

HOUSE BILL REPORT

SHB 1183

As Passed Legislature

Title: An act relating to wireless communications structures.

Brief Description: Regarding wireless communications structures.

Sponsors: House Committee on Technology & Economic Development (originally sponsored by Representatives Morris, Smith, Habib, Crouse, Morrell, Magendanz, Freeman, Kochmar, Walsh, Tarleton, Dahlquist, Vick, Zeiger, Maxwell, Hudgins, Upthegrove, Ryu and Bergquist).

Brief History:

Committee Activity:

Technology & Economic Development: 1/22/13, 1/31/13 [DPS].

Floor Activity:

Passed House: 2/25/13, 92-0.

Senate Amended.

Passed Senate: 4/17/13, 37-11.

House Refused to Concur.

Senate Receded.

Senate Amended.

Passed Senate: 4/25/13, 37-10.

House Concurred.

Passed House: 4/26/13, 96-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Modifies the requirements under which a State Environmental Policy Act categorical exemption applies to siting wireless service facilities.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Dahlquist, Hudgins, Kochmar, Maxwell, Morrell, Stonier, Tarleton, Vick, Walsh, Wylie and Zeiger.

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.

Staff: Jennifer Thornton (786-7147).

Background:

State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state agencies and local governments to identify possible environmental impacts that may result from governmental decisions, including the issuance of permits or the adoption of or amendment to land use plans and regulations. The information collected through the SEPA review process may be used to change a proposal to mitigate likely impacts, or to condition or deny a proposal when adverse environmental impacts are identified.

Provisions in the SEPA generally require a project applicant to complete an environmental checklist that includes questions about the potential environmental impacts of the proposal. This checklist is then reviewed by a designated lead agency to determine whether the proposal is likely to have a significant adverse environmental impact. If the lead agency determines that a proposed project is likely to have a significant adverse impact on the environment, it must prepare an Environmental Impact Statement.

For some projects, including the types of projects that have been "categorically exempt" from the SEPA review process, no environmental review under the SEPA is required. Categorical exemptions to the SEPA review are identified in both state statute and rule. The siting of wireless service facilities that meet specific conditions is categorically exempt in statute from the SEPA review process. The Department of Ecology (DOE) is also required to adopt rules for this categorical exemption.

Among other provisions, Engrossed Second Substitute Senate Bill 6406 from 2012, required the DOE to update the rule-based categorical exemptions to the SEPA, as well as update the environmental checklist.

Federal Requirement to Approve the Siting of Certain Wireless Communication Facilities.

Federal law requires state and local governments to approve the request for the modification of an existing wireless tower or base station for certain facilities, if the modification does not substantially change the physical dimensions of such tower or base station. A policy directive subsequently issued by the Federal Communication Commission interpreted substantial change to mean:

- the mounting of equipment on a structure that would increase the height of the structure by more than 10 percent, or 20 feet, whichever is greater;
- the mounting of the proposed antenna or equipment would involve the addition of more than the standard number of new equipment cabinets, not to exceed four, or the addition of more than one new equipment shelter;
- the mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than 20 feet, or more than the width of the structure at the level of the appurtenance, whichever is greater; or
- the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the boundaries surrounding the tower and any existing access or utility easements related to the site.

Summary of Substitute Bill:

The conditions under which siting wireless service facilities are exempt from the SEPA review process are changed. The requirement for the facility to meet one of the following two exemption requirements is removed: (1) a microcell attached to an existing structure that does not contain a residence or school; or (2) wireless service antennas attached to an existing structure that does not contain a residence or a school, and is located in a commercial, industrial, manufacturing, forest, or agricultural zone. The exemption instead applies to collocating, removing, or replacing transmission equipment that does not: (1) increase the height of the structure by more than 10 percent or 20 feet; or (2) add a component to the structure that protrudes more than 20 feet, or more than the width of the structure at the level it is placed.

The exemption requirement that the project does not consist of a series of actions: (1) some of which are not categorically exempt; or (2) that together may have a probable significant adverse environmental impact is removed. It is replaced with language allowing an authorized exemption to be applied to a project consisting of a series of actions only when all actions in the series are categorically exempt and the actions together do not have a probable significant adverse environmental impact.

Collocation is defined as the mounting or installation of equipment on an existing tower, building, or structure for the purpose of either transmitting or receiving, or both, radio frequency signals for communications purposes.

Wireless service providers granted a SEPA exemption must report to the Legislature by January 1, 2020, on the number of permits issued, the number of SEPA exemptions granted, and the total dollar investment in wireless service facilities.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Washington hasn't done a lot of work in telecommunications in a decade. It is time to take a look at what needs to be updated, to make sure the infrastructure is in place in order to have the amount of wireless service needed. This bill resulted from legislation last year asking the DOE to update the SEPA guidelines. Local governments and the DOE asked for help from telecommunications companies to clean this statute up. This is also an economic development issue, as it is important to get that investment here.

(Opposed) None.

Persons Testifying: Representative Morris, prime sponsor; Steve Gano, AT&T; and Ken Lyons, AT&T and Busch Law Firm.

Persons Signed In To Testify But Not Testifying: None.