

# FINAL BILL REPORT

## ESSB 5977

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### PARTIAL VETO

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Synopsis as Enacted

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

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

**Senate Committee on Technology & Communications**  
**House Committee on Technology, Telecommunications & Energy**

**Background:** The Department of Transportation manages the rights of way of more than 7,000 miles of highways. The department has developed a model lease agreement for the deployment of wireless telecommunications facilities on department-controlled property, including highway rights of way.

The department currently processes a wireless lease application in 130 days, on average. The maximum term for a lease is five years, with an option to renew for three additional five-year increments. Leasing rates range from \$300 to \$1,700, with most leases within \$1,000 to \$1,400.

According to the department, there are 15 active wireless leases on highway rights of way.

**Summary:** The Department of Transportation must establish a process for issuing leases for the use of highway rights of way by wireless telecommunications companies. A lease must require co-location of telecommunications equipment in the right of way whenever practicable. A lease must also include the right to directly access a wireless site during nonpeak hours for the construction and maintenance of a wireless facility if public safety is not adversely affected and the access is consistent with federal highway administration approval. In addition, a lease may allow direct access to a wireless site at any time for the construction of a wireless facility if there is no substantial interference with the flow of traffic during peak periods and public safety is not adversely affected.

The department must process a complete lease application within 60 days, unless the applicant agrees to a different time period. If the department denies a lease application, it must provide a reason that is supported by substantial evidence contained in a written record. Applications that have been submitted before the effective date of this act may be handled under the new process described in this act, with the consent of the applicant.

The cost of a lease is limited to the fair market value of the location and the direct administrative expense in processing the application. An arbitration process is established for

resolving disagreements over the cost of the lease. All lease money paid to the department under this section must be deposited in the motor vehicle fund.

An effective date is provided, terms are defined, and a provision is added to clarify that leases for wireless telecommunications facilities are not utility franchises. Two intent sections declare that: (1) the rapid deployment of personal wireless service facilities is critical to public safety, network access, quality of service, and rural economic development; and (2) the use of highway rights of way must be permitted for the deployment of personal wireless service facilities.

The department must report to the Legislature on the implementation of the new lease process by January 15, 2004, and on the status of the lease process by January 15, 2005.

**Votes on Final Passage:**

Senate	44	5	
House	87	0	(House amended)
Senate	42	4	(Senate concurred)

**Effective:** July 27, 2003

**Partial Veto Summary:** The intent sections are removed.