

1996 TELECOMMUNICATIONS ACT CONFERENCE REPORT

SECTION 704 — FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS

- Pages 207-209 (<https://www.congress.gov/104/crpt/hrpt458/CRPT-104hrpt458.pdf>)

Conference agreement

The conference agreement creates a new section 704 which **prevents Commission preemption of local and State land use decisions** and **preserves the authority of State and local governments over zoning and land use matters** except in the **limited circumstances** set forth in the conference agreement . . .

- The **intent of the conferees** is to ensure that a State or local government does not in making a decision regarding the **placement, construction and modification** of facilities of personal wireless services described in this section unreasonably favor one competitor over another. The **conferees also intend** that . . . localities retain the flexibility to treat facilities that create different **visual, aesthetic, or safety concerns** differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services. For example, the **conferees do not intend** that if a State or **local government** grants a permit in a commercial district, it **must also grant a permit for a competitor's 50-foot tower in a residential district**.
- Actions taken by State or local governments shall not prohibit or have the effect of prohibiting the **placement, construction or modification** of personal wireless services. It is the **intent of this**

section that bans or policies that have the effect of banning personal wireless services or facilities not be allowed and that decisions be made on **a case-by-case basis**.

- Under subsection (c)(7)(B)(ii), **decisions are to be rendered in a reasonable period of time**, taking into account the nature and scope of each request. If a request for placement of a personal wireless service facility involves a zoning variance or a public hearing or comment process, **the time period for rendering a decision will be the usual period under such circumstances**. It is **not the intent** of this provision **to give preferential treatment to the personal wireless service industry** in the processing of requests, or to subject their requests to any but the **generally applicable time frames for zoning decision . . .**
- The **conferees intend** section 332(c)(7)(B)(iv) to **prevent** a State or local government or its instrumentalities **from basing** the **regulation** of the **placement, construction or modification** of CMS facilities directly or indirectly **on** the **environmental effects of radio frequency emissions** if those facilities comply with the Commission's regulations adopted pursuant to section 704(b) concerning such emissions.
- The **limitations on** the role and powers of the **Commission** under this subparagraph **relate to local land use regulations . . . The conferees intend** that the court to which a party appeals a decision . . . act expeditiously . . .