

SENATE BILL REPORT

ESHB 2828

As Reported By Senate Committee On:
Energy, Telecommunications & Utilities, February 22, 1996

Title: An act relating to personal wireless service facilities.

Brief Description: Regulating wireless telephone services.

Sponsors: House Committee on Appropriations (originally sponsored by Representative Crouse).

Brief History:

Committee Activity: Energy, Telecommunications & Utilities: 2/20/96, 2/22/96 [DPA].

SENATE COMMITTEE ON ENERGY, TELECOMMUNICATIONS & UTILITIES

Majority Report: Do pass as amended.

Signed by Senators Sutherland, Chair; Loveland, Vice Chair; Finkbeiner, Hochstatter and Owen.

Staff: Phil Moeller (786-7445)

Background: The cellular telephone industry has experienced significant growth in the past decade. The next generation of this technology, using smaller cell areas, is projected to become widespread. As the demand for cellular services has increased, the need for additional, smaller cell sites has increased correspondingly.

Additional and smaller cell sites help the cellular industry address two major concerns: (1) capacity (more users wanting to use a cellular system at a given time than the system can accommodate); and (2) coverage (providing coverage in more areas and preventing "dropped calls" because cell sites do not overlap). Emerging microcell technology potentially will use several small microcells to replace a single cellular tower and also provide greater capacity.

A cell site consists of radio transmitters, receivers, and antennas. Most cell sites are created by placing antennas on existing structures. Other sites are created by placing antennas on cellular towers or monopoles. The receivers and transmitters usually are housed in small equipment shelters or rooms. The transmitters operate at low power levels and transmit ultra-high frequency radio waves. A cell site connects with other facilities by transmitting radio waves to a mobile switching office, which routes calls to the intended destinations.

The specific locations chosen by wireless companies to site antennas depend on a variety of factors, such as the proximity of adjacent cell sites, engineering and topographical considerations, community response, and the existence of a willing property owner. Antenna siting is sometimes contentious, in large part due to neighborhood concerns about possible health, safety, and aesthetic effects.

Some persons have suggested siting only microcells in residential areas or near schools, in the belief exposure to radiofrequency electromagnetic radiation is lower near microcells than near other cellular antennas. Few citizens have expressed concern about the siting of antennas in nonresidential areas away from schools.

Current Regulatory Structure. Each cell site is subject to State Environmental Policy Act (SEPA) review, land use laws and ordinances, and state building and barrier-free access codes.

Each cell site also is subject to the federal Americans with Disabilities Act (ADA). Current state barrier-free access regulations have been certified as meeting ADA requirements.

There is interest in avoiding unnecessary costs by exempting unstaffed cell site equipment shelters from state building insulation and barrier-free access requirements.

Summary of Amended Bill: "Personal wireless services" and "personal wireless service facilities" are defined using federal definitions. "Microcell" is defined as a wireless communications facility consisting of an antenna that is either (i) four feet in height and with an area of not more than 580 square inches, or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

The siting of personal wireless service antennas is exempt from SEPA requirements if the antennas to be sited (1) are microcells to be attached to an existing structure that is not a residence or school and does not contain a residence or school; (2) are other antennas to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and that is not located in a residential zone; or (3) involve constructing a cellular tower shorter than 60 feet in height that is not located in a residential zone. In addition, the project must not be in a designated environmentally sensitive area, and must not consist of a series of actions some of which are not categorically exempt from SEPA requirements, or that together may have a significant adverse environmental impact.

The siting of such antennas is still subject to the local land-use permitting process.

When a telecommunications service provider applies to site several microcells in a single geographical area, local governments are encouraged to: (1) allow the applicant to file a single set of SEPA documents, if applicable, and a single set of land use permit documents, that will apply to all the microcells to be sited; and (2) render decisions in a single administrative proceeding.

The Department of Ecology is directed to adopt rules that create a categorical exemption from SEPA for the siting of personal wireless service facilities meeting specified conditions.

The State Building Code Council (SBCC) is directed to exempt personal wireless service equipment shelters or enclosures from state building envelope insulation requirements. The SBCC is directed to amend its rules concerning barrier-free access requirements to the extent practicable while still maintaining the certification of those rules under the ADA, provided the shelters or enclosures are unstaffed, and if employees who visit the shelters for maintenance activities must be able to climb.

When funds are appropriated for that purpose, the Department of Health (DOH) is directed to survey scientific literature regarding possible adverse effects of human exposure to the radiofrequency part of the electromagnetic spectrum. DOH is directed to report the survey results to the Legislature, prepare a summary of that survey, make the summary available to the public, and update the survey and summary periodically.

DOH may adopt rules to require providers of personal wireless services to test power density prior to and after siting non-microcell antenna facilities.

Amended Bill Compared to Substitute Bill: The section directing the State Building Code Council to amend the barrier-free code is clarified.

A section is added giving the Department of Health authority to require power density testing of non-microcell antenna facilities.

An appropriation \$49,500 to the Department of Health for the section pertaining to the survey of scientific literature is added.

Appropriation: \$49,500 to the Department of Health for the section pertaining to the survey of scientific literature.

Fiscal Note: Requested on January 29, 1996.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This legislation is a good start in providing more stability to the siting process. This industry is projected to grow significantly due to its popularity among consumers and the microcell distinction is appropriate. The insulation and barrier-free modifications will help alleviate unnecessary costs to unstaffed equipment shelters.

Testimony Against: Concern has been raised that this bill could increase the proliferation of wireless facilities, and this will increase human exposure to this part of the electromagnetic spectrum. No SEPA exemptions should be allowed. The Department of Health should have a more powerful role in regulating exposure.

Testified: Carroll A. Cobbs, Engineering Consultant; Ross C. Baker, AT&T Wireless Services (pro); Ron Smith, US West New Vector (pro); Sandy Martin, Sid Malbom, Chatham Hill Neighborhood Assoc. (concerns); Steve Bennett, Sprint Telecommunications Venture (pro); Vito T. Chiechi, One Com (pro); Victoria Lincoln, Assoc. of WA Cities (pro); David Fichtenberg.