

HOUSE BILL REPORT

SB 5098

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to wireless communications structures.

Brief Description: Regarding wireless communications structures.

Sponsors: Senators Ericksen and Ranker.

Brief History:

Committee Activity:

Technology & Economic Development: 3/14/13, 4/2/13 [DPA].

Brief Summary of Bill
(As Amended by Committee)

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

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended. Signed by 16 members: Representatives Morris, Chair; Habib, Vice Chair; Smith, Ranking Minority Member; Crouse, Assistant Ranking Minority Member; Dahlquist, Hudgins, Kochmar, Magendanz, Maxwell, Morrell, Stonier, Tarleton, Vick, Walsh, Wylie and Zeiger.

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.

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.

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 Amended Bill:

The conditions under which siting personal wireless service facilities are exempt from the State Environmental Policy Act 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.

Amended Bill Compared to Original Bill:

The project requirement pertaining to a series of actions is rewritten for clarity.

Wireless service providers granted an exemption must report to the Legislature by January 1, 2020.

The term "environmentally sensitive area" is changed to "critical area."

The term "personal wireless service facilities" is changed to "wireless service facilities" throughout the bill.

The definition of "wireless services" is clarified to mean wireless data and telecommunications services.

"Existing structure" is defined as any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.