

To strengthen
and promote
cities as centers
of opportunity,
leadership, and
governance.



**National League of
Cities**

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May 8, 2003

The Honorable Patrick Leahy
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

On behalf of the membership of the National League of Cities, we are writing to express our strong support for the Local Control of Broadcast Towers Act (S.3102) and Local Control of Cellular Towers Act (S.3103). We believe the 1996 Telecommunication Act fundamentally interferes with and preempts traditional state and local zoning and land use authority with regard to tower placement. These measures would restore the ability of local governments to effectively balance the needs of telecommunications providers and the zoning needs of their citizens.

As you know, the Telecommunications Act of 1996 legislation codified the federal government's confidence of increased competition and decreased government regulation in the telephony industry. For local governments across the nation, there has been immense local conflict over tower siting that stems from the vagueness of the language Congress wrote into The Act.

While the Act added Section 704, codified at Section 332(c)(7)(A), which generally preserves state and local government authority over decisions concerning wireless tower siting, it did specifically limit the authority of state or local governments to prevent unreasonable discrimination among "providers of functionally equivalent services." The Act further prevented state and local governments from prohibiting "the provision of personal wireless services." This section also requires state and local governments to respond within a reasonable time to requests to site wireless towers and facilities. In addition, this section also expressly forbids local governments from prohibiting tower sitings based on the health effects of RF emissions, providing that these sites comply with the FCC's regulations concerning such emissions.

This measure would amend the Telecommunications Act of 1996 and reaffirm state and local authority to regulate the placement, construction, and modification of broadcast transmission facilities. Moreover, it would prohibit the Federal Communications Commission from adopting a final rule or otherwise implementing any portion of a proposed rule regarding the preemption of State and local zoning and land use restrictions concerning the siting, placement, and construction of broadcast station transmission facilities.

