

FINAL BILL REPORT

ESHB 2828

C 323 L 96

Synopsis as Enacted

Brief Description: Regulating wireless telephone services.

Sponsors: By House Committee on Energy & Utilities (originally sponsored by Representative Crouse).

House Committee on Energy & Utilities

House Committee on Appropriations

Senate Committee on Energy, Telecommunications & Utilities

Background: The wireless industry reportedly signs up 28,000 new customers daily and, as of February 1995, had a 10-percent market penetration. As the demand for cellular services has increased, the need for additional, smaller cell sites has increased correspondingly.

Small, numerous cell sites help the cellular industry address two major concerns: (1) capacity (more users wanting to use a cellular system at a given time than the system can accommodate); and (2) coverage (providing coverage in all areas and preventing "dropped calls" because cell sites do not overlap). The emerging microcell technology potentially will use several small microcells to replace and provide greater capacity than a single cellular tower.

A cell site consists of radio transmitters, receivers, and antennas. Most cell sites are created by placing antennas on existing structures. Other sites are created by placing antennas on cellular towers or monopoles. The receivers and transmitters usually are housed in small equipment shelters or rooms. The transmitters operate at low power levels and transmit ultra-high frequency radio waves. A cell site connects with other facilities by transmitting radio waves to a mobile switching office, which routes calls to the intended destinations.

Wireless companies consider a variety of factors when selecting sites for antennas, such as the proximity of adjacent cell sites, engineering and topographical considerations, community response, and the existence of a willing property owner. Antenna siting is often contentious, in large part due to neighborhood concerns about possible health, safety, and aesthetic effects.

Some persons have suggested siting only microcells in residential areas or near schools, in the belief that exposure to radiofrequency electromagnetic radiation is lower near microcells than near other cellular antennas. Few citizens have expressed

concern about the siting of antennas in nonresidential areas away from schools. Some citizens are frustrated with the difficulty of locating and interpreting reports of studies concerning the health or behavioral effects of exposure to radiofrequency radiation.

Current Regulatory Structure

Each cell site is subject to State Environmental Policy Act (SEPA) review, land use laws and ordinances, and state building and barrier-free access codes.

Each cell site also is subject to the federal Americans with Disabilities Act or "ADA." Current state barrier-free access regulations have been certified as meeting ADA requirements.

Wireless service providers would like unstaffed cell site equipment shelters to be exempt from state building insulation and barrier-free access requirements.

Summary: The Legislature makes the following findings: (1) concerns have been raised over possible health effects from exposure to some wireless telecommunications facilities; (2) exposures from these facilities should be kept as low as reasonably achievable while still allowing the operation of these networks; and (3) the Department of Health (DOH) should be the state agency that follows the issues and compiles information about potential health effects from wireless telecommunications facilities.

"Personal wireless services" and "personal wireless service facilities" are defined using federal definitions. "Microcell" is defined as a wireless communications facility consisting of an antenna that is either (1) four feet in height and with an area of not more than 580 square inches, or (2) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

The siting of personal wireless service antennas is exempted from SEPA requirements if the antennas to be sited (1) are microcells to be attached to an existing structure that is not a residence or school and does not contain a residence or school; (2) are other antennas to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and that is not located in a residential zone; or (3) involve constructing a cellular tower less than 60 feet in height that is not located in a residential zone. In addition, the project must not be in a designated environmentally sensitive area, and the project must not consist of a series of actions, some of which are not categorically exempt from SEPA requirements, or that together may have a significant adverse environmental impact.

The siting of such antennas is still subject to the local land-use permitting process.

When a telecommunications service provider applies to site several microcells in a single geographical area, local governments are encouraged to (1) allow the applicant to file a single set of SEPA documents, if applicable, and a single set of land use permit documents, that will apply to all the microcells to be sited; and (2) render decisions in a single administrative proceeding.

The Department of Ecology is directed to adopt rules that create a categorical exemption from SEPA for the siting of personal wireless service facilities meeting specified conditions.

The State Building Code Council is directed to exempt equipment shelters from state building envelope insulation requirements. Also, the council is directed to amend its rules concerning barrier-free access requirements to the extent practicable while still maintaining the certification of those rules under the ADA, to exempt equipment shelters, rooms, or enclosures housing equipment for personal wireless service facilities that meet two conditions: (1) the shelter is not staffed, and (2) in order to conduct maintenance activities, employees who visit the shelter must be able to climb.

Unless preempted by federal law, DOH may, in residential zones or areas, require personal wireless service companies to provide random power density test results showing radiofrequency levels before and after the siting of antenna facilities other than microcells.

When funds are appropriated for that purpose, DOH is directed to survey scientific literature regarding possible adverse effects of human exposure to the radiofrequency part of the electromagnetic spectrum. The department must report the survey results to the Legislature, prepare a summary of that survey, and make the summary available to the public. The department is to update the survey and summary periodically.

Votes on Final Passage:

House	97	0	
Senate	39	10	(Senate amended)
House	71	23	(House concurred in part)
Senate	36	11	(Senate receded)

Effective: June 6, 1996