

HOUSE BILL REPORT

SB 6091

As Passed House:

March 4, 2004

Title: An act relating to assuring that the rights of way of state highways accommodate the deployment of personal wireless service facilities.

Brief Description: Ensuring deployment of personal wireless service facilities.

Sponsors: By Senator Esser.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 2/18/04, 2/27/04 [DP].

Floor Activity:

Passed House: 3/4/04, 95-0.

Brief Summary of Bill

- Declares that the state policy limiting the access to state highway facilities in the interest of highway safety also assures that the use of rights of way for state highway limited access facilities accommodate deployment of personal wireless services consistent with highway safety and the public's investment in these highway facilities.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: Do pass. Signed by 16 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Nixon, Assistant Ranking Minority Member; Anderson, Blake, Bush, Delvin, Hudgins, Kirby, McMahan, Romero, Tom, Wallace and Wood.

Staff: Pam Madson (786-7166).

Background:

All public highways that are outside of incorporated cities and towns, and that are not county roads, are state highways. A state highway that is generally designed for through traffic is a "limited access facility." A state highway where adjacent property owners

have a limited right to enter and exit the highway, sometimes from private driveways or roads, is a "partially controlled limited access highway."

During the 2003 regular session, the Legislature passed SB 5959, which required the Department of Transportation to allow wireless telecommunications companies to access their facilities from partially controlled limited access highways. The bill also contained an intent section declaring that, among other things, approaches to partially controlled limited access highways "shall be permitted for the deployment of personal wireless facilities."

The Legislature also passed ESSB 5977, which required the Department of Transportation to establish a new lease process for the use of highway rights-of-way for personal wireless service facilities. That bill also contained intent sections declaring, among other things, that the use of the rights-of-way of state highways and limited access facilities "must be permitted for the deployment of personal wireless service facilities."

The Governor vetoed the intent sections in both bills, asserting that the sections could suggest the deployment of personal wireless facilities "should take precedence" over highway safety.

Summary of Bill:

The Legislature declares that personal wireless service is a critical part of the state's infrastructure, and that the rapid deployment of personal wireless service facilities is critical to ensure public safety, network access, quality of service, and rural economic development. The Legislature further declares that it is state policy to assure that the use of the rights-of-way of state highway limited access facilities accommodate the deployment of personal wireless service facilities consistent with highway safety and the preservation of the public investment in highway facilities.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This is a friendly veto override. There were a couple of bills last year that were designed to nudge Washington Department of Transportation (DOT) to facilitate the construction of wireless facilities in state highway rights-of-way. The Governor vetoed intent language in those bills. The parties worked to develop acceptable language during the special session last year. The compromise language recognizes that personal

wireless service is a critical part of the states infrastructures and the things that the DOT would do to facilitate these services would not be at the expense of public safety. This is a good compromise. The DOT has considered placement of these facilities important to the state and they have evidenced a change in their approach.

Testimony Against: None.

Persons Testifying: Senator Esser, prime sponsor; and Mike Woodin, ATT Wireless.

Persons Signed In To Testify But Not Testifying: None.