap over communications facilities by exempting a wide range of communications facilities from NEPA review.

Constitutionality. These bills raise questions of due process (5th, 7th amendments), states' rights (10th, 11th), and the limits of the Commerce Clause.

Federal Law Conflicts. No effort to reconcile these bills with existing federal law, such as the Americans with Disabilities Act or the Fair Housing Act.

Digital Divide. Does not address broadband deployment in underserved areas. Wired internet access is the gold standard for internet access that all Americans deserve. Wired broadband is faster, cheaper, safer, more secure, "future proof," and consumes up to 10-50x less energy than wireless.

Homeland Security. Proliferation of wireless networks will likely amplify cybersecurity vulnerabilities.



Growing Chorus of Opposition to 3557

[US Conference of Mayors](#)

[National Association of Counties](#)

[National League of Cities](#)

And Opposition to HR 4141

[Earthjustice](#)

[League of Conservation Voters](#)

[National Resources Defense Council](#)

[National Trust for Historic Preservation](#)

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HR 3557: DETAILED REVIEW OF PROVISIONS

Antennas on Almost Any Structure. Expands the scope of “Section 6409” (47 USC 1455) to automatically approve attaching any antenna to any structure that “could support transmission equipment” – for example, utility poles, light poles, buildings, overhead wires, apartments, houses, schools, buildings, and more.

Effective Prohibition. FCC would be obligated to block any local law or regulation that it deems inconsistent with HR 3557.

Environmental, Historic, and Tribal Reviews. Exempts a wide range of communications deployments from review under NEPA and the NHPA, including all small cells, many telecommunications facilities, and any new tower less than 50 feet tall in a public right-of-way. Native American tribes that do not act on telecom facilities requests within 45 days will be presumed to approve.

Radiofrequency Exemption. Expands the scope of 47 USC 332(c)(7), which prohibits local governments from determining the placement of cell towers for voice service based on environmental effects of RF emissions. This bill adds the “operation” of these facilities and applies to all licensed and unlicensed wireless services.

Evidence Burden. Requires local governments to publish in writing a detailed explanation of any denial on the same day of the decision, a difficult hurdle given that state open meetings laws typically require these decisions be made in public, at open meetings that are often held in the evenings.

Shot Clocks and Deemed Granted. Requires local governments to review wireless applications in as little as 10 days. If a local government does not comply, an application would be automatically, or “deemed” granted, making it difficult to keep up with large batches of incomplete applications.

No Moratoria. Prohibits local governments from issuing moratoria or pausing applications for wireless, telecommunications, cable facilities, or cable franchises.

Cable Franchise Authority. Localities would generally be forced to accept any applicant to build a cable network and be restricted from enforcing contractual terms.

Fees. Limits local government fees to direct costs from processing applications, prohibiting cost recovery for ongoing monitoring, compliance, or capital impairments.



“Counties strongly urge Congress to preserve all local land use and zoning authorities...a preemption of local decision-making authority would only subvert the intentions of historic federally-funded broadband programs”

— -National Association of Counties