H-4305.3

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**SUBSTITUTE HOUSE BILL 2592**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representative Morris)

AN ACT Relating to the efficient deployment of small cell network infrastructure; adding a new section to chapter 43.330 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) It is the policy of the state to promote the efficient deployment of small cell network infrastructure by offering a tool so wireless infrastructure providers or wireless service providers can assess a predictable process in local government jurisdictions so citizens across the state have access to advanced wireless communications technologies as soon as possible. A framework for the deployment of wireless communication services that allows for local values to be expressed but also signals where predictable wireless capital investment can occur is the right balance. It is also the policy of the state that cities and towns maintain sufficient legal authority to manage the public rights-of-way for the health, safety, and welfare of their citizens and the general public.

(2) It is the intent of the legislature that the state of Washington maintain a list of local governments that are investment ready for advanced and new wireless technologies subject to the provisions of chapter 43.330 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 43.330 RCW to read as follows:

(1) A local government that can demonstrate to the department in writing that it meets the criteria in (a) through (e) of this subsection must be designated on the department's web site as being investment ready for advanced and new wireless technologies.

(a) A local government must demonstrate a streamlined and predictable permit process period of no longer than twelve months for the installation of a small cell facility or network in the right-of-way. The permit processing period is measured from the date the city deems the application complete to the date the applicant is allowed entry into and use of the specified right-of-way.

(b) A local government must demonstrate that it does not unreasonably discriminate among providers of functionally equivalent service with its application of standards for the installation of microcells, small cell facilities, and small cell networks within the right-of-way.

(c) A local government must demonstrate: Adoption of a small cell facility deployment ordinance that outlines the standards that wireless infrastructure providers or wireless service providers must follow in seeking a master permit to deploy microcells, small cell facilities, and small cell networks; or the amendment or adoption of a policy or directive that applies an existing ordinance or city regulation to exempt small cell network infrastructure from conditional use permit requirements except:

(i) Where a small cell network facility would require original installation of a new pole or structure;

(ii) Where a small cell network facility would require an existing pole or structure to be extended more than ten feet above the existing height of a pole or structure; or

(iii) Where the proposed facility does not meet the established standards outlined in the ordinance.

(d) The ordinance, policy, or directive adopted in accordance with (c) of this subsection must:

(i) Not unreasonably discriminate among wireless service providers or wireless infrastructure providers, except that certain parts of local government-owned infrastructure may be made available on a first-provider-to-deploy basis until the attached or built microcells, small cell facilities, and small cell networks stresses government-owned property by increasing costs due to weight or conformance with local aesthetics, or by shortening the life cycle;

(ii) Notwithstanding anything to the contrary in this section, but subject to generally applicable public works permit requirements, allow the following types of small cell facility work without requiring an application, permit, or fee:

(A) Routine maintenance; and

(B) The replacement of small cell facilities with small cell facilities that are substantially similar or smaller in size, weight, and height, provided that such a replacement does not defeat the design or concealment standards placed in the local code or ordinance;

(iii) Include a permit fee schedule that:

(A) Treats wireless service providers and wireless infrastructure providers in a competitively neutral and nondiscriminatory manner;

(B) Allows the local government to recover at least the actual costs of processing permits, and may include reasonable reimbursement for the cost of additional contract staff to address permit volume; and

(C) Provides example low, medium, and high cost scenarios for annual attachment rates on city or town-owned poles in order to allow for nonbinding estimates of the range of potentially applicable rates. The examples must show specific rate estimates for each scenario and detail the specific factors or combination of factors driving the variance between the scenarios. More than three scenarios may be provided.

(e) The permit fee schedule outlined in (d)(iii) of this subsection may:

(i) Allow the city or town to recover at least the actual costs associated with the development of the small cell facility deployment ordinance, policy, or directive amortized over the first five years following adoption;

(ii) Allow a permit applicant to pay an additional fee for expedited permit processing if the city has deployed such a process. This subsection (1)(e)(ii) is not intended to require jurisdictions to create an expedited process when one does not already exist.

(2) Nothing in this section limits a city or town from issuing master permits or use permits in accordance with the provisions of chapter 35.99 RCW and from entering into lease agreements.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Microcell" has the same meaning as defined in RCW 80.36.375(2)(b).

(b) "Permit" means a master permit, use permit, or any other form of small cell installation authorization.

(c) "Pole" means a pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution or transmission, lighting, traffic control, signage, or a similar function.

(d) "Right-of-way" has the same meaning as defined in RCW 35.99.010.

(e) "Small cell facility" has the same meaning as defined in RCW 80.36.375(2)(d).

(f) "Small cell network" has the same meaning as defined in RCW 80.36.375(2)(e).

(g) "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in this state, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless service provider.

(h) "Wireless services" means any services, whether at a fixed location or mobile, provided using wireless facilities.

(i) "Wireless services provider" means a person who provides wireless services.

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