

SENATE BILL REPORT

SHB 1183

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, March 28, 2013

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

Committee Activity: Energy, Environment & Telecommunications: 3/14/13, 3/28/13 [DPA].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass as amended.

Signed by Senators Ericksen, Chair; Ranker, Ranking Member; Billig, Brown, Cleveland and Honeyford.

Staff: William Bridges (786-7416)

Background: State Environmental Policy Act (SEPA). SEPA generally requires a project applicant to complete an environmental checklist that includes questions about the potential environmental impacts of the proposal. If the lead agency determines that a proposed project will have a probable significant, adverse impact on the environment, it must prepare an Environmental Impact Statement. Categorical exemptions from SEPA review are identified in statute and rules.

SEPA Categorical Exemptions for Microcells and Personal Wireless Service Antennas. In 1996, the Legislature categorically exempted from SEPA the siting of certain personal wireless service facilities, namely microcells and antennas used to transmit cellular calls, in areas not designated as environmentally sensitive. The categorical exemptions are generally:

- microcells attached to an existing structure that is not a residence or school, and does not contain a residence or school; or

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- personal wireless service antennas attached to an existing structure that is not a residence or school and does not contain a residence or a school, and that is located in a nonresidential zone.

Microcells consist of an antenna that is either four feet in height with an area of not more than 580 square inches, or a tubular antenna no more than four inches in diameter and no more than six feet in length.

Updating Rule-Based Categorical Exemptions. As required by 2012 legislation, 2ESSB 6406, the Department of Ecology (DOE) is currently updating its SEPA categorical-exemption rules. The legislative requirement for updating the categorical exemptions expires July 31, 2014.

Federal Requirement to Approve the Siting of Certain Wireless Communication Facilities. Federal law requires state and local governments to approve requests 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 the tower or base. According to a policy directive issued by the Federal Communication Administration, substantial change means, among other things:

- the mounting of a proposed antenna on a tower that will increase the height of the tower by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater;
- the mounting of the proposed antenna that would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
- the mounting of a proposed antenna that will involve adding equipment to the tower which would protrude from the edge of the tower more than 20 feet, or more than the width of the tower at the level of the new equipment; or
- the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Summary of Bill (Recommended Amendments): Modifying the SEPA Categorical Exemptions for Siting Personal Wireless Service Facilities. The SEPA categorical exemptions for microcells and personal wireless service antennas are removed. A new categorical exemption is created for the collocation, removal, or replacement of transmission equipment that does not increase the height of the structure by more than 10 percent or 20 feet; or 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.

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.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (Recommended Amendments): Strikes and replaces the underlying bill with the text of SB 5098, the Senate companion bill.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: PRO: The bill does not affect the zoning and land use authority of local jurisdictions. The bill concerns changes to existing wireless structures, not the construction of new wireless structures.

Persons Testifying: PRO: Bob Bass, AT&T; Ken Lyons, Busch Law Firm.