

E2SSB 5935 - H AMD TO TED COMM AMD (H-5116.1/18) **1394**

By Representative Morris

1 On page 1, after line 2 of the striking amendment, insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 35.99
4 RCW to read as follows:

5 (1)(a) It is the policy of the state to promote the efficient
6 deployment of small cell facilities and small cell network
7 infrastructure by offering predictability for wireless service
8 providers and wireless infrastructure providers so communities
9 across the state have access to wireless communications technologies
10 and create a framework for the deployment of wireless communications
11 services. It is also the policy of the state that cities and towns
12 maintain sufficient authority to manage the public rights-of-way for
13 the health, safety, and welfare of their citizens and the general
14 public.

15 (b) It is the intent of the legislature that cities and towns
16 may require wireless service providers and wireless infrastructure
17 providers seeking to deploy small cell facilities or small cell
18 networks infrastructure to obtain a master permit or equivalent
19 authority under RCW 35.99.030. Additionally, a city or town may
20 require a wireless service provider or wireless infrastructure
21 provider to obtain appropriate permits to enter and use the
22 specified right-of-way for the purpose of installing, maintaining,
23 repairing, or removing identified small cell network facilities.

24 (2) Except as provided for in subsection (7) of this section,
25 cities and towns with a population equal to or greater than fifteen
26 thousand shall enact a small cell facility deployment ordinance, or
27 develop a small cell facility deployment policy establishing a

1 process for siting small cell facilities and small cell networks
2 within the right-of-way under this chapter, provided the city or
3 town has received a complete application and application fee for a
4 master permit from a wireless service provider or wireless
5 infrastructure provider for a small cell facility.

6 (3) A city or town may not require an applicant proposing to
7 site a small cell facility on an existing pole or structure to apply
8 for a conditional use permit except where:

9 (a) Such a proposal would require original installation of a new
10 pole or structure;

11 (b) Such a proposal would require an existing pole or structure
12 to be extended or replaced at a height more than ten feet above the
13 original height, as of the effective date of this act, of a pole or
14 structure, except where the applicant can demonstrate that the
15 requested pole height is the minimum needed to achieve necessary
16 safety clearances or the requirement of the pole owner; or

17 (c) The proposed facility does not meet established design
18 standards for small cell facilities or small cell networks.

19 (4)(a) A city or town that updates an existing small cell
20 facility deployment ordinance or policy, or adopts a small cell
21 facility deployment ordinance or policy must outline the process
22 that wireless service providers and wireless infrastructure
23 providers are required to follow in seeking a master permit to
24 deploy small cell facilities and small cell networks.

25 (b) The small cell facility deployment ordinance or policy must
26 treat wireless service providers and wireless infrastructure
27 providers in a competitively neutral and nondiscriminatory manner.

28 (5) The small cell facility deployment ordinance or policy must
29 include:

30 (a) Initial fees or deposits required for filing the master
31 permit application. The use of a deposit for administrative costs in
32 lieu of a set fee is not prohibited if the final, total
33 administrative fee charged complies with the requirements of RCW
34 35.21.860. The fee schedule may allow a permit applicant to pay an

1 additional fee for expedited permit processing if the city has
2 deployed such a process. This provision is not intended to require
3 jurisdictions to create an expedited permitting process when one
4 does not already exist; and

5 (b) An example fee schedule for leasing city or town-owned poles
6 in order to allow for nonbinding cost estimates. The fee schedule
7 must detail the specific factors or combination of factors driving
8 the lease rates.

9 (6) A small cell facility deployment ordinance or policy may
10 include the following provisions, at the discretion of the city or
11 town: Standards for the installation of small cell facilities and
12 small cell networks on city or town-owned structures located outside
13 of the right-of-way and other terms and conditions for these
14 installations.

15 (7) A city or town that, as of the effective date of this
16 section, has previously adopted an ordinance or policy, consistent
17 with this act, governing the siting of small cell network
18 infrastructure is not required to adopt or amend a small cell
19 facility deployment ordinance or policy as otherwise required under
20 subsection (2) of this section.

21 (8) A small cell facility deployment ordinance or policy enacted
22 as required by this section has no effect on previously adopted
23 franchises, permits, or agreements for small cell facilities or
24 small cell networks deployments made or entered into by any city or
25 town.

26 (9) Nothing in this section limits a city or town from issuing
27 master permits or use permits in accordance with other provisions of
28 this chapter.

29 (10) Nothing in this section may be construed as creating a duty
30 on cities or towns with a population less than fifteen thousand.
31 However, cities with a population of less than fifteen thousand may
32 adopt a small cell facility deployment ordinance or policy and the
33 provisions under subsection (2) of this section.

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1 (11) A city or town subject to the requirements in the section
2 that has not complied with this section by December 1, 2020 must
3 submit a letter to the appropriate committees of the legislature by
4 December 31, 2020 detailing the reasons for noncompliance.

5 (12) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Small cell facility" has the same meaning as defined in RCW
8 80.36.375(2)(d).

9 (b) "Small cell network" has the same meaning as defined in RCW
10 80.36.375(2)(e).

11 (c) "Wireless infrastructure provider" means any person,
12 including a person authorized to provide telecommunications service
13 in this state, that builds or installs wireless communication
14 transmission equipment, wireless facilities, or wireless support
15 structures, but that is not a wireless service provider.

16 (d) "Wireless services" means any services, whether at a fixed
17 location or mobile, provided using wireless facilities.

18 (e) "Wireless service provider" means a person who provides
19 wireless services."

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21 Renumber the remaining sections consecutively, correct any
22 internal references accordingly, and correct the title.

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24 On page 6, beginning on line 21 of the striking amendment, after
25 "access" strike ", including funding grants under section 5 of this
26 act"

27
28 On page 9, line 15 of the striking amendment, after "(c)" insert
29 ""Broadband" has the same meaning as defined in section 2 of this
30 act.

31 (d)"

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33 Renumber the remaining subsections consecutively and correct any
34 internal references accordingly.

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2 On page 10, line 3 of the striking amendment, after "(k)" insert
3 "Underserved areas" has the same meaning as defined in section 2 of
4 this act.

5 (l) "Unserved areas" has the same meaning as defined in section
6 2 of this act.

7 (m)"

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9 Correct any internal references accordingly.

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11 On page 11, line 23 of the striking amendment, after "area"
12 insert "at comparable levels to the existing service"

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14 On page 11, line 24 of the striking amendment, after "provided."
15 insert "To be eligible to receive support a communications provider
16 must agree to provide service without delay to every person and
17 business within each exchange for which program support is requested
18 and to be subject to regulation by the commission comparable to the
19 existing provider."

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EFFECT: Adds small cell siting ordinance requirements for cities and towns with populations at or over 15,000, including a permitting process, limits on the use of conditional use permits, neutral treatment of service providers, and inclusion of initial fee requirements and example leasing rates. Requires cities that have not complied with the requirements by 2020 to notify the Legislature of the reasons for noncompliance. Removes an obsolete internal reference. Incorporates definitions from the Broadband Office for "broadband," "underserved areas," and "unserved areas" for the Universal Communications Services (UCS) program. Modifies the UCS program eligibility criteria after July 1, 2022, to require provision of service at comparable levels to the existing service, provision of service within each exchange without delay, and regulation by the Utilities and Transportation Commission comparable to the existing provider.

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