

HOUSE BILL REPORT

HB 2592

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to the efficient deployment of small cell network infrastructure.

Brief Description: Concerning the efficient deployment of small cell network infrastructure.

Sponsors: Representative Morris.

Brief History:

Committee Activity:

Technology & Economic Development: 1/18/18, 1/30/18 [DPS].

Brief Summary of Substitute Bill

- Creates a designation process for local governments that demonstrate investment readiness for small cell infrastructure.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; DeBolt, Assistant Ranking Minority Member; Doglio, Hudgins, Santos, Wylie and Young.

Minority Report: Without recommendation. Signed by 4 members: Representatives Fey, Manweller, McDonald and Slatter.

Minority Report: Do not pass. Signed by 2 members: Representatives Nealey and Steele.

Staff: Lily Smith (786-7175).

Background:

A "small cell facility" is a personal wireless services facility where:

- each antenna and any exposed elements would fit within no more than three cubic feet; and

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.

- primary equipment enclosures are no larger than 17 cubic feet in volume.

Personal wireless services providers use poles, conduits, or rights-of-way owned by other providers or government entities to attach service equipment. Cities and towns can require providers to pay franchise fees or other fees or charges for the use of the right-of-way, as well as site-specific charges for placement of personal wireless facilities on structures owned by the municipality.

The Department of Commerce (Department) manages statewide programs relating to various areas of economic development, including planning and infrastructure. The Department is vested with the authority to oversee adoption and deployment efforts on behalf of the state.

Summary of Substitute Bill:

Local governments that demonstrate the following to the Department are designated investment-ready for advanced and new wireless technologies:

- a streamlined and predictable permit process period for installations in the right-of-way that is no longer than 12 months;
- application of installation standards that does not unreasonably discriminate among providers of functionally equivalent service; and
- either: (1) adoption of a deployment ordinance outlining standards when seeking a master permit; or (2) use of an existing mechanism to exempt small cell infrastructure from conditional use permit requirements, except in certain circumstances.

The ordinance or other mechanism adopted by the local government must:

- not unreasonably discriminate amongst providers except in certain circumstances for first-to-deploy;
- allow certain maintenance and replacement work without requiring an application, permit, or fee; and
- include a fee schedule with certain parameters and allowances, including the provision of examples of varying cost scenarios.

The Department must list the designated local governments on its website.

Substitute Bill Compared to Original Bill:

General.

The substitute bill specifies the permit processing period begins the date the city deems the application complete.

The nondiscrimination standards are modified.

Applicability to both wireless infrastructure providers and wireless service providers is specified throughout.

A city or town is specifically not limited from entering into lease agreements by the provisions.

The definition of "right-of-way" is modified, and definitions for "wireless infrastructure provider," "wireless services," and "wireless services provider" are added.

Ordinances.

The potential exemption from land use requirements is specifically applied to conditional use permits, except in certain circumstances.

Allowances for maintenance and replacement work are subjected to public works permit requirements, and an additional requirement for replacement work is added.

Permit Fee Schedules.

The restriction on recovery of permit processing costs for third-party consultants is removed.

The provision of attachment rates is modified to include examples of varying cost scenarios.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) This approach represents a compromise out of the discussions that have occurred since the last legislative session. There are still differences on the subject of rates. This would be a voluntary program to encourage investment. Cities passing ordinances are the ones seeing investments. Customers are using a large amount of data, and industry is in a competitive market to keep up with demand. Industry needs predictability. Larger towers would not be replaced, so small cells would be supplemental and not as many would be needed as has been argued.

(Opposed) Considerations for electrical providers may not be covered, and there are current problems with telecommunications equipment encroaching in areas with high voltage. Small cells are not that small, many would be needed to meet coverage guidelines in a given city, and multiple providers could want to deploy.

(Other) This is appropriately an incentive and not a mandate, and is a good starting point. Cities are committed to partnering to bring the next generation of technology and want to make sure the frameworks and standards are clear and feasible. Small cell deployment is critical for applications, technology, and services that consumers expect. Cities and industry can reach agreement, and a large amount of time and energy has already been invested in processes that facilitate this technology while protecting city values. There are concerns with

the bill in its current form, particularly there are multiple areas of uncertainty and the lack of protections around maintenance. Industry needs access through streamlined processes and cost-based fees. Cities need flexibility.

Persons Testifying: (In support) Representative Morris, prime sponsor; Milt Doumit, Verizon; and Carl Gipson, AT&T.

(Opposed) Morris Norton, Centralia City Light.

(Other) Dave Williams, Association of Washington Cities; Heidi Wachter, City of Lakewood; Amy Walen, City of Kirkland; Jesse Rice, City of Pasco; Jennifer Henning, City of Renton; and Jim Blundell, T-Mobile.

Persons Signed In To Testify But Not Testifying: Jill Boudreau, City of Mount Vernon.