

SENATE BILL REPORT

SB 5655

As Reported by Senate Committee On:
Government Operations & Elections, February 19, 2009

Title: An act relating to height restrictions on amateur radio antennas.

Brief Description: Regarding height restrictions on amateur radio antennas.

Sponsors: Senators Roach, Swecker, Stevens, Hobbs, Delvin, Carrell, Parlette and Benton.

Brief History:

Committee Activity: Government Operations & Elections: 2/17/09, 2/19/09 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5655 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Roach, Ranking Minority Member; Benton, McDermott, Pridemore and Swecker.

Staff: Aaron Gutierrez (786-7448)

Background: Amateur radio (ham) communications are conducted on certain frequencies and in specified manners determined by the Federal Communication Commission (FCC). The physics of radio transmission and reception are such that ham antennas must be configured and sited in particular ways in order to be effective.

Antennas are not limited in height by federal law, but may be subject to obstruction and marking requirements by the Federal Aviation Administration.

In 1985 the FCC adopted, and later codified, a limited preemption of local zoning for antenna heights and support structures. No height limit was imposed. Instead, the limited preemption provides as follows:

"Local regulations of antenna placement, screening, or height based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and to represent the minimum practicable regulations to accomplish the local authority's legitimate purpose." (101 FCC 2nd 952, 960)

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.

In 1994 the Legislature codified this limited preemption for classified cities (Title 35), code cities (Title 35A), and counties (Title 36).

Summary of Bill (Recommended Substitute): Local governments may not restrict the height of amateur radio antennas to less than 70 feet without determining that the restriction is necessary to achieve a clearly defined health, safety, or aesthetic consideration. Reasonable and customary engineering practices must be followed in the erection of the antenna.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Substitute): Removes the requirement that local governments determine that the benefits of the restriction outweigh the cost to the radio network's ability to provide emergency communications. Adds a requirement that reasonable and customary engineering practices must be followed in the erection of the antenna.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Promoting the network is critical for emergency management. Many amateur radio operators are on the front lines during emergencies, for example, during the recent floods. The bill costs nothing, and enhances the intent of current law. Antennas must be 60-70 feet to be effective. If amateur radio operators are unable to put up appropriate equipment, it will drive new people away from amateur radio.

CON: Seventy feet is roughly twice the size of a standard utility pole. This eliminates the public participation process for new rules. Cities already work with emergency networks, and I am currently unaware of emergency management problems that need to be addressed with this legislation.

Persons Testifying: PRO: Senator Roach, prime sponsor; Lee Chambers, American Radio Relay League; Vaunn Litchfield, citizen.

CON: Dave Williams, Association of Washington Cities.