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Meeting Date 6/27/17 Consent Agenda item 12. 17-0705

1 message

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Mon, Jun 26, 2017 at 9:11 PM

To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>

I noticed on El Dorado County's meeting Consent Agenda item 12. 17-0705 is to vote to send a letter to Senator Hueso opposing SB649. I would like to ensure the county supervisors have all the facts before they vote to oppose this bill. Increasing mobile broadband capacity provides the foundation for innovative products and services for more Californians. Communities that embrace the next generation of wireless networks stand to benefit from the associated growth in jobs and economic activity. Cities and towns will also be empowered to explore "smart city" initiatives to conserve natural resources, save money, and improve the quality of life of their residents.

There has been several amendments to the bill based on feedback received, I have attached a summary for their reference. We all know that ubiquitous, working and fast wireless service is critical to public safety, commerce and economic development in the region. I urge them to review the attached documents before they vote to oppose SB649.

Respectfully;

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President - HACEMOS Sacramento
Keep your eyes on the road, not on your phone.
Take the pledge...It Can Wait.

3 attachments
SB 649 Myth vs. Fact.pdf
 55K

 SB 649 Benefits and Process.pdf
 347K

 SB 649 - Municipal Amendments.pdf
 66K

SB 649 (Hueso)

Accelerating next generation wireless technologies in California.

Critics are spreading myths about SB 649, but the FACTS are clear. SB 649 will support the state's economy and improve wireless communications for Californians.

MYTHS	FACTS
This bill strips away local government's authority	<ul style="list-style-type: none">✓ Not true.✓ The bill simply ensures that small cells are subject to the same permitting standards that have been in place for decades for wireline installations in the public rights of way – rather than the onerous, lengthy, and expensive zoning and planning processes applied to large wireless towers.✓ Nothing in the bill affects or eliminates a municipality's ability to reject applications that do not comply with the municipality's permitting requirements and standards.✓ The bill also allows access to city owned infrastructure at fair and reasonable terms and conditions, and under cost based rates.✓ Again, a municipality can deny access to their property with respect to small cells that do not comply with municipal requirements. <p>Local governments retain the ability to:</p> <ul style="list-style-type: none">▪ Require local building or encroachment permits for small cell installations.▪ Impose reasonable terms and conditions on permits– including health and safety conditions.▪ Reserve space on infrastructure for local government needs.▪ Prohibit squatting by imposing reasonable time limits on construction. Impose fair and reasonable terms and conditions on access to city owned vertical infrastructure and property,

	<p>including compliance with reasonable design and collocation standards.</p> <ul style="list-style-type: none"> ▪ Fully recover the costs of attachments.
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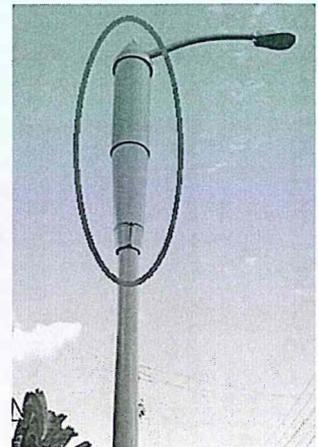
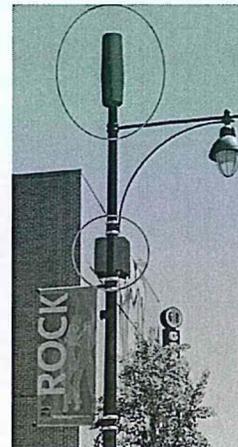
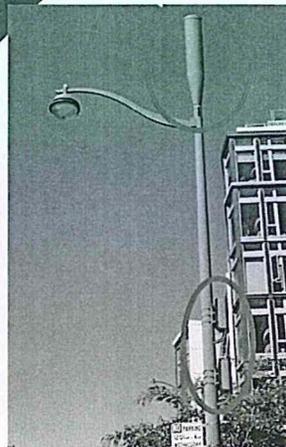
<p>This bill isn't needed, small cells can be deployed under existing rules</p>	<ul style="list-style-type: none"> ✓ SB 649 is needed because some localities are subjecting these small wireless facilities to the same zoning and planning processes required for a 150 macro tower. ✓ This means that, in some localities, approval of a single small cell can take 18-24 months. ✓ In addition, the rates municipalities are charging to attach to their vertical infrastructure are not economically sustainable. ✓ Under the existing scenarios it would be near impossible to fully deploy the 5G network.
<p>This bill will negatively impact community aesthetics</p>	<ul style="list-style-type: none"> ✓ Small cells are generally small, unobtrusive facilities attached to utility poles, streetlights, and other vertical structures in public rights-of-way. ✓ Small cells cannot exceed the volumetric limits set forth in the bill. ✓ Municipalities may impose feasible design and collocation standards. ✓ Coastal zones and historic districts are exempted from the bill to further support and protect local aesthetics.
<p>This bill does not allow local government to negotiate a fair market rate</p>	<ul style="list-style-type: none"> ✓ SB 649 contemplates full cost recovery for municipalities for small cell attachments. ✓ The rates that a large number of municipalities have been charging are many, many times over costs. ✓ "Fair Market Value" inherently includes the notion that neither the seller nor the buyer are pressured or forced to act. In the context of

	<p>municipal pole attachments, wireless providers have no choice but to obtain attachments from municipalities, who are the only providers of vertical infrastructure in the public ROW in most cities (where private utility carrying plant is mostly underground).</p>
<p>This bill is effectively an exemption to the California Environmental Quality Act (CEQA)</p>	<ul style="list-style-type: none"> ✓ These small utility constructions are already exempt from CEQA under Categorical Exemption #3, for small structures.
<p>This bill allows for bulky equipment on sidewalks.</p>	<ul style="list-style-type: none"> ✓ SB 649 fully preserves municipal authority to manage the public rights of way and to ensure that telecommunications installations do not “incommode” the traveling public and manage the time, place, and manner of installation of sidewalk placements. ✓ The bill requires compliance with ADA standards.
<p>This bill gives control of public property to private telecommunications companies</p>	<ul style="list-style-type: none"> ✓ Under SB 649, telecommunications companies must first obtain a lease or license agreement to attach to city owned property. ✓ The bill also permits local governments to impose terms and conditions of access and obtain full cost recovery.
<p>This bill is written to benefit big telecommunications companies</p>	<ul style="list-style-type: none"> ✓ SB 649 is technology neutral and helps ensure the deployment of necessary services the public wants and needs. ✓ Deployment of small cell infrastructure is critical address capacity issues and enable 5G wireless technology and Internet of Things (IoT) capabilities. ✓ SB 649 will help support California’s leadership in the technology and innovation economy.
<p>This bill could impact community health</p>	<ul style="list-style-type: none"> ✓ All wireless infrastructure, including small cells, must meet the FCC’s regulations regarding radiofrequency emissions, and municipalities may require carriers to submit additional information showing compliance with those regulations.

	<ul style="list-style-type: none">✓ In addition, SB 649 allows local government to require compliance with all applicable health and safety regulations.
This bill fails to help rural communities	<ul style="list-style-type: none">✓ Small cell deployment is driven largely by network density and 5G deployment. While the initial wave of small cell construction should be expected to start in larger areas with more density, deployment will expand over time.✓ SB 649 helps all communities by decreasing a wireless provider's cost of investment per small cell, allowing for more capital expenditure in smaller areas.

SB 649 (Hueso):

Accelerating **next generation wireless** technologies in California



What are the Benefits of Small Cell Wireless Technologies for California?

- Small cell wireless technologies will support jobs and economic growth in California.
- Small cell technologies will help deliver 5G and the Internet of Things (IoT) in California.
- 5G deployment could create 11,000 jobs in California and the state could potentially see as many as 375,000 jobs created in the long-term.
- Small cell technologies will help communities improve infrastructure, public transportation, public safety, air quality, health care, education, and energy grids.

How Does SB 649 Support Small Cell Deployment?

- SB 649 takes a practical approach to streamlining the permitting process for small cells while ensuring local governments retain necessary oversight.
- SB 649 grants fair, reasonable, nondiscriminatory, and nonexclusive access to infrastructure within the public right-of-way.
- SB 649 helps deploy wireless technology infrastructure, enhancing wireless connectivity, coverage, and capacity in California's communities.

What Authority Does Local Government Retain?

- Ability to impose reasonable terms and conditions– including health and safety conditions.
- Ability to request compliance information for FCC regulations concerning radio frequency emissions.
- Ensures all necessary local building or encroachment permits are obtained.
- Allows for a reasonable and nondiscriminatory fee associated with a permit application.
- Compliance with all related health, safety, and objective aesthetic requirements on a ministerial basis.
- Full recovery by local governments of the costs of attaching small wireless facilities.
- Right to refuse permit renewal if the wireless facility fails to comply with applicable codes and permit conditions.

SB 649—accelerating next generation wireless technologies in California.

Current Permitting Process

- City or county zoning and planning review can take months or even years to complete.
- One or more public hearings on the discretionary permit required.
- Subjective or unpredictable city or county aesthetic or design requirements.
- Inconsistent processes to adhere to local requirements, including any applicable community plan or specific plan, and zoning ordinance.
- Allows for onerous, lengthy, and expensive legal challenges, including challenges by third parties.

Process Under SB 649

- ✓ **SB 649 grants fair, reasonable, nondiscriminatory, and nonexclusive access to city or county infrastructure within the public right-of-way.**

SB 649 maintains the following safeguards:

- ✓ Requires building or encroachment permits for installations in the public right of way.
- ✓ Retains city control over time, place, and manner of installation.
- ✓ Requires compliance with all related health, safety, and other applicable codes.
- ✓ Requires lease or license agreements before attaching small cells to city infrastructure.
- ✓ Full recovery by local governments of the costs of attaching small wireless facilities.
- ✓ Size limits as established by the Federal Communications Commission (FCC).
- ✓ Permit renewal only if the wireless facility complies with all applicable codes and permit conditions.

SB 649 (Hueso) Accelerating next generation wireless technologies in California

Amendments Taken to Address Municipal Concerns:

65964.2 section (a): Permitting – access to public rights of way and on property zoned for commercial or industrial use.

1. Removed reference to discretionary permits to address concern that by including the term all discretion was removed from the permitting process.
2. To eliminate any confusion as to the types of permits that can be required for small cells under this legislation, the reference to “administrative” or “ministerial” permits was eliminated. The amendments clarify that small cells are subject to the city or county permitting processes spelled out in section (b)
3. Added language requiring small cell installations to comply with all applicable *federal* regulations in addition to state and local health and safety regulations, *including compliance with the Americans with Disability Act*, to address concerns that the bill was giving wireless carriers the right to block sidewalks.

65964.2 section (b): Permitting – permitting processes applicable to small cells in the public rights of way and on property zoned for commercial or industrial use.

1. Removed the ambiguous reference to “administrative permits” and added language ensuring that local governments may require building permits or their function equivalent for small cells outside the public rights of way and encroachment permits or their functional equivalent as required for similar construction projects.
2. Added language that the encroachment permit be issued consistent with Section 7901 and 7901.1 to clarify that the bill does not impact existing city or county time, place and manner authority already in place for telecommunications installations in the public rights of way.
3. Added language clarifying that small cell permits could include a condition requiring carriers to submit information showing compliance with FCC RF emissions regulations.
4. Added a condition that the permit may be rescinded if construction is not substantially commenced within one year, and absent good cause, may not be renewed within six months at the same location.
5. Added a condition that small cells no longer used to provide service shall be removed at no cost to the city or county.
6. Added language requiring compliance with building codes, including building code structural requirements.
7. Added a condition that the applicant pay the electricity costs associated with the operation of the small cell.
8. Added a condition requiring compliance with feasible design and collocation standards on a small cell installed on property not in the public right-of-way.

65964.2 section (c): Leasing or Licensing space on city or county owned vertical infrastructure.

1. Added language ensuring that reasonable terms and conditions include *feasible design and collocation standards*.
2. Added language that cities and counties can reserve space on their vertical infrastructure if capacity is needed for city or county use.
3. Added language allowing cities and counties to charge annual attachment rates that allow full cost recovery as well as an additional annual fee of \$250 per attachment.
4. Added a process for developing and adopting annual attachment rates.

65964.2 section (d): Leasing or Licensing space on city or county owned property not located in the public rights of way.

1. Added language ensuring that a city or county's obligation to lease or license property outside the public rights of way for small cell installations only extends to property that is leased or licensed for *comparable* commercial uses.
2. Added language that clarifies city and counties retain authority to subject small cell installation to feasible design and collocation standards.

65964.2 section (f): Definitions – equipment size; what constitutes a small cell, etc.

1. Modified definition of small cell to eliminate volumetric allowances of 28 c.f. and 35 c.f. A small cell is now defined as an antenna or antennas no greater than 6 c.f. in total, with the associated equipment on the pole no greater than 21 c.f. in total.
2. Limited any single piece of associated equipment on a pole structure to 9 c.f. to ensure that 21 c.f. "large sized" boxes will not be placed on poles.
3. Clarified that the cumulative total size of any ground mounted equipment along with the associated equipment on any pole or non-pole structure does not exceed 35 cubic feet.
4. Removed wireless facilities in historic districts from the definition of small cell.
5. Removed wireless facilities in coastal zones subject to the jurisdiction of the California Coastal Commission from the definition of small cell.
6. Removed reference to "signs and related structures" from the definition of "vertical infrastructure."
7. Clarified that the reference to vertical infrastructure *owned or controlled* by a city or county by adding language defining "controlled" as having the right to allow subleases or sublicenses.
8. Added language allowing a city or county to impose feasible design or collocation standards for small cells placed on vertical infrastructure, including the placement of associated equipment on the vertical infrastructure or the ground.

65964.2 section (g): Existing agreements.

1. Added language clarifying that existing agreements between wireless carriers and cities or counties, and their agents and assigns, regarding the leasing or licensing of vertical infrastructure entered into prior to the effective date of the bill shall remain in effect, subject to applicable termination or other provisions in the agreements, or unless the agreement is modified by mutual agreement of the parties.