

FINAL BILL REPORT

SHB 2175

C 118 L 14
Synopsis as Enacted

Brief Description: Removing barriers to economic development in the telecommunications industry.

Sponsors: House Committee on Technology & Economic Development (originally sponsored by Representatives Morris, Morrell and Stanford).

House Committee on Technology & Economic Development
Senate Committee on Energy, Environment & Telecommunications

Background:

Siting of Personal Wireless Services Facilities.

In 1996 the Legislature categorically exempted from State Environmental Policy Act (SEPA) review the siting, in areas not designated as environmentally sensitive, of certain antenna facilities defined as “microcells” and “minor facilities.” In addition, the Legislature encouraged local governments to allow the filing of a single set of SEPA and land use documents for the siting of these antenna facilities in a single geographic area.

In 2013 the Legislature replaced the categorical SEPA exemption for microcells with an exemption for the collocation, removal, or replacement of wireless service facilities that do not: (1) increase the height of the structure by the greater of 10 percent or 20 feet; or (2) add a component to the structure that protrudes more than 20 feet, or more than the width of the structure at the level it is placed.

Authority to Impose Site-Specific Charges.

The authority of cities and towns to require personal wireless services providers to pay franchise fees or other fees or charges for the use of the right-of-way is limited. Municipalities may generally impose a site-specific charge, pursuant to an agreement with a personal wireless services provider, for the following: (1) placement of new structures in the right-of-way; (2) placement of personal wireless facilities on structures owned by the municipality; and (3) placement of replacement structures when the replacement is necessary for attachment or installation of wireless facilities and the overall height of the replacement structure and the wireless facility is more than 60 feet. A personal wireless service company may seek binding arbitration if a municipality and the company cannot agree on site-specific charges.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Federal Laws and Rulemaking Concerning Siting of Wireless Communication Facilities.

In the Federal Telecommunications Act of 1996 Congress directed the Federal Communications Commission (FCC) to encourage the deployment of telecommunications facilities by working to remove barriers to infrastructure investment in a manner consistent with the public interest, convenience, and necessity. In 2012 an amendment required state and local governments to approve requests for the modification of an existing wireless tower or base station for certain facilities if the modification does not substantially change the physical dimensions of the tower or base. In September 2013 the FCC issued a notice of proposed rule-making designed to promote the rapid deployment of wireless facilities and services generally and particularly "small cell" networks and distributed antenna systems that expand capacity and wireless coverage in a local area through a series of small, low-mounted antennas.

Summary:

Requiring Single Permits for Small Cell Networks.

Local governments may allow a provider of a small cell network to file a consolidated application and receive a single permit for the interrelated facilities that comprise the network within a jurisdiction, instead of filing separate applications for each individual small cell facility. Relevant terms are defined as follows:

- "Small cell network" means a collection of interrelated small cell facilities designed to deliver personal wireless services.
- "Small cell facility" means a wireless service facility that meets both of the following elements: (1) each antenna is located inside an antenna enclosure of no more than 3 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 3 cubic feet; and (2) primary equipment enclosures are no larger than 17 cubic feet in volume; however, the following associated equipment may be located outside the primary equipment enclosure and are not included in the calculation of equipment volume: electric meter, concealment, telecom demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.
- "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

Modifying Municipal Authority to Impose Site-Specific Charges for the Use of the Right-of-Way.

The authority of cities and towns to require personal wireless service providers to pay a site-specific charge for use of the right-of-way is modified. In addition to the previous limitations, a site-specific charge for placement in the right-of-way of replacement structures with an overall height greater than 60 feet is now only authorized when the replacement structure is also higher than the structure that is being replaced.

Votes on Final Passage:

House 96 0

Senate	34	15	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	2	(Senate amended)
House	95	3	(House concurred)

Effective: June 12, 2014