
SUBSTITUTE HOUSE BILL 2175

State of Washington

63rd Legislature

2014 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Morris, Morrell, and Stanford)

READ FIRST TIME 02/03/14.

1 AN ACT Relating to removing barriers to economic development in the
2 telecommunications industry; and amending RCW 80.36.375 and 35.21.860.

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

4 **Sec. 1.** RCW 80.36.375 and 1997 c 219 s 2 are each amended to read
5 as follows:

6 (1) If a (~~personal~~) wireless service provider applies to site
7 several (~~microcells and/or minor~~) wireless service facilities in a
8 single geographical area:

9 (a) If one or more of the (~~microcells and/or minor~~) wireless
10 service facilities are not exempt from the requirements of RCW
11 43.21C.030(2)(c), local governmental entities are encouraged: (i) To
12 allow the applicant, at the applicant's discretion, to file a single
13 set of documents required by chapter 43.21C RCW that will apply to all
14 the (~~microcells and/or minor~~) wireless service facilities to be
15 sited; and (ii) to render decisions under chapter 43.21C RCW regarding
16 all the (~~microcells and/or minor~~) wireless service facilities in a
17 single administrative proceeding; and

18 (b) Local governmental entities are encouraged: (i) To allow the
19 applicant, at the applicant's discretion, to file a single set of

1 documents for land use permits that will apply to all the (~~microcells~~
2 ~~and/or minor~~) wireless service facilities to be sited; and (ii) to
3 render decisions regarding land use permits for all the (~~microcells~~
4 ~~and/or minor~~) wireless service facilities in a single administrative
5 proceeding.

6 (c) For small cell networks involving multiple individual small
7 cell facilities, local governmental entities shall allow the applicant,
8 if the applicant so chooses, to file a consolidated application and
9 receive a single permit for the small cell network instead of filing
10 separate applications for each individual small cell facility.

11 (2) For the purposes of this section:

12 (a) "~~(Personal)~~ Wireless services" means data and
13 telecommunications services, including commercial mobile services,
14 commercial mobile data services, unlicensed wireless services, and
15 common carrier wireless exchange access services, as defined by federal
16 laws and regulations.

17 (b) (~~"Microcell" means a wireless communication facility~~
18 ~~consisting of an antenna that is either: (i) Four feet in height and~~
19 ~~with an area of not more than five hundred eighty square inches; or~~
20 ~~(ii) if a tubular antenna, no more than four inches in diameter and no~~
21 ~~more than six feet in length.~~

22 (~~"Minor facility" means a wireless communication facility~~
23 ~~consisting of up to three antennas, each of which is either: (i) Four~~
24 ~~feet in height and with an area of not more than five hundred eighty~~
25 ~~square inches; or (ii) if a tubular antenna, no more than four inches~~
26 ~~in diameter and no more than six feet in length; and the associated~~
27 ~~equipment cabinet that is six feet or less in height and no more than~~
28 ~~forty eight square feet in floor area.)) "Wireless service facility"
29 means a facility for the provision of wireless services.~~

30 (c) "Small cell facility" means either:

31 (i) A wireless service facility as defined by the federal
32 telecommunications act of 1996, as amended as of the effective date of
33 this section; or

34 (ii) A wireless service facility that meets both of the following
35 qualifications:

36 (A) Each antenna is located inside an antenna enclosure of no more
37 than three cubic feet in volume or, in the case of an antenna that has

1 exposed elements, the antenna and all of its exposed elements could fit
2 within an imaginary enclosure of no more than three cubic feet; and

3 (B) Primary equipment enclosures are no larger than seventeen cubic
4 feet in volume. The following associated equipment may be located
5 outside the primary equipment enclosure and if so located, are not
6 included in the calculation of equipment volume: Electric meter,
7 concealment, telecom demarcation box, ground-based enclosures, battery
8 back-up power systems, grounding equipment, power transfer switch, and
9 cut-off switch.

10 (d) "Small cell network" means a collection of interrelated small
11 cell facilities designed to deliver wireless service to a defined
12 geographic area.

13 **Sec. 2.** RCW 35.21.860 and 2007 c 6 s 1020 are each amended to read
14 as follows:

15 (1) No city or town may impose a franchise fee or any other fee or
16 charge of whatever nature or description upon the light and power, or
17 gas distribution businesses, as defined in RCW 82.16.010, or telephone
18 business, as defined in RCW 82.16.010, or service provider for use of
19 the right-of-way, except:

20 (a) A tax authorized by RCW 35.21.865 may be imposed;

21 (b) A fee may be charged to such businesses or service providers
22 that recovers actual administrative expenses incurred by a city or town
23 that are directly related to receiving and approving a permit, license,
24 and franchise, to inspecting plans and construction, or to the
25 preparation of a detailed statement pursuant to chapter 43.21C RCW;

26 (c) Taxes permitted by state law on service providers;

27 (d) Franchise requirements and fees for cable television services
28 as allowed by federal law; and

29 (e) A site-specific charge pursuant to an agreement between the
30 city or town and a service provider of personal wireless services
31 acceptable to the parties for:

32 (i) The placement of new structures in the right-of-way regardless
33 of height, unless the new structure is the result of a mandated
34 relocation in which case no charge will be imposed if the previous
35 location was not charged;

36 (ii) The placement of replacement structures when the replacement
37 is necessary for the installation or attachment of wireless facilities,

1 the replacement structure is higher than the replaced structure, and
2 the overall height of the replacement structure and the wireless
3 facility is more than sixty feet; or

4 (iii) The placement of personal wireless facilities on structures
5 owned by the city or town located in the right-of-way. However, a
6 site-specific charge shall not apply to the placement of personal
7 wireless facilities on existing structures, unless the structure is
8 owned by the city or town.

9 A city or town is not required to approve the use permit for the
10 placement of a facility for personal wireless services that meets one
11 of the criteria in this subsection absent such an agreement. If the
12 parties are unable to agree on the amount of the charge, the service
13 provider may submit the amount of the charge to binding arbitration by
14 serving notice on the city or town. Within thirty days of receipt of
15 the initial notice, each party shall furnish a list of acceptable
16 arbitrators. The parties shall select an arbitrator; failing to agree
17 on an arbitrator, each party shall select one arbitrator and the two
18 arbitrators shall select a third arbitrator for an arbitration panel.
19 The arbitrator or arbitrators shall determine the charge based on
20 comparable siting agreements involving public land and rights-of-way.
21 The arbitrator or arbitrators shall not decide any other disputed
22 issues, including but not limited to size, location, and zoning
23 requirements. Costs of the arbitration, including compensation for the
24 arbitrator's services, must be borne equally by the parties
25 participating in the arbitration and each party shall bear its own
26 costs and expenses, including legal fees and witness expenses, in
27 connection with the arbitration proceeding.

28 (2) Subsection (1) of this section does not prohibit franchise fees
29 imposed on an electrical energy, natural gas, or telephone business, by
30 contract existing on April 20, 1982, with a city or town, for the
31 duration of the contract, but the franchise fees shall be considered
32 taxes for the purposes of the limitations established in RCW 35.21.865
33 and 35.21.870 to the extent the fees exceed the costs allowable under
34 subsection (1) of this section.

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