

AMENDED IN ASSEMBLY APRIL 6, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 57

Introduced by Assembly Member Quirk

December 2, 2014

~~An act to amend Section 8886 of the Government Code, relating to communications.~~ *An act to add Section 65964.1 to the Government Code, relating to telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Quirk. ~~Broadband communications infrastructure.~~ *Telecommunications: wireless telecommunication facilities.*

Existing law requires a city, including a charter city, or county to administratively approve an application for a collocation facility on or immediately adjacent to a wireless telecommunications collocation facility, as defined, through the issuance of a building permit or a nondiscretionary permit, as specified. Existing law prohibits a city or county from taking certain actions as a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility.

Under existing federal law, the Federal Communications Commission issued a ruling establishing reasonable time periods within which a local government is required to act on a collocation or siting application for a wireless telecommunications facility.

This bill would provide that a collocation or siting application for a wireless telecommunications facility is deemed approved, if the city or county fails to approve or disapprove the application within the time

periods established by the commission and all required public notices have been provided regarding the application.

~~The existing federal Telecommunications Act of 1996 preempts any state or local statute or regulation that may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. However, this provision does not prohibit a state from imposing, on a competitively neutral basis, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers, nor does it prevent a state or local government from managing the public rights-of-way or requiring fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis.~~

~~Under existing law, telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within the state, and may erect related poles, posts, piers, abutments, and other necessary fixtures of their lines, but may not incommode the public use of the road or highway or interrupt the navigation of the waters. Existing law declares the intent of the Legislature that, consistent with this authorization, municipalities have the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed, but that for the control to be reasonable it must, at a minimum, be applied to all entities in an equivalent manner.~~

~~Existing law establishes the California Broadband Council in state government for the purpose of promoting broadband deployment in unserved and underserved areas of the state and broadband adoption throughout the state, imposes specified duties on the council relating to that purpose, and specifies the membership of the council.~~

~~This bill would state the intent of the Legislature to enact legislation to promote the deployment of communications infrastructure by removing barriers to investment. The bill would add the President of the Board of Directors of the League of California Cities and the President of the Executive Committee of the California State Association of Counties, or their respective designees, to the membership of the council.~~

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65964.1 is added to the Government Code,
2 to read:

3 65964.1. (a) A colocation or siting application for a wireless
4 telecommunications facility, as defined in Section 65850.6, shall
5 be deemed approved if both of the following occur:

6 (1) The city or county fails to approve or disapprove the
7 application within the time periods established by the Federal
8 Communications Commission in *In re Petition for Declaratory*
9 *Ruling*, 24 FCC Rcd. 13994 (2009).

10 (2) All public notices regarding the application have been
11 provided consistent with the public notice requirements for the
12 application.

13 (b) The Legislature finds and declares that a wireless
14 telecommunications facility has a significant economic impact in
15 California and is not a municipal affair as that term is used in
16 Section 5 of Article XI of the California Constitution, but is a
17 matter of statewide concern.

18 SECTION 1. ~~The Legislature finds and declares all of the~~
19 ~~following:~~

20 ~~(a) California consumers and businesses have adopted new,~~
21 ~~Internet-based technologies and mobile connections at an~~
22 ~~unprecedented rate. Internet-based products and devices, including~~
23 ~~smartphones and tablets, are providing consumers everywhere~~
24 ~~with new choices to connect, to communicate, and to access~~
25 ~~information and entertainment.~~

26 ~~(b) The deployment of faster, more robust, and advanced~~
27 ~~wireless and wireline broadband infrastructure is essential to~~
28 ~~ensuring there is sufficient capacity and coverage to support the~~
29 ~~increasing reliance of California residents on broadband services.~~

30 ~~(c) State and local review of broadband infrastructure~~
31 ~~deployment serves important interests, but at the same time,~~
32 ~~California must take steps to ensure that requirements do not hinder~~
33 ~~investment. State and local permitting processes should be designed~~
34 ~~to eliminate unnecessary barriers and spur deployment of~~
35 ~~infrastructure. This includes streamlining permitting requirements~~
36 ~~to reduce delay and cost, and the creation of uniform processes.~~

37 ~~(d) New and upgraded infrastructure delivers a vast array of~~
38 ~~consumer and community benefits, including important~~

1 improvements to public safety, education, and healthcare. The
2 power of mobile communications is a critical tool for first
3 responders in emergency situations. According to the Federal
4 Communications Commission, nearly 70 percent of 911 calls are
5 made from mobile telephones, and that percentage is growing.

6 (e) ~~As we continue the transition to a knowledge-based,~~
7 ~~technology-driven economy, California must invest in students~~
8 ~~and provide them with the proper tools and technologies to bolster~~
9 ~~academic achievement, starting with expanding access to~~
10 ~~high-speed broadband Internet and next-generation Internet~~
11 ~~Protocol-based networks.~~

12 (f) ~~Facilitating broadband deployment additionally plays a key~~
13 ~~role in advancing telemedicine and mobile health applications,~~
14 ~~which can help Californians remotely monitor their health while~~
15 ~~reducing medical costs.~~

16 (g) ~~Wireless broadband is also key to economic development~~
17 ~~and a driver for new business and jobs. Businesses increasingly~~
18 ~~depend on strong wireless broadband service to carry their~~
19 ~~employees through the work day. An estimated 94 percent of small~~
20 ~~businesses surveyed use smartphones to conduct business and~~
21 ~~mobile technologies are saving the country's small businesses~~
22 ~~more than sixty-five billion dollars (\$65,000,000,000) a year.~~

23 (h) ~~Broadband infrastructure deployment creates jobs. A 2013~~
24 ~~study conducted by the research firm Information Age Economics~~
25 ~~projects that wireless infrastructure investment will generate as~~
26 ~~much as one trillion two-hundred billion dollars~~
27 ~~(\$1,200,000,000,000) in economic growth while creating over 1.2~~
28 ~~million new jobs, nationally, over the next five years.~~

29 (i) ~~It is the intent of the Legislature to enact legislation to~~
30 ~~promote the deployment of communications infrastructure by~~
31 ~~removing barriers to investment. Removing investment barriers is~~
32 ~~critical to meeting the surging demand by California residents for~~
33 ~~advanced wireless and wireline broadband technologies and~~
34 ~~services, supporting and enhancing critical public safety needs,~~
35 ~~and bridging the digital divide by increasing access for more~~
36 ~~Californians to improved education, health care, and economic~~
37 ~~development opportunities.~~

38 SEC. 2. ~~Section 8886 of the Government Code is amended to~~
39 ~~read:~~

1 ~~8886. (a) The membership of the California Broadband Council~~
2 ~~shall include all of the following:~~
3 ~~(1) The Director of Technology, or his or her designee.~~
4 ~~(2) The President of the Public Utilities Commission, or his or~~
5 ~~her designee.~~
6 ~~(3) The Director of Emergency Services, or his or her designee.~~
7 ~~(4) The Superintendent of Public Instruction, or his or her~~
8 ~~designee.~~
9 ~~(5) The Director of General Services, or his or her designee.~~
10 ~~(6) The Secretary of Transportation, or his or her designee.~~
11 ~~(7) The President of the California Emerging Technology Fund,~~
12 ~~or his or her designee.~~
13 ~~(8) A member of the Senate, appointed by the Senate Committee~~
14 ~~on Rules.~~
15 ~~(9) A member of the Assembly, appointed by the Speaker of~~
16 ~~the Assembly.~~
17 ~~(10) The President of the Board of Directors of the League of~~
18 ~~California Cities, or his or her designee.~~
19 ~~(11) The President of the Executive Committee of the California~~
20 ~~State Association of Counties, or his or her designee.~~
21 ~~(b) Members of the Legislature appointed to the council shall~~
22 ~~participate in the activities of the council to the extent that their~~
23 ~~participation is not incompatible with their positions as Members~~
24 ~~of the Legislature.~~