

## Updates and Reminders About H.R. 3557

by Dave Garb, Legislative Committee Chair

### The American Broadband Deployment Act of 2023

This past June, a newsletter was sent to inform you of a bill that was passed out of the Congressional House Energy and Commerce Committee, titled the [American Broadband Deployment Act of 2023](#) (H.R. 3557). JAG, along with our national partners, believe this bill would be a serious detriment to every municipality in our state.

We have learned at the end of September that the Committee's Majority leadership has shared a *draft committee report* to go along with H.R. 3557. This is typically the next step in the process for bills going to the Rules Committee and eventually the House floor sooner, not later.

#### ***From NATOA - National Association of Telecommunications Officers and Advisors - 9/28/23:***

On behalf of the nation's counties, cities, towns and villages, the National League of Cities (NLC), United States Conference of Mayors (USCM), National Association of Counties (NACo) and the National Association of Telecommunications Officers and Advisors (NATOA) have signed a joint letter (attached) **"to express our deep concerns and strong opposition to H.R. 3557, the [American Broadband Deployment Act of 2023](#) H.R. 3557 deprives citizens and their local governments of the ability to preserve property rights and maintain public safety."**

#### **[Joint Letter in Opposition to H.R. 3557](#)**

As it stands, it's a good assumption that the plans to move H.R. 3557 to the floor for a vote of the full House in very short order.....days, not weeks.

Last Spring, the E&C's Communications and Technology Subcommittee held a hearing on a slew of individual bills – many of them attacking local authority- without notice and/or local government input. Ultimately, the 19 bills were rolled up into H.R. 3557 and packaged as the American Broadband Deployment Act of 2023.

H.R. 3557 quickly passed through the Subcommittee and the Energy & Commerce Committee in short order and along partisan lines. At that point, H.R. 3557 was referred to both the House Committee on Transportation and Infrastructure and the Committee on Natural Resources for further action. Presumably, both Committees are now 'waiving' jurisdiction which allows for the bill to move through the Rules Committee.

H.R. 3557, [the American Broadband Act of 2023](#) would preempt local authority to manage our public rights-of-way and public lands' use for telecommunications infrastructure. It also preempts local rights of way and franchise authority in a 'giveaway' to cable and telecommunications providers.

City, county, town and local governments should call their members of Congress and urge them to oppose H.R. 3557. This step is particularly important in communities where the incumbent is vulnerable, or your Representative is a former local elected official.

H.R. 3557 represents an unprecedented and dangerous usurpation of local governments' authority to manage public rights-of-way and land use. The bill favors cable, wireless and telecommunications providers. The bill also waives historic preservation (NHPA) and environmental (NEPA) rules.

In return for these gifts, the bill imposes no obligations on cable, wireless and telecommunications companies to provide broadband to "unserved" and "underserved" Americans.

For local governments, it is troubling that the bill was reported out of Committee without any

opportunity to hear from local government to explain not only why this legislation is not needed but how it will result in harmful preemptions and unconstitutional takings.

Local government members of the National Association of Counties (NACo), the National League of Cities (NLC), the U.S. Conference of Mayors (USCM) and the National Association of Telecommunications Officers and Advisors (NATOA), oppose heavy-handed federal overreach into local land use, permitting, and franchise negotiation decisions.

The level of government closest to the people oppose **H.R. 3557** as it:

1. Mandates that all local wireless siting decisions be “deemed granted” in impractical short time periods. (Compare the Federal agencies’ 270 days to act, while locals must conduct all engineering and other reviews in as little as 60 days. GLL mentioned Ray Baum Act – feds get fair market value.)
2. Provides no public safety protections for construction of these “deemed granted” facilities. (Construction will proceed without safety inspection or traffic control. (Does this mean skirting the periodic inspections of structural deployment, electrical work, etc.?)
3. Sets timelines that are impossible to meet; creates technical grounds for defeating incompleteness notices that would pause the shot clock; and requires a local government to draft, publish and deliver to an applicant, on the same day that the local governing body hears and votes on the application, a written denial decision. “All proceedings required by a State or local government or instrumentality thereof for the approval of the request” must be taken within these timelines.
4. Empowers providers to install facilities where they choose regardless of local zoning, thus eliminating the ability of local government to balance providers’ and neighbors’ interests and jeopardizing the ability of local governments to impose stealth or concealment factors.
5. Limits all local fees to a locality’s objectively reasonable costs. Unlike current FCC rules and safe harbor pricing, localities must justify their fees using a complex, burdensome rate-making formula.
6. Substitutes FCC for local federal district court as reviewing body for challenges to decisions, thus breaking promise made by Congress in 1996 that local governments would not be required to travel to Washington to defend local decisions.
7. Imposes new and similarly flawed timelines and “deemed granted” remedies on applications for telecommunications facilities.
8. Eliminates cable franchise renewals, thereby removing ability of state or local communities to enforce franchise obligations such as build-out, customer service, and PEG.
9. Grants a cable operator the unilateral right to terminate a franchise but creates no obligation to remove cable system from rights-of-way.
10. Affirmatively grants cable operators the right to provide non-cable services while prohibiting localities from imposing any fees on cable operators’ revenue from non-cable services.

JAG wants every one of our New Jersey municipalities, along with our county, state and federal legislatures to be aware of this bill and why it must be stopped.

**H.R. 3557** allows for the elimination of local rights and will cause suffering to local communities. It would allow cable, wireless and telecommunications companies to, as they wish, use public property and access to the public’s rights-of-way. This bill would eliminate franchise renewals that support many community functions including Public, Educational and Government (PEG) Channels.

If this proceeds and becomes law, the public will get nothing in return from it but problems, while all of its benefits and rewards will be solely awarded to these businesses.

For further information on **H.R. 3557**, please visit the following link for an in-depth Zoom Meet we recently had on it. [An In-Depth Discussion on H.R. 3557](#)

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