

RESOLUTION NO. 23-

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**RESOLUTION OPPOSING THE SO-CALLED
AMERICAN BROADBAND ACT OF 2023 (HR 3557)**

WHEREAS, HR 3557, the “American Broadband Act of 2023,” was introduced with little notice and without full text on May 22, 2023, and was approved by the House Committee on Energy and Commerce, and ordered to be reported following markup only two days later on May 24, 2023; and

WHEREAS, prior to HR 3557’s introduction, only a single hearing was held on the eventual contents, on April 19, 2023, before the House Communications Subcommittee, the testimony before which consisted exclusively of that from witnesses supportive of federal preemption and to which not a single state or local government representative was invited to testify; and

WHEREAS, HR 3557 would pre-empt local governments' rights-of-way compensation and management authority, zoning powers, cable franchising authority, and property rights; and

WHEREAS, the proposed bill would bestow on broadband providers an unprecedented federal grant of access to state and local public property, but impose no obligations on those providers to serve “unserved” and “underserved” Americans; and

WHEREAS, HR 3557 would mandate that siting decisions be “deemed granted” if not denied by a local government within 60 days, which is as little as 25% of the time the federal government gives itself to make identical decisions concerning access to federal property; and

WHEREAS, HR 3557 would make virtually any local government decision not to allow the installation of a proposed wireless facility at a provider’s request a “prohibition” preempted by federal law, and would require local governments to draft and publicly release a written explanation for the decision to deny an application on the same day it votes on the decision—a virtually impossible task because such written decisions typically require the examination and analysis of evidence; and

WHEREAS, the bill would substitute the FCC for the local federal district court as the reviewing body for challenges to local government

decisions regarding wireless facility applications, thus breaking the promise made by Congress in 1996 that local governments would not be required to travel to Washington to defend local decisions; and

WHEREAS, HR 3557 would also eliminate cable franchise renewals, thereby restricting the ability of state or local franchising authorities to enforce franchise obligations such as public, educational, and government channel capacity and facilities, customer service requirements, and system build-out requirements; and

WHEREAS, HR 3557 would affirmatively grant cable operators the right to use local rights-of-way to provide non-cable services while prohibiting localities from imposing any fees on non-cable services for use of those rights-of-way.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey that it hereby opposes HR 3557 and urges the House and Senate not to pass this legislation.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the Senate President, Vice President of the United States, Kamala Harris; Speaker of the House of Representatives, Senator Kevin McCarthy; Senator Cory Booker; Senator Bob Menendez; Representative Christopher Smith, Representative Frank Pallone Jr.; President of the United States Joseph R. Biden; and New Jersey State League of Municipalities.