
HOUSE BILL 2592

State of Washington

65th Legislature

2018 Regular Session

By Representative Morris

Read first time 01/10/18. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to the efficient deployment of small cell network
2 infrastructure; adding a new section to chapter 43.330 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) It is the policy of the state to
6 promote the efficient deployment of small cell network infrastructure
7 by offering a tool so wireless infrastructure providers can assess a
8 predictable process in local government jurisdictions so citizens
9 across the state have access to advanced wireless communications
10 technologies as soon as possible. A framework for the deployment of
11 wireless communication services that allows for local values to be
12 expressed but also signals where predictable wireless capital
13 investment can occur is the right balance. It is also the policy of
14 the state that cities and towns maintain sufficient legal authority
15 to manage the public rights-of-way for the health, safety, and
16 welfare of their citizens and the general public.

17 (2) It is the intent of the legislature that state of Washington
18 maintain a list of local governments that are investment ready for
19 advanced and new wireless technologies subject to the provisions of
20 chapter 43.330 RCW.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330
2 RCW to read as follows:

3 (1) A local government that can demonstrate to the department in
4 writing that it meets the criteria in (a) through (f) of this
5 subsection will be designated on the department's web site as being
6 investment-ready for advanced and new wireless technologies.

7 (a) A local government must demonstrate a streamlined and
8 predictable permit process period for installation of a small cell
9 facility or network in the right-of-way that is no longer than twelve
10 months. The permit processing period is measured from the date of
11 receipt of an application to the date the applicant is allowed entry
12 into and use of the specified right-of-way.

13 (b) A local government must demonstrate a nondiscriminatory and
14 competitively neutral application of standards for the installation
15 of microcells, small cell facilities, and small cell networks on city
16 or town-owned structures located outside of the right-of-way.

17 (c) A local government must demonstrate adoption of a small cell
18 facility deployment ordinance that outlines the standards that
19 personal wireless service providers must follow in seeking a master
20 permit to deploy microcells, small cell facilities, and small cell
21 networks; or the amendment or adoption of a policy or directive that
22 applies an existing ordinance or city regulation to exempt small cell
23 network infrastructure from general land use requirements in a manner
24 consistent with the requirements in Title 35 RCW.

25 (d) The ordinance, policy, or directive adopted in accordance
26 with (c) of this subsection must:

27 (i) Treat service providers in a competitively neutral and
28 nondiscriminatory manner, except that certain parts of local
29 government-owned infrastructure may be made available on a first-
30 provider-to-deploy basis until the attached or built microcells,
31 small cell facilities, and small cell networks stresses government-
32 owned property by increasing costs due to weight or conformance with
33 local aesthetics, or by shortening the life cycle;

34 (ii) Notwithstanding anything to the contrary in this section,
35 but subject to traffic control requirements, allow the following
36 types of small cell facility work without requiring an application,
37 permit, or fee:

38 (A) Routine maintenance; and

1 (B) The replacement of small cell facilities with small cell
2 facilities that are substantially similar or smaller in size, weight,
3 and height;

4 (iii) Include a permit fee schedule that:

5 (A) Treats service providers in a competitively neutral and
6 nondiscriminatory manner; and

7 (B) Allows the local government to recover at least the actual
8 costs of processing permits, provided the fee may not require any
9 direct payments to or reimbursement of third-party wireless
10 consultants, but may include reasonable reimbursement for the cost of
11 additional contract staff to address permit volume.

12 (e) The permit fee schedule outlined in (d)(iii) of this
13 subsection may:

14 (i) Allow the city or town to recover at least the actual costs
15 associated with the development of the small cell facility deployment
16 ordinance, policy, or directive amortized over the first five years
17 following adoption;

18 (ii) Allow a permit applicant to pay an additional fee for
19 expedited permit processing if the city has deployed such a process.
20 This provision is not intended to require jurisdictions to create an
21 expedited process when one does not already exist; and

22 (iii) Require the permit applicant to pay fair market rent or
23 other consideration if the master permit proposes to deploy wireless
24 facilities on city or town-owned poles. The annual recurring rate may
25 not exceed the actual, direct, and reasonable costs related to the
26 percentage of the volume of the capacity of the pole rendered
27 unusable by the small cell, multiplied by the annual cost of
28 ownership of the pole. The annual cost of ownership is the sum of
29 capital costs and annual operating costs of the pole.

30 (2) Nothing in this section limits a city or town from issuing
31 master permits or use permits in accordance with the provisions of
32 chapter 35.99 RCW.

33 (3) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Microcell" has the same meaning as defined in RCW
36 80.36.375(2)(b).

37 (b) "Permit" means a master permit, use permit, or any other form
38 of small cell installation authorization.

39 (c) "Pole" means a pole or similar structure that is or may be
40 used in whole or in part by or for wireline communications, electric

1 distribution or transmission, lighting, traffic control, signage, or
2 a similar function.

3 (d) "Right-of-way" means the area on, below, or above a public
4 roadway, highway, street, sidewalk, alley, utility easement, or
5 similar property, but not including a federal interstate highway.

6 (e) "Small cell facility" has the meaning as defined in RCW
7 80.36.375(2)(d).

8 (f) "Small cell network" has the meaning as defined in RCW
9 80.36.375(2)(e).

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