

SENATE BILL REPORT

SB 5098

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 5, 2013

Title: An act relating to wireless communications structures.

Brief Description: Regarding wireless communications structures.

Sponsors: Senators Ericksen and Ranker.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/31/13, 2/05/13 [DP].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass.

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

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 as follows:

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

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.

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, which 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; or
- the mounting of a proposed antenna, which will involve adding equipment to the tower that 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.

Summary of Bill: Changing 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.

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: PRO: The bill updates SEPA to bring it in line with federal law. Because the categorical exemption is in statute, DOE is unable to make the change administratively. Local governments favor the change because it promotes a more efficient siting process.

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