

AMENDED IN SENATE JULY 2, 2015  
AMENDED IN ASSEMBLY APRIL 6, 2015  
AMENDED IN ASSEMBLY MARCH 26, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 57**

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**Introduced by Assembly Member Quirk**

December 2, 2014

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An act to add Section 65964.1 to the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Quirk. 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~~ *collocation* or siting application for a wireless telecommunications facility.

This bill would provide that a ~~collocation~~ *city or county is presumed to have failed to act within a reasonable time upon 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~~ 90 days for a collocation application, or 150 days for a siting application other than a collocation application, and all required public notices have been provided regarding the application. *The bill would authorize these periods to be extended by mutual consent of the applicant and the city or county. The bill would provide that if a city or county fails to approve or disapprove an application for collocation or siting application for a wireless telecommunications facility within a reasonable period of time, the application is deemed approved. The bill would provide that, in any action in a court of competent jurisdiction pursuant to a specified federal law, a city or county bears the burden of proof to disprove the presumption that it failed to act within a reasonable time to approve a collocation or siting application for a wireless telecommunications facility.*

Vote: majority. Appropriation: no. Fiscal committee: 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
- 2 Code, to read:
- 3 65964.1. (a) ~~(1) A collocation or siting city or county is~~
- 4 *presumed to have failed to act within a reasonable time upon a*
- 5 *collocation application for a previously permitted wireless*
- 6 *telecommunications facility, as defined in Section 65850.6, shall*
- 7 ~~be deemed approved~~ if both of the following occur:
- 8 ~~(1)~~
- 9 (A) The city or county fails to approve or disapprove the
- 10 ~~completed application within the time periods established by the~~
- 11 ~~Federal Communications Commission in In re Petition for~~
- 12 ~~Declaratory Ruling, 24 FCC Rec. 13994 (2009). 90 days. When~~
- 13 *an application is incomplete as filed, the 90-day limitation does*
- 14 *not run during that period of time that it takes the applicant to*
- 15 *respond to the city or county's request for additional information.*
- 16 ~~(2)~~
- 17 (B) All public notices regarding the application have been
- 18 provided consistent with the public notice requirements for the
- 19 application.

1 (2) A city or county is presumed to have failed to act within a  
2 reasonable time upon a siting application for a wireless  
3 telecommunications facility, other than a collocation application,  
4 if both of the following occur:

5 (A) The city or county fails to approve or disapprove the  
6 completed application within 150 days. When an application is  
7 incomplete as filed, the 150-day limitation does not run during  
8 that period of time that it takes the applicant to respond to the city  
9 or county's request for additional information.

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

13 (3) The 90-day and 150-day periods of paragraphs (1) and (2)  
14 may be extended by mutual consent of the applicant and the city  
15 or county.

16 (4) If a city or county fails to approve or disapprove an  
17 application for a collocation or siting application for a wireless  
18 telecommunications facility within a reasonable period of time,  
19 the application is deemed approved.

20 (5) In any action in a court of competent jurisdiction pursuant  
21 to Section 332 (c)(7)(B)(v) of Title 47 of the United States Code,  
22 a city or county bears the burden of proof to disprove the  
23 presumption that it did not act within a reasonable time to approve  
24 or disapprove an application pursuant to paragraph (1) or (2).  
25 The grounds that the city or county may show to overcome the  
26 presumption of a failure to act within a reasonable time include,  
27 but are not limited to, the following:

28 (A) Novel or unusual circumstances prevented completion of  
29 review of the application within the 90-day or 150-day period.

30 (B) A complete review of the application within the prescribed  
31 90-day or 150-day period would require the city or county to give  
32 preferential treatment to the applicant over other types of land use  
33 applications.

34 (b) The Legislature finds and declares that a wireless  
35 telecommunications facility has a significant economic impact in  
36 California and is not a municipal affair as that term is used in  
37 Section 5 of Article XI of the California Constitution, but is a  
38 matter of statewide concern.

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