

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2175

63rd Legislature
2014 Regular Session

Passed by the House March 13, 2014
Yeas 95 Nays 3

Speaker of the House of Representatives

Passed by the Senate March 12, 2014
Yeas 47 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2175** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2175

AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Morris, Morrell, and Stanford)

READ FIRST TIME 02/03/14.

1 AN ACT Relating to removing barriers to economic development in the
2 telecommunications industry; and amending RCW 80.36.375 and 35.21.860.

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

4 **Sec. 1.** RCW 80.36.375 and 1997 c 219 s 2 are each amended to read
5 as follows:

6 (1) If a personal wireless service provider applies to site several
7 microcells (~~and/or~~), minor facilities, or a small cell network in a
8 single geographical area:

9 (a) If one or more of the microcells and/or minor facilities are
10 not exempt from the requirements of RCW 43.21C.030(2)(c), local
11 governmental entities are encouraged: (i) To allow the applicant, at
12 the applicant's discretion, to file a single set of documents required
13 by chapter 43.21C RCW that will apply to all the microcells and/or
14 minor facilities to be sited; and (ii) to render decisions under
15 chapter 43.21C RCW regarding all the microcells and/or minor facilities
16 in a single administrative proceeding; (~~and~~)

17 (b) Local governmental entities are encouraged: (i) To allow the
18 applicant, at the applicant's discretion, to file a single set of
19 documents for land use permits that will apply to all the microcells

1 and/or minor facilities to be sited; and (ii) to render decisions
2 regarding land use permits for all the microcells and/or minor
3 facilities in a single administrative proceeding; and

4 (c) For small cell networks involving multiple individual small
5 cell facilities, local governmental entities may allow the applicant,
6 if the applicant so chooses, to file a consolidated application and
7 receive a single permit for the small cell network in a single
8 jurisdiction instead of filing separate applications for each
9 individual small cell facility.

10 (2) For the purposes of this section:

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

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

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

26 (d) "Small cell facility" means a personal wireless services
27 facility that meets both of the following qualifications:

28 (i) Each antenna is located inside an antenna enclosure of no more
29 than three cubic feet in volume or, in the case of an antenna that has
30 exposed elements, the antenna and all of its exposed elements could fit
31 within an imaginary enclosure of no more than three cubic feet; and

32 (ii) Primary equipment enclosures are no larger than seventeen
33 cubic feet in volume. The following associated equipment may be
34 located outside the primary equipment enclosure and if so located, are
35 not included in the calculation of equipment volume: Electric meter,
36 concealment, telecomm demarcation box, ground-based enclosures, battery
37 back-up power systems, grounding equipment, power transfer switch, and
38 cut-off switch.

1 (e) "Small cell network" means a collection of interrelated small
2 cell facilities designed to deliver personal wireless services.

3 **Sec. 2.** RCW 35.21.860 and 2007 c 6 s 1020 are each amended to read
4 as follows:

5 (1) No city or town may impose a franchise fee or any other fee or
6 charge of whatever nature or description upon the light and power, or
7 gas distribution businesses, as defined in RCW 82.16.010, or telephone
8 business, as defined in RCW 82.16.010, or service provider for use of
9 the right-of-way, except:

10 (a) A tax authorized by RCW 35.21.865 may be imposed;

11 (b) A fee may be charged to such businesses or service providers
12 that recovers actual administrative expenses incurred by a city or town
13 that are directly related to receiving and approving a permit, license,
14 and franchise, to inspecting plans and construction, or to the
15 preparation of a detailed statement pursuant to chapter 43.21C RCW;

16 (c) Taxes permitted by state law on service providers;

17 (d) Franchise requirements and fees for cable television services
18 as allowed by federal law; and

19 (e) A site-specific charge pursuant to an agreement between the
20 city or town and a service provider of personal wireless services
21 acceptable to the parties for:

22 (i) The placement of new structures in the right-of-way regardless
23 of height, unless the new structure is the result of a mandated
24 relocation in which case no charge will be imposed if the previous
25 location was not charged;

26 (ii) The placement of replacement structures when the replacement
27 is necessary for the installation or attachment of wireless facilities,
28 the replacement structure is higher than the replaced structure, and
29 the overall height of the replacement structure and the wireless
30 facility is more than sixty feet; or

31 (iii) The placement of personal wireless facilities on structures
32 owned by the city or town located in the right-of-way. However, a
33 site-specific charge shall not apply to the placement of personal
34 wireless facilities on existing structures, unless the structure is
35 owned by the city or town.

36 A city or town is not required to approve the use permit for the
37 placement of a facility for personal wireless services that meets one

1 of the criteria in this subsection absent such an agreement. If the
2 parties are unable to agree on the amount of the charge, the service
3 provider may submit the amount of the charge to binding arbitration by
4 serving notice on the city or town. Within thirty days of receipt of
5 the initial notice, each party shall furnish a list of acceptable
6 arbitrators. The parties shall select an arbitrator; failing to agree
7 on an arbitrator, each party shall select one arbitrator and the two
8 arbitrators shall select a third arbitrator for an arbitration panel.
9 The arbitrator or arbitrators shall determine the charge based on
10 comparable siting agreements involving public land and rights-of-way.
11 The arbitrator or arbitrators shall not decide any other disputed
12 issues, including but not limited to size, location, and zoning
13 requirements. Costs of the arbitration, including compensation for the
14 arbitrator's services, must be borne equally by the parties
15 participating in the arbitration and each party shall bear its own
16 costs and expenses, including legal fees and witness expenses, in
17 connection with the arbitration proceeding.

18 (2) Subsection (1) of this section does not prohibit franchise fees
19 imposed on an electrical energy, natural gas, or telephone business, by
20 contract existing on April 20, 1982, with a city or town, for the
21 duration of the contract, but the franchise fees shall be considered
22 taxes for the purposes of the limitations established in RCW 35.21.865
23 and 35.21.870 to the extent the fees exceed the costs allowable under
24 subsection (1) of this section.

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