

Washington Senate Bill 5935 – To Senate Energy, Environment & Telecommunications Committee as of 1/25/18

Permit Requirements:

- (Page 2, Lines 3-18) “(b) It is the intent of the legislature that cities and towns may require personal wireless service providers seeking to deploy microcells, small cell facilities, or small cell network infrastructure to obtain a master permit under RCW 35.99.030. Additionally, a city or town may require a wireless service provider to obtain a use permit to enter and use the specified right-of-way for the purpose of installing, maintaining, repairing, or removing identified small cell network facilities.
 - (c) The legislature intends to expedite the issuance of master permits and use permits, as provided under (b) of this subsection, by:
Exempting microcells, small cell facilities, and small cell network infrastructure from general land use requirements; and requiring cities and towns to adopt small cell network-specific ordinances with design standards. The legislature intends for these design standards to provide the public and personal wireless service providers with greater predictability.”

Small Cell Facility Deployment Ordinances:

- (Page 2, Lines 19-26) “(2) Except as provided for in subsection (10) of this section, within nine months of the effective date of this section, cities and towns with a population greater than twenty thousand, and within twelve months of the effective date of this section, cities and towns with a population of five thousand to twenty thousand, shall enact a small cell facility deployment ordinance establishing a process for issuing master permits for microcells, small cell facilities, and small cell networks under this chapter.”
- (Page 2, Lines 27-34) “(3)(a) A city or town with an adopted small cell facility deployment ordinance may not require a wireless service provider proposing to site a microcell, small cell facility, or small cell network infrastructure exclusively on existing poles or structures to apply for a conditional use permit, or other general land use permit or approval, unless the proposal: Would require a new pole; is outside the scope of any approved master permit; or does not meet the established design standards.”
- (Page 2, Lines 39-40; Page 3, Lines 1-2) “(4) A small cell facility deployment ordinance must outline the standards that personal wireless service providers are required to follow in seeking a master permit to deploy microcells, small cell facilities, and small cell networks as defined in RCW 80.36.375.”
- (Page 3, Lines 5-12) “(6) The ordinance may provide design standards applicable to any master permit issued under RCW 35.99.030 for a microcell, small cell facility, or small cell network, subject to the following:
 - (a) Design standards must be feasible, reasonable, and objective.

- (b) Design standards must be nondiscriminatory, consistent with 47 U.S.C. Sec. 253(c).
 - (c) The small cell facility ordinance may include pictorial representation of the adopted design standards.”
- (Page 3, Lines 15-30) “(8) The ordinance must include a fee schedule outlining master permit and use permit fees. The fee schedule:
 - (a) Must allow the city or town to recover at least the actual costs of processing master permits and use permits;
 - (b) May allow the city or town to recover at least the actual costs associated with the development of the small cell facility deployment ordinance amortized over the first five years following adoption of the ordinance;
 - (c) May allow a permit applicant to pay an additional fee for expedited permit processing if the city has deployed such a process. This provision is not intended to require jurisdictions to create an expedited permitting process when one does not already exist;
 - (d) May require the permit applicant to pay fair market rent or compensation if the master permit proposes to deploy microcells, small cell facilities, or small cell networks on city or town-owned poles.”
- (Page 3, Lines 31-37) “(9) A small cell facility deployment ordinance may include the following provisions, at the discretion of the city or town: Standards for the installation of microcells, small cell facilities, and small cell networks, as defined in RCW 80.36.375, on city or town-owned structures located outside of the right-of-way. The standards may include requirements for fair market rent, other compensation, and other terms and conditions for these installations.”
- (Page 3, Lines 38-40; Page 4, Lines 1-7) “(10) A city or town that, as of the effective date of this section, has previously adopted an ordinance governing the siting of small cell network infrastructure is not required to adopt a small cell facility deployment ordinance as otherwise required under subsection (2) of this section.
 - (11) A small cell facility deployment ordinance enacted as required by this section has no effect on previously adopted franchises, permits, or agreements for microcells, small cell facilities, or small cell networks deployments made or entered into by any city or town.”
- (Page 4, Lines 11-15) “(13) Nothing in this section may be construed as creating a duty on cities or towns with a population less than five thousand. However, cities with a population of less than five thousand may adopt a small cell facility deployment ordinance and the provisions under subsection (2) of this section.”

FCC’s National Broadband Plan:

- (Page 4, Lines 17-39; Page 5, Lines 1-9) The FCC recommendations concerning design policies, the allocation and management of assets [poles and rights-of-

way], laws, standards, and incentives in place that impact deployment in high-cost areas versus other areas and the benefits of broadband in public sectors with significant government sway, and the minimum download and upload speeds are also deemed appropriate for the state of Washington.

Governor's Office on Broadband Access

- (Page 5, Lines 10-39; Page 6, Lines 1-20) The Office on Broadband Access will be established, and its objectives are listed within this section such as “coordinate with communities, public and private entities, and consumer-owned and investor-owned utilities to develop strategies and plans for deployment of broadband infrastructure and access to broadband services,” and “review existing broadband initiatives, policies, and public and private investments and make comprehensive recommendations, as required under section 4(4) of this act, to advance the state's broadband access goals.”
- Emphasis on bridging the gap on broadband access in undeserved or unserved areas of the state.

Governor's Office on Broadband Access – Broadband Access Task Force

- (Page 6, Lines 21-39; Page 7, Lines 1-39; Page 8, Lines 1-40; Page 9, Lines 1-11) The Broadband Access Task Force clarifies the task force's member makeup and its objectives like the following: “Current initiatives and programs in the state as well as the status of implementation of recommendations from previous broadband access reports,” and “state, local, and industry programs throughout the country that illustrate best practices in the provision of broadband access and that incorporate performance-based measures.”
- This task force will also review charges related to “...pole attachments that include, but are not limited to: Recognizing the value of locally regulated utility infrastructure; considers a consistent cost-based formula for calculating fair, just, reasonable, and sufficient rates to ensure predictability and consistency; ensures rates do not subsidize licensees; and the impacts of unauthorized attachments; and (B) For installation of other telecommunications facilities and equipment on public property and within public rights-of-way.
 - (ii) The task force must also perform a review of the standards and formulas applicable under RCW 54.04.045 and 35.21.455, rules of the utilities and transportation commission, rules of the federal communications commission, and recommended by the American public power association.”

Broadband Deployment Partnership Initiative

- (Page 9, Lines 12-39; Page 10, Lines 1-20) “The Broadband Deployment Partnership Initiative is created for the purpose of initiating and fostering partnerships between entities that facilitate deployment of broadband to enhance and expand broadband services in underserved and unserved areas of the state. The

broadband deployment partnership initiative may include wholesale, retail, or other telecommunications services projects that bring broadband infrastructure or broadband services to unserved or underserved areas of the state.”

Competitive Grant Program

- (Page 10, Lines 23-34) “(1) The department must implement and administer a competitive grant program to assist qualified local governments and public entities, including public utility districts, port districts, and local jurisdictions, to deploy broadband services in underserved and unserved areas of the state, as required under section 3(4) of this act.
 - (2)(a) The department must develop rules for grant eligibility and as necessary to implement and administer a grant program under section 3(4) of this act.
 - (b) The obligation of the department to make grant payments is contingent upon the availability of the amount of money available for this purpose as required under section 3(4) of this act.”