

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2044**

Chapter 219, Laws of 1997

(partial veto)

55th Legislature  
1997 Regular Session

PERSONAL WIRELESS SERVICE FACILITIES--DEFINITIONS

EFFECTIVE DATE: 7/27/97

Passed by the House March 11, 1997  
Yeas 97 Nays 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate April 15, 1997  
Yeas 45 Nays 3

BRAD OWEN  
**President of the Senate**

Approved April 25, 1997, with the exception of sections 1, 3, and 4, which are vetoed.

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2044** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

April 25, 1997 - 4:21 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2044**

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Passed Legislature - 1997 Regular Session

**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Energy & Utilities (originally sponsored by Representatives Crouse, Pennington, Mastin, McMorris, DeBolt, D. Sommers, Kessler and Delvin)

Read first time 03/05/97.

1       AN ACT Relating to revising definitions for personal wireless  
2 service facilities; and amending RCW 43.21C.0384, 80.36.375,  
3 19.27A.027, and 70.92.170.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       *\*Sec. 1. RCW 43.21C.0384 and 1996 c 323 s 2 are each amended to*  
6 *read as follows:*

7       *(1) Decisions pertaining to applications to site personal wireless*  
8 *service facilities are not subject to the requirements of RCW*  
9 *43.21C.030(2)(c), if those facilities meet the following requirements:*  
10       *(a)(i) The facility to be sited is a microcell and is to be*  
11 *attached to an existing structure that is not a residence or school and*  
12 *does not contain a residence or a school; or (ii) the facility includes*  
13 *personal wireless service antennas, other than a microcell, and is to*  
14 *be attached to an existing structure (that may be an existing tower)*  
15 *that is not a residence or school and does not contain a residence or*  
16 *a school, and the existing structure to which it is to be attached is*  
17 *located in a commercial, industrial, manufacturing, forest, or*  
18 *agricultural zone; or (iii) the siting project involves constructing a*  
19 *personal wireless service tower less than sixty feet in height that is*

1 located in a commercial, industrial, manufacturing, forest, or  
2 agricultural zone; and

3 (b) The project is not in a designated environmentally sensitive  
4 area; and

5 (c) The project does not consist of a series of actions: (i) Some  
6 of which are not categorically exempt; or (ii) that together may have  
7 a probable significant adverse environmental impact.

8 (2) The department of ecology shall adopt rules to create a  
9 categorical exemption for microcells and other personal wireless  
10 service facilities that meet the conditions set forth in subsection (1)  
11 of this section.

12 (3) For the purposes of this section:

13 (a) "Personal wireless services" means commercial mobile services,  
14 unlicensed wireless services, and common carrier wireless exchange  
15 access services, as defined by federal laws and regulations.

16 (b) "~~Personal wireless service ((facilities" means facilities for~~  
17 ~~the provision of personal wireless services))~~ facility" means a  
18 wireless communication facility, including a microcell, that is a  
19 facility for the transmission and/or reception of radio frequency  
20 signals, and which may include antennas, equipment shelter or cabinet,  
21 transmission cables, a support structure to achieve the necessary  
22 elevation, and reception and transmission devices and antennas.

23 (c) "Microcell" means a wireless communication facility consisting  
24 of an antenna that is either: (i) Four feet in height and with an area  
25 of not more than five hundred eighty square inches; or (ii) if a  
26 tubular antenna, no more than four inches in diameter and no more than  
27 six feet in length.

28 \*Sec. 1 was vetoed. See message at end of chapter.

29 **Sec. 2.** RCW 80.36.375 and 1996 c 323 s 3 are each amended to read  
30 as follows:

31 (1) If a personal wireless service provider applies to site several  
32 microcells and/or minor facilities in a single geographical area:

33 (a) If one or more of the microcells and/or minor facilities are  
34 not exempt from the requirements of RCW 43.21C.030(2)(c), local  
35 governmental entities are encouraged: (i) To allow the applicant, at  
36 the applicant's discretion, to file a single set of documents required  
37 by chapter 43.21C RCW that will apply to all the microcells and/or  
38 minor facilities to be sited; and (ii) to render decisions under

1 chapter 43.21C RCW regarding all the microcells and/or minor facilities  
2 in a single administrative proceeding; and

3 (b) Local governmental entities are encouraged: (i) To allow the  
4 applicant, at the applicant's discretion, to file a single set of  
5 documents for land use permits that will apply to all the microcells  
6 and/or minor facilities to be sited; and (ii) to render decisions  
7 regarding land use permits for all the microcells and/or minor  
8 facilities in a single administrative proceeding.

9 (2) For the purposes of this section:

10 (a) "Personal wireless services" means commercial mobile services,  
11 unlicensed wireless services, and common carrier wireless exchange  
12 access services, as defined by federal laws and regulations.

13 (b) "Microcell" means a wireless communication facility consisting  
14 of an antenna that is either: (i) Four feet in height and with an area  
15 of not more than five hundred eighty square inches; or (ii) if a  
16 tubular antenna, no more than four inches in diameter and no more than  
17 six feet in length.

18 (c) "Minor facility" means a wireless communication facility  
19 consisting of up to three antennas, each of which is either: (i) Four  
20 feet in height and with an area of not more than five hundred eighty  
21 square inches; or (ii) if a tubular antenna, no more than four inches  
22 in diameter and no more than six feet in length; and the associated  
23 equipment cabinet that is six feet or less in height and no more than  
24 forty-eight square feet in floor area.

25 *\*Sec. 3. RCW 19.27A.027 and 1996 c 323 s 4 are each amended to*  
26 *read as follows:*

27 (1) *The state building code council shall exempt equipment shelters*  
28 *of personal wireless service facilities from building envelope*  
29 *insulation requirements.*

30 (2) *For the purposes of this section, "personal wireless service*  
31 *(~~facilities~~ means facilities for the provision of personal wireless*  
32 *services)) facility" means a wireless communication facility, including*  
33 *a microcell, that is a facility for the transmission and/or reception*  
34 *of radio frequency signals, and which may include antennas, equipment*  
35 *shelter or cabinet, transmission cables, a support structure to achieve*  
36 *the necessary elevation, and reception and transmission devices and*  
37 *antennas.*

38 *\*Sec. 3 was vetoed. See message at end of chapter.*

1       \*Sec. 4. RCW 70.92.170 and 1996 c 323 s 5 are each amended to read  
2 as follows:

3       (1) The state building code council shall amend its rules under  
4 chapter 70.92 RCW, to the extent practicable while still maintaining  
5 the certification of those regulations under the federal Americans with  
6 disabilities act, to exempt personal wireless services equipment  
7 shelters, or the room or enclosure housing equipment for personal  
8 wireless service facilities, that meet the following conditions: (a)  
9 The shelter is not staffed; and (b) to conduct maintenance activities,  
10 employees who visit the shelter must be able to climb.

11       (2) For the purposes of this section, "personal wireless service  
12 ((facilities" means facilities for the provision of personal wireless  
13 services)) facility" means a wireless communication facility, including  
14 a microcell, that is a facility for the transmission and/or reception  
15 of radio frequency signals, and which may include antennas, equipment  
16 shelter or cabinet, transmission cables, a support structure to achieve  
17 the necessary elevation, and reception and transmission devices and  
18 antennas.

19 \*Sec. 4 was vetoed. See message at end of chapter.

Passed the House March 11, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor April 25, 1997, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State April 25, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 1, 3,  
3 and 4, Substitute House Bill No. 2044 entitled:

4 "AN ACT Relating to revising definitions for personal wireless  
5 service facilities;"

6 SHB 2044 concerns the siting of personal wireless service  
7 facilities. Under current law, the siting of certain personal wireless  
8 service facilities is exempt from the Environmental Impact Statement  
9 (EIS) process under the State Environmental Protection Act (SEPA).  
10 Sections 1, 3, and 4 of this bill change the definition of "personal  
11 wireless service facility" in a way that arguably, though  
12 unintentionally, expands the definition to include radio transmission  
13 towers, the siting of which would then also be exempt, under certain  
14 conditions, from SEPA-EIS review. This is an unintended consequence  
15 that should not be risked. The current law, with its current  
16 definition, is preferable to the uncertainty created by the new  
17 definition in this bill.

18 I am approving the remainder of the bill, section 2, which was the  
19 primary focus of the participants in the legislative process this  
20 session. It encourages local governments to permit single applications  
21 and single administrative proceedings for the SEPA review of microcells  
22 with two or three antennas.

1           For these reasons, I have vetoed sections 1, 3, and 4 of Substitute  
2 House Bill No. 2044.

3           With the exception of sections 1, 3, and 4, Substitute House Bill  
4 No. 2044 is approved."