



Protect Our Local Streets
A Lobbying Coalition by
Best Best & Krieger LLP

Date: May 26, 2017

To: Members of the Senate

Subject: ****NO DEAL** OPPOSE SB 649 (Hueso)**
Special Permitting and Mandated Leasing of Public Property for "Small Cell" Wireless Infrastructure

Representing millions of Californians, our coalition of local government stakeholders, including the California Chapter of the American Planning Association (APA California), the League of California Cities (League), the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC) and Protect our Local Streets Coalition (POLS) **STRONGLY OPPOSE SB 649.**

SB 649 eliminates public input, full local environmental and design review, and the ability for local governments to negotiate leases or any public benefit for the installation of "small cell" equipment on taxpayer funded property. These not-so-small "small cell" structures would be required to be allowed on public property in *any* zone in a city or county and would be subject to a confusing permitting process carved out for the sole benefit of the wireless industry.

Despite public commitments by the sponsors to work out amendments on fee calculations NO CHANGES WERE MADE IN APPROPRIATIONS COMMITTEE. This bill continues to move with empty and broken promises, failing to address critical concerns inherent in such a monumental shift in telecommunications law.

This is a major issue that will affect every single city and county in the state, nearly all of which continue to oppose the amended language. While we certainly appreciate the work of the author and the Chair of Senate Governance and Finance Committee to try and narrow the measure, we still have the following concerns:

By-Right Approval for "Small Cells"- Full Discretionary Review ELIMINATED

While the wireless industry promises local governments will retain their discretion, the bill clearly eliminates the full discretion locals currently have to require that such equipment blends into the communities they are entering and that providers maintain their equipment. The bill eliminates the ability of a city or county to negotiate any public benefit such as providing network access for the local library. Additionally, this bill places the entire burden on local governments to adopt a complicated set of ordinances, again increasing costs to the local jurisdiction, at the same time the bill caps the flexible revenue cities and

counties can generate for public services such as infrastructure, police, fire, libraries, or looming pension obligations.

Mandatory Leasing of City or County Property at Little to No Cost for the Promise of 5G

SB 649 forces local government to rent space for small cells on public property at rates far below fair market value and requires that every jurisdiction, in order to use its own public property, provide “substantial evidence” that the space is needed by that community. Rents from the use of public property, which every other for-profit business pays, help defray the cost of essential public services that are otherwise provided at taxpayer expense. **SB 649 sets a dangerous precedent for other private industries to seek similar treatment, further eroding the ability to fund local services.**

The bill now sets an arbitrary cap of \$850 that a jurisdiction can charge for mandated use of public property. As part of an agreement when the bill passed out of Senate Governance and Finance Committee, the bill was to be further amended to clarify how those fees could be calculated. **That amendment never happened and the bill is now on the floor.**

Full Discretionary Review ONLY for Coastal and Historical Districts

The bill explicitly allows for a discretionary review in areas within the coastal zone or in historical districts. Those who aren’t lucky enough to be included in this exemption are essentially left with little ability to clearly apply design standards. **With these amendments, it’s clear that supporters of the bill concede discretionary review is important... but only for *certain areas* of the state.**

Small Cell Deployment is New – Where’s the Problem?

Small cells are just in the beginning stages of being deployed. Given that many jurisdictions haven’t even processed a small cell permit yet, or only handled a small number, it is unclear why there is such an urgent need for this bill. This bill is being passed with the assumption that there *will be* issues, which supporters have yet to demonstrate.

What other types of structures or industries will be next in line to demand free or low cost access to public property to boost corporate profit margins?

While the undersigned organizations support the deployment of wireless facilities to ensure that Californians have access to telecommunications services, this goal is not inherently in conflict with appropriate local planning and appropriate fee negotiations on publically owned infrastructure. For the above reasons, and many more, we respectfully urge a NO vote.