

5977-S

Sponsor(s): Senate Committee on Technology & Communications
(originally sponsored by Senators Esser, Schmidt, Eide, Finkbeiner,
Poulsen, Reardon, Stevens, T. Sheldon and Shin)

Brief Description: Requiring the department of transportation to allow the deployment of personal wireless service facilities in state highway rights of way.

SB 5977-S.E - DIGEST

(DIGEST AS ENACTED)

Requires the department to establish a process for issuing a lease for the use of the right of way by a service provider and shall require that telecommunications equipment be co-located on the same structure whenever practicable. Consistent with federal highway administration approval, the lease must include the right of direct ingress and egress from the highway for construction and maintenance of the personal wireless service facility during nonpeak hours if public safety is not adversely affected. Direct ingress and egress may be allowed at any time for the construction of the facility if public safety is not adversely affected and if construction will not substantially interfere with traffic flow during peak traffic periods. The lease may specify an indirect ingress and egress to the facility if it is reasonable and available for the particular location.

Requires the department of transportation to report to the legislature on the implementation of the lease process. The department must submit this report to the house technology, telecommunications and energy committee and the senate technology and communications committee. An implementation report shall be submitted by January 15, 2004, and a status report shall be submitted by January 15, 2005.

VETO MESSAGE ON SB 5977-S

May 12, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 4, Engrossed Substitute Senate Bill No. 5977 entitled:

"AN ACT Relating to the use of state highway rights of way for the deployment of personal wireless service facilities;"

This bill establishes procedures for the Department of Transportation to permit siting of wireless telecommunications facilities within state highway rights of way. This is important legislation that will help expand telecommunications services in our state and promote economic development.

Section 4 of this bill would have amended RCW 47.52.001, which is a declaration of state policy to limit access to the highway facilities of the state in the interest of highway safety and for the preservation of the investment of the public in such facilities. The amendment would have created an exception to this longstanding policy by stating that the use of rights of way of limited access facilities "must be permitted" for the deployment of personal wireless facilities, apparently without qualification. Section 1 contains intent language that is largely the same as that contained in section 4. Because these sections can be read to suggest that deployment of personal wireless facilities is inconsistent with the state's interest in highway safety, and that telecommunications deployment should take precedence over it, I am compelled to veto them.

I agree with the Legislature that personal wireless service is a critical part of the state's infrastructure, and I believe that Department of Transportation policy should acknowledge this. However, state policy should also ensure that telecommunications deployment be achieved along state highways without adversely affecting highway safety. For this reason, I believe the current language in RCW 47.52.001, which "limits" but by no means prohibits access to public highways, is the better statement of policy than those contained in sections 1 and 4 of this bill.

For these reasons, I have vetoed sections 1 and 4 of Engrossed Substitute Senate Bill No. 5977.

With the exception of sections 1 and 4, Engrossed Substitute Senate Bill No. 5977 is approved.

Respectfully submitted,
Gary Locke
Governor