

From: Solov, Nate
To: [CA Broadband Council](#); Tom, Stephanie@CIO
Cc: Swanson, Rochelle
Subject: Action Plan - request for inclusion: Accelerating broadband deployment - Crown Castle
Date: Tuesday, October 20, 2020 7:44:10 PM
Attachments: [image001.png](#)
[Crown Castle - recommendations to accelerate broadband deployment in CA - 10-14-20.pdf](#)
[30 Other States Have Already Enacted Laws to Accelerate Broadband Deployment.pdf](#)
[AB 57 update - 10-13-20 - RN2016622.pdf](#)
[SB 1206 - microtrenching - 4-1-20.pdf](#)
[small cell reform - draft legislation - 12-16-19.pdf](#)
[broadband best practices - local government permitting - draft legislation.pdf](#)
[Comments of Crown Castle on the Order Instituting Rulemaking - CPUC - 10-12-20.pdf](#)
[Colorado Governor Jared Polis - executive order - broadband - 4-22-20 - and letter from Crown Castle requesting executive action.pdf](#)

Dear California Broadband Council – thank you for your efforts to improve California’s broadband coverage. Crown Castle is the nation’s largest shared telecommunications infrastructure provider. We install, operate and maintain broadband for a variety of California customers including K-12 school districts, local governments, universities, ISPs, and cell phone carriers. We work with local governments and states across the country every day to deploy broadband.

The quickest, most impactful and most cost-effective reform the Broadband Council could include in its Action Plan to accelerate broadband deployment would be to require that every local government in the state approve any pending and future broadband permit within 90 days. There are currently thousands of broadband permits pending with local governments across the state that if approved could immediately benefit local residents. This statewide permitting time requirement would speed up existing and future broadband permits throughout the state and allow more communities to be served by improved broadband coverage since finishing a project quicker in one city means starting a new project quicker in another city. This would have a huge ripple effect throughout the state not only with time but with money and resources – less money spent on bureaucratic hearings and legal fees in one city means more money for broadband infrastructure in another city.

Thirty other states already have laws in place to ensure the quick deployment of broadband (wireline and wireless internet). Some local governments in California utilize best practices to streamline permit approvals in 30-90 days for broadband deployment, however many local jurisdictions take years to approve permits. This results in many residents having to wait years for improved internet connectivity while residents in neighboring jurisdictions are able to quickly get online in a couple of months.

We believe the reforms attached and below are the quickest and most cost-effective options to immediately accelerate broadband deployment in the state. We’re hoping that these can be included in the Broadband Councils’ Action Plan. We’re available to discuss these in more detail. Thanks for your consideration. – Nate Solov 916-768-1378 (on behalf of Crown Castle)

Attachment 1 – PowerPoint presentation outlining the problem and our reform recommendations

Attachment 2 – map showing 30 states that already have laws in place to expedite broadband deployment

Attachment 3 – bill language updating AB 57 from 2015 to require that broadband projects be approved by locals within 90 days

Attachment 4 – bill language from SB 1206 (2020) requiring that microtrenching be used to install fiber since it is cheaper, quicker and less disruptive to local communities

Attachment 5 – bill language to make California the 31st state to expedite broadband / small cell deployment

Attachment 6 – bill language mandating that local governments expedite broadband permitting

Attachment 7 – Crown Castle’s submission to the CPUC explaining reforms that will accelerate broadband deployment

Attachment 8 – Colorado Governor’s executive order requiring local governments to accelerate broadband deployment

Colorado timeline: 3-27-20 Crown Castle sends letter to Governor requesting a task force.

Governor meets with industry group and assigns staff. 4/23/20 Governor issues executive order requiring that broadband projects be expedited by local governments which builds on Colorado’s existing legislation mandating that local governments approve broadband projects quickly: <https://codes.findlaw.com/co/title-29-government-local/co-rev-st-sect-29-27-402.html>

Executive Order Excerpt: 8. State executive departments and agencies, municipalities, and counties should partner with Telecommunications providers to identify shovel-ready projects that can be implemented in the next forty-five (45) days.

THE PROBLEM

Broadband is critical infrastructure of statewide importance yet every local jurisdiction has different permitting rules and timelines.

Some take 30-90 days, some take years – for the same project.

“Permitting Authorities” include cities, counties, state agencies and any other entity that may be required to issue a permit for a Broadband project like water districts, special districts and municipal utilities.

- Expensive, multi-layered, unnecessary, permitting processes that include multiple reviews, hearings and appeals.
- Permits should be limited to reasonable cost recovery (a couple hundred dollars) but are often thousands or tens of thousands of dollars.
- Often times projects require multiple permits from multiple departments within a single permitting authority and these departments do not coordinate review nor fee collection.
- Inconsistent application of standards, technically infeasible design restrictions and aesthetic limitations cause significant delays.
- Requiring below ground trenching for fiber even though above-ground utility lines are available along the same route.
- Certain Permitting Authorities continue to perform a separate CEQA review for Broadband projects which is an unnecessary expense.

SOLUTIONS

The state needs to step in and mandate that pending and future permits for Broadband must be

approved by any “Permitting Authority” within 90 days with a deemed approved remedy at its conclusion.

This would be the single most important, cost-effective, and quickest action the state could take to accelerate Broadband deployment in California.

Action is needed now more than ever to accelerate broadband deployment due to COVID and the public’s increased reliance on broadband infrastructure for remote work & school, telehealth, emergency response, and commerce.

- Over 80% of 911 calls are from cell phones
- Over 50% of households exclusively use cell phones
- There are currently thousands of broadband permits throughout the state pending with local governments that need to be expedited.

RECOMMENDATIONS TO ACCELERATE BROADBAND DEPLOYMENT

1. Local governments and agencies shall identify any pending broadband permits and outstanding lease amendments and utilize a 90-day or less review period so local residents can benefit from improved connectivity quickly. Some of our broadband permits have been pending with city staff for years, preventing local residents from accessing high-speed internet.
2. 90-day maximum permit review period for new broadband projects – otherwise projects are deemed approved so installation can begin. This prevents projects from being delayed months and years which happens regularly today.
3. Broadband projects are defined as wireline and wireless – this ensures that connectivity improvements will happen in a significantly shorter time window and extends capital further to reach more people because it allows maximum flexibility to deploy broadband projects.
4. Allow for above ground or below ground installation of fiber – where there are existing utilities, fiber should be deployed in the same fashion. Example: if above ground utility lines exist along the same route as the proposed fiber line, then the fiber line can be installed along the above ground utility line which is quicker and cheaper than trenching underground. Where and when feasible, local jurisdictions shall utilize microtrenching (<https://www.youtube.com/watch?v=rloGDUxWYw>) to install fiber underground since it is quicker (80% faster than traditional trenching), cheaper (50-70% cheaper than traditional trenching) and less disruptive (doesn’t close streets) to local communities.
 - The City of LA recently adopted a microtrenching ordinance which is leading to accelerated broadband deployment and serves as a model for a statewide requirement.
5. Application fees by Permitting Authorities should be limited to reasonable cost recovery – often times application fees are thousands of dollars and prevent limited dollars from going to as many broadband projects as possible. Often, increased fees are used to increase the permitting process to include multiple reviews and hearings.
 - In Long Beach, they are working towards a Master Permit where design and locations for a full multiple node project is agreed upon upfront, fees are paid, and inspections to confirm

compliance occur post construction. This allows for expedited construction schedules and the city has access to the fees immediately.

6. Objective and clear design standards by local jurisdictions based upon Federal Law – objective, technology-neutral (purpose-neutral) and physically feasible. Inconsistent application of standards and technically infeasible design restrictions cause significant delays of months to years, as well as creates inconsistent levels of connectivity for residents between different neighborhoods and different communities.

Nate Solov

Policy Advisor

NOSSAMAN LLP

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Build on our strength.

Invested in your community

4,415
towers/macro
sites

14,780
small cell
nodes

9,510
fiber miles

more
than **96%**¹
estimated population
coverage of 39,684,729²

450
zoning and permitting
jurisdictions

440
resident
employees

2,840
buildings connected
by our fiber

190
government,
school, and public
safety customers

Crown Castle at a glance

Our nationwide portfolio of communications infrastructure connects cities and communities to essential data, technology and wireless service—bringing information, ideas and innovations to the people and businesses that need them.

- > 40,000+ towers
- > Approximately 65,000 small cell nodes on air or under contract
- > Approximately 75,000 route miles of fiber
- > 25 years of experience owning and operating network assets
- > Nearly 100 offices
- > ~5,000 employees
- > S&P 500 company listed on the NYSE

¹ Estimated using 700MHz contours ² United States Census Bureau
Data represents quarterly approximations and is subject to change.

Crown Castle Overview

Crown Castle is the nation's largest provider of communications infrastructure—connecting people, government, schools, and businesses to essential data, technology & Broadband services (including wireless and wireline).

Crown Castle is also the nation's largest independent owner and operator of shared wireless infrastructure, with more than 40,000 towers, 70,000 small cell installations, and over 80,000 route miles of fiber nationwide.

We install, operate and maintain Broadband for a variety of customers including K-12 school districts, local governments, universities, internet service providers, and cell phone carriers.

In California we serve more than 200 government, school and public safety customers in addition to other business enterprises.

What's The Problem?

Broadband is critical infrastructure of statewide importance yet every local jurisdiction has different permitting rules and timelines.

Some take 30-90 days, some take years – for the same project.

“Permitting Authorities” include cities, counties, state agencies and any other entity that may be required to issue a permit for a Broadband project like water districts, special districts and municipal utilities.

- Expensive, multi-layered, unnecessary, permitting processes that include multiple reviews, hearings and appeals.
- Permits should be a couple hundred dollars but are often thousands or tens of thousands of dollars.
- Often times projects require multiple permits from multiple departments within a single permitting authority and these departments do not coordinate review nor fee collection.
- Inconsistent application of standards, technically infeasible design restrictions and aesthetic limitations cause significant delays.
- Requiring below ground trenching for fiber even though above-ground utility lines are available along the same route.
- Certain Permitting Authorities continue to perform a separate CEQA review for Broadband projects which is an unnecessary expense

Solution

The state needs to step in and mandate that pending and future permits for Broadband must be approved by any “Permitting Authority” within 90 days with a deemed approved remedy at its conclusion.

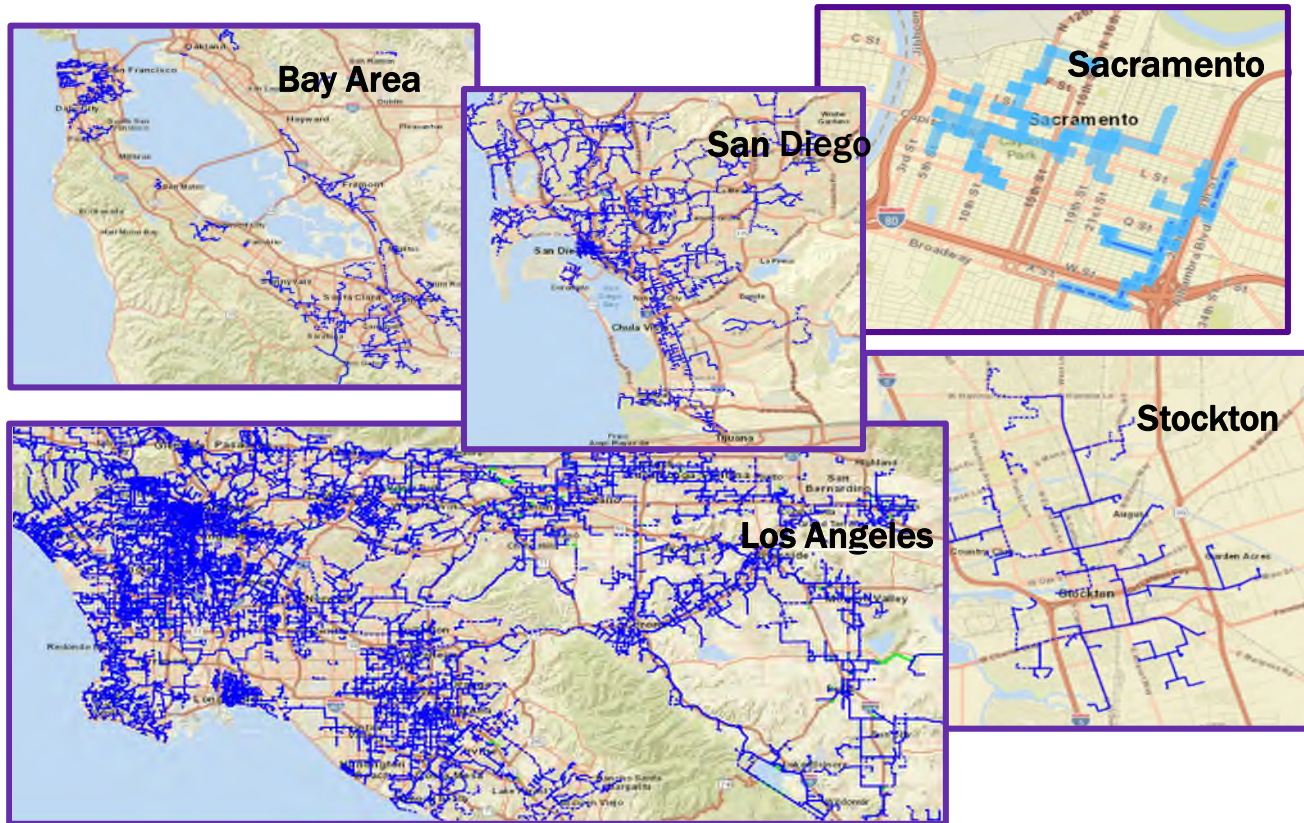
This would be the single most important, cost-effective, and quickest action the state could take to accelerate Broadband deployment in California.

30 other states already do this.

State Needs to Streamline Broadband Deployment – Prevent Delay by Locals

1. Update Assembly Bill 57 from 2015 – clarify that permits for all broadband related projects need to be approved within the federal time limits of 90 days. Don't allow locals to delay.
2. Pass Senate Bill 1206 from 2020 which requires that all local jurisdictions must permit the use of microtrenching for broadband installation: quicker, cheaper, less disruption to communities.
3. Governor can issue an executive order on permit streamlining and accelerating broadband deployment and include broadband reforms as part of the January Budget.
4. Include these reforms in the Broadband Council's Action Plan due in December.

Crown Castle: Over 9,500 fiber miles in urban and rural areas of California (big city examples below)



Enabling the services that make life more convenient, enjoyable—and safe.

50%

of households rely
exclusively on their
mobile phones.¹

Video

is projected to be
77% of mobile data
traffic by 2020.²

80%

of 911 calls are placed
from wireless phones.³



New technologies are driving greater data demand and usage.

More devices, faster speeds, and more data-heavy traffic.

2x

Expected growth
in broadband speed
from 2017 to 2022.

10B+

Expected growth in
connected devices from
2017 to 2022.

82%

Expected amount of all
consumer internet traffic that
will be video by 2022.

Cisco Visual Networking Index Forecast. Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2017–2022 White Paper, February 2019.

A different approach to installing fiber is needed to keep up with the coming growth.

Traditional trenching

- Large excavations
- Extended construction times — more noise, debris, and disruption
- Traffic lane closures



So we've innovated and improved how we install fiber with microtrenching.

Faster, smaller, and less disruptive from installation to restoration.



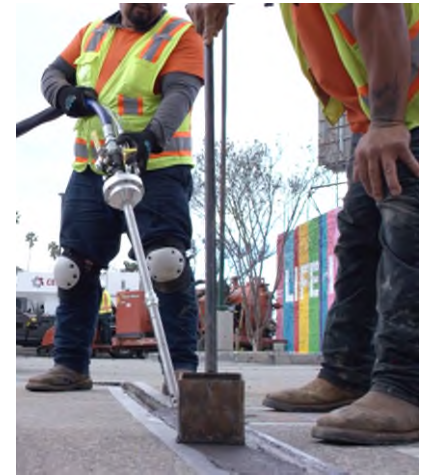
Pre-installation



Installation



Cable Placement



Restoration

Microtrenching is a less invasive way to install fiber.

1-2"
saw cut

A smaller cut

minimizes impact to your streets
and municipal infrastructure

— 12-26"

Shallower depths

avoid many underground obstructions
and existing utilities

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1

With a restoration that is almost unnoticeable.

And minimal impact on the environment.

- Fewer new materials needed to reinstate roadway
- Minimal truck movement requires less gas
- Less water waste for trenching and clean up



And we're using it successfully in communities around the country.

- Austin, TX
- Boston, MA
- Charlotte, NC
- Chicago, IL
- Dallas, TX
- El Paso, TX
- Lexington, KY
- Long Beach
- Los Angeles, CA
- Louisville, KY
- Miami-Dade County, FL
- Mt. Vernon, NY
- New York City, NY
- San Diego, CA

With significant benefits for your community.



DAYS VS. WEEKS

Less construction time means
less disruption

80% faster than traditional
trenching

Minimal disruption to traffic

Less noise

Fewer resident complaints



Microtrenching Cost Savings

Major Urban

Open Trench ~\$400 per foot

Microtrench ~\$125 per foot

31% of the cost of open trenching

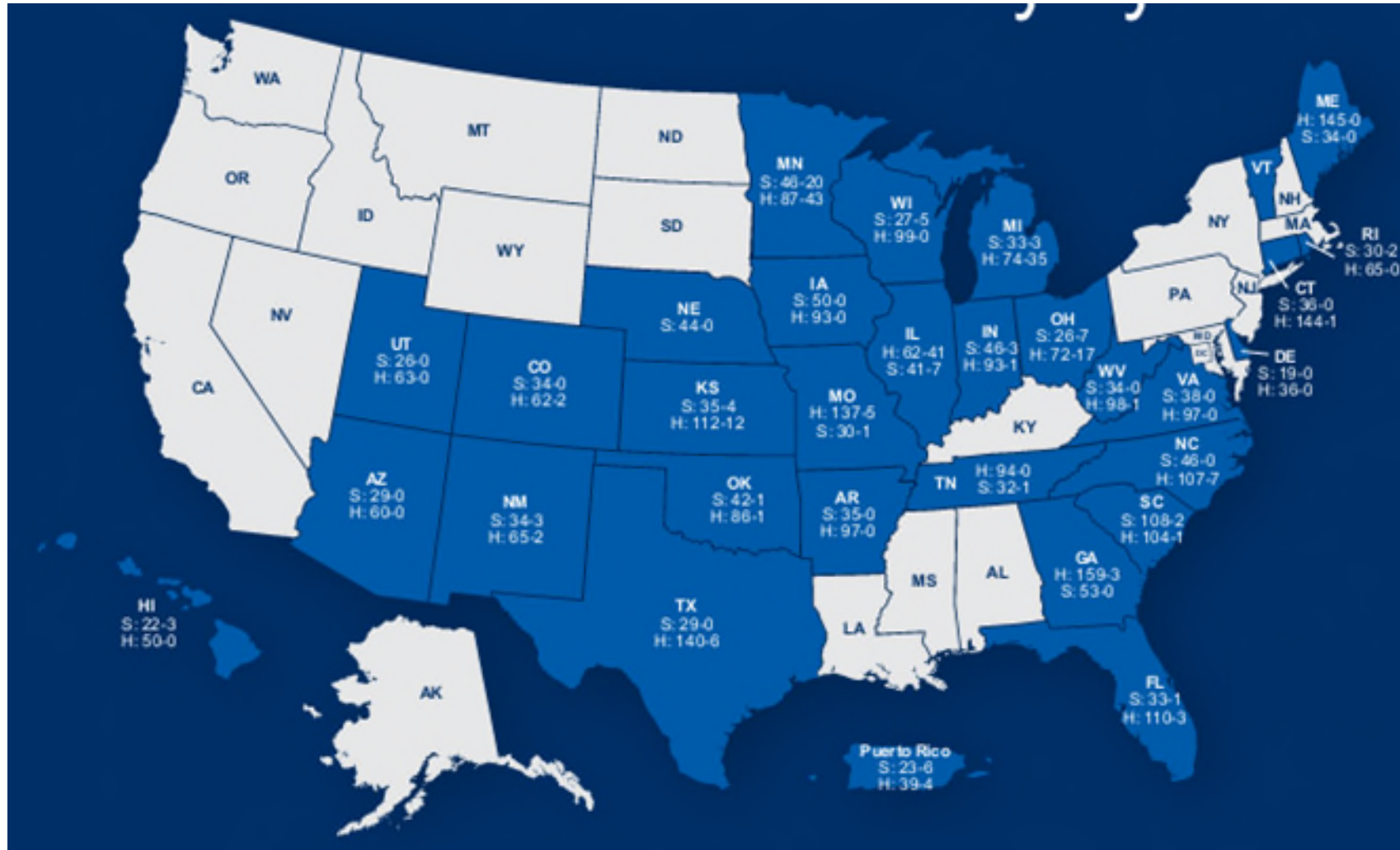
Small - medium size community

Open Trench ~\$300 per foot

Microtrench ~\$125 per foot

42% of the cost of open trenching

30 Other States Have Already Enacted Laws to Accelerate Broadband Deployment



An act to amend Section 65964.1 of the Government Code, relating to communications.



201662267162BILLMA20

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65964.1 of the Government Code is amended to read:

65964.1. (a) A collocation or siting application for a wireless telecommunications facility, as defined in Section 65850.6, or an application for a broadband facility shall be deemed approved if all of the following occur:

(1) The city or county fails to approve or disapprove the application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC ~~decisions, rules~~. The reasonable period of time may be tolled to accommodate timely requests for information required to complete the application or may be extended by mutual agreement between the applicant and the local government, consistent with applicable FCC ~~decisions, rules~~.

(2) The applicant has provided all public notices regarding the application that the applicant is required to provide under applicable laws consistent with the public notice requirements for the application.

(3) (A) The applicant has provided notice to the city or county that the reasonable time period has lapsed and that the application is deemed approved pursuant to this section.

(B) Within 30 days of the notice provided pursuant to subparagraph (A), the city or county may seek judicial review of the operation of this section on the application.

(b) This section does not apply to eligible facilities requests.

(c) The Legislature finds and declares that a permitting of wireless telecommunications facility facilities and broadband facilities has a significant economic impact in California and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but is a matter of statewide concern.

(d) As used in this section, the following terms have the following meanings:

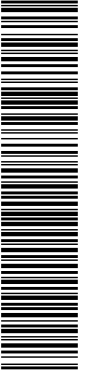
(1) "Applicable FCC decisions" means In re Petition for Declaratory Ruling, 24 FCC Red. 13994 (2009) and In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Red. 12865 (2014); rules" means those regulations contained in Subpart U (commencing with Section 1.6001) of Part 1 of Subchapter A of Chapter I of Title 47 of the Code of Federal Regulations, as published in Volume 84 of the Federal Register, Number 214, page 59567, dated November 5, 2019, as it may be amended from time to time.

(2) "Authorization" has the same meaning as defined in Section 1.6002(f) of Title 47 of the Code of Federal Regulations, as published on the date described in paragraph (1).

(3) "Broadband facility" means a facility for any service by wire or radio provided to customers in California that provides the capability to transmit data to, and receive data from, all or substantially all internet endpoints, including, but not limited to, any ancillary equipment, services, and capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.

(4) "Deemed approved" means that the applicant may construct the wireless telecommunications facility or broadband facility that is the subject of the application consistent with the application, and is not required to seek further authorization, such as other collateral applications, from the city or county in order to construct the facility.

(2)



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(5) “Eligible facilities request” has the same meaning as in Section 1455 of Title 47 of the United States Code.

(e) For purposes of this section, a city or county shall treat an application for a broadband facility as if it were subject to the same time periods established by applicable FCC rules for a small wireless telecommunications facility using an existing structure.

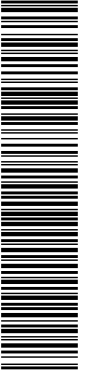
(f) For purposes of this section, the time period for a city or county to approve or disapprove a collocation or siting application shall commence when the applicant takes the first procedural step that the city or county requires as part of its applicable regulatory review process.

(e)

(g) Except as provided in subdivision (a), nothing in this section limits or affects the authority of a city or county over decisions regarding the placement, construction, and modification of a wireless telecommunications facility.

(f)

(h) Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.

General Subject: Communications: wireless telecommunications and broadband facilities.

Pursuant to existing federal law, the Federal Communications Commission (FCC) has adopted decisions and rules, and updated those decisions and rules, establishing reasonable time periods within which a local government is required to act on a collocation or siting application for certain wireless communications facilities.

Existing law requires a collocation or siting application for a wireless telecommunications facility be deemed approved if a city or county fails to approve or disapprove the application within the reasonable time periods specified in applicable FCC decisions, as defined, all required public notices have been provided regarding the application, and the applicant has provided a notice to the city or county that the reasonable time period has lapsed.

This bill would, instead, provide that the reasonable time periods described above be determined pursuant to specified FCC rules, as defined. The bill would require a collocation or siting application for a broadband facility, as defined, be deemed approved if the above-described conditions are met. The bill would require the time period for a city or county to approve or disapprove a collocation or siting application to commence when the applicant takes the first procedural step that the city or county requires as part of its applicable regulatory review process.

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



20162267162BILLMA20

AMENDED IN SENATE APRIL 1, 2020

SENATE BILL

No. 1206

Introduced by Senator Lena Gonzalez

February 20, 2020

~~An act to amend Section 7099.1 of the Revenue and Taxation Code, relating to taxation. An act to add Sections 65964.5 and 65964.6 to the Government Code, relating to local government.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1206, as amended, Lena Gonzalez. ~~Confidentiality: taxpayer communications.~~ *Local government: broadband infrastructure development project permit processing: microtrenching permit processing ordinance.*

The California Constitution authorizes a city or county to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Existing law, the Permit Streamlining Act, governs the approval process that a city or county is required to follow when approving, among other things, a permit for construction or reconstruction for a development project for a wireless telecommunications facility and a collocation or siting application for a wireless telecommunications facility.

This bill would authorize a city or county to impose on an applicant for a permit for a broadband infrastructure development project a reasonable fee for costs associated with the submission, and the expedited review, processing, and approval of an application, including, but not limited to, personnel costs as necessary, if the applicant elects for the expedited review and processing and agrees to pay that fee.

Existing law provides that the Department of Transportation has full possession and control of state highways and associated property. Existing law authorizes the department to issue written permits authorizing the permittee to, among other things, make an opening or excavation in a state highway, and place, change, or renew an encroachment. Existing law requires the department to either approve or deny an application for an encroachment permit within 60 days of receiving a completed application.

Existing law requires the department to notify companies and organizations working on broadband deployment on its internet website of specified department-led highway construction projects that, among other things, involve construction methods that are suitable for installing broadband conduit. Existing law authorizes those companies and organizations to collaborate with the department to install broadband conduits as part of those projects. Existing law requires the department to develop guidelines to facilitate the installation of broadband conduit on state highway rights-of-way.

This bill would require the department to adopt a model ordinance for adoption by a city or county governing the city's or county's review, processing, and approval of an application for a permit to conduct microtrenching, as specified. The bill would require a city or county to adopt the model ordinance or a similar ordinance that includes certain provisions, including a requirement that the city or county ministerially approve or deny a completed application within 30 days of receiving the application, as specified.

This bill would authorize a city or county to impose on an applicant for a permit for a broadband infrastructure development project a reasonable fee for costs associated with the submission, and the expedited review, processing, and approval of an application, including, but not limited to, personnel costs as necessary, if the applicant elects for the expedited review and processing and agrees to pay that fee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it

proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

Because the approval process established by the bill is streamlined and ministerial in nature, the approval of projects subject to this process are exempt from CEQA.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

~~Existing law requires that certain protections of confidentiality that apply to a communication between a client and an attorney also apply to communications between a taxpayer and any federally authorized tax practitioner in any noncriminal tax matter before the State Board of Equalization to the extent that the communication would be considered a privileged communication if it were made between a client and an attorney.~~

~~This bill would make nonsubstantive changes to those provisions.~~

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

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

- 1 SECTION 1. Section 65964.5 is added to the Government Code,
- 2 to read:
- 3 65964.5. (a) For purposes of this section, the following
- 4 definitions apply:
- 5 (1) "Department" means the Department of Transportation.
- 6 (2) "Microtrench" means a narrow open excavation trench that
- 7 is less than or equal to 8 inches in width and less than or equal to
- 8 26 inches in depth and that is created for the purpose of installing
- 9 a subsurface pipe or conduit.
- 10 (3) "Microtrenching" means excavation of a microtrench.
- 11 (b) The department shall adopt a model ordinance for adoption
- 12 by a city or county governing the city's or county's review,
- 13 processing, and approval of an application for a permit to conduct
- 14 microtrenching. The model ordinance shall include, but not
- 15 necessarily be limited to, the following provisions:
- 16 (1) Installations in a microtrench shall be limited to broadband
- 17 or other low-voltage utilities and shall be installed as follows:

1 (A) All parts in a roadway or alley shall be installed at a
2 minimum depth of cover of at least one inch below the existing
3 roadway layer.

4 (B) All parts between the curb face and the property line, or in
5 any other public place or easement, shall be installed at a minimum
6 depth of cover of at least one inch below the bottom of the
7 hardscape and at a minimum depth of cover of at least six inches
8 below grade.

9 (C) All parts under softscape in any public place or easement,
10 including, but not limited to, between the curb face and the
11 property line, shall be installed at a minimum depth of cover of
12 12 inches below grade.

13 (2) Within 30 days of receiving a completed application, the
14 city or county shall ministerially approve or deny the application.

15 (3) The application shall include payment of a reasonable fee
16 set by the city or county to cover the cost of processing the
17 application.

18 (c) A city or county shall adopt the model ordinance developed
19 by the department pursuant to subdivision (b) or an ordinance
20 governing the city's or county's review, processing, and approval
21 of permit applications to conduct microtrenching that includes,
22 but is not necessarily limited to, provisions that require the
23 following:

24 (1) Installations in a microtrench be limited to
25 telecommunication or other low-voltage utilities.

26 (2) A minimum depth of cover in a roadway or alley that is at
27 least one inch below the existing roadway layer.

28 (3) A minimum depth of cover between the curb face and the
29 property line, or in any other public place or easement, that is at
30 least one inch below the bottom of the hardscape and at least six
31 inches below grade.

32 (4) A minimum depth of cover under softscape in any public
33 place or easement, including, but not limited to, between the curb
34 face and the property line, that is at least 12 inches below grade.

35 (5) Within 30 days of receiving a completed application, the
36 city or county ministerially approve or deny the application.

37 (d) A city or county that fails to adopt an ordinance as required
38 by subdivision (c) shall be deemed to have adopted the model
39 ordinance developed by the department pursuant to subdivision
40 (b).

1 (e) *This section shall not preclude an applicant and the city or*
2 *county from mutually agreeing to an extension of any time limit*
3 *provided by this section.*

4 (f) *The Legislature finds and declares that microtrenching,*
5 *which is critical to the deployment of broadband services and other*
6 *utility services, is a matter of statewide concern and is not a*
7 *municipal affair as that term is used in Section 5 of Article XI of*
8 *the California Constitution. Therefore, this section applies to all*
9 *cities, including charter cities.*

10 SEC. 2. *Section 65964.6 is added to the Government Code, to*
11 *read:*

12 65964.6. (a) *For purposes of this section, the following*
13 *definitions apply:*

14 (1) *“Applicant” means a person or entity who submits an*
15 *application.*

16 (2) *“Application” means an application for a permit for a*
17 *broadband infrastructure development project.*

18 (3) *“Personnel costs” includes the costs of hiring or employing*
19 *temporary or permanent city or county employees, consultants, or*
20 *contractors.*

21 (b) *A city or county may impose on an applicant a reasonable*
22 *fee for costs associated with the submission of, and the expedited*
23 *review, processing, and approval of, an application, including,*
24 *but not limited to, personnel costs as necessary, if the applicant*
25 *elects for the expedited review and processing and agrees to pay*
26 *that fee.*

27 (c) *This section does not amend or alter the civil service laws*
28 *of this state or any city or county.*

29 SEC. 3. *No reimbursement is required by this act pursuant to*
30 *Section 6 of Article XIII B of the California Constitution because*
31 *a local agency or school district has the authority to levy service*
32 *charges, fees, or assessments sufficient to pay for the program or*
33 *level of service mandated by this act, within the meaning of Section*
34 *17556 of the Government Code.*

35 ~~SECTION 1. Section 7099.1 of the Revenue and Taxation~~
36 ~~Code is amended to read:~~

37 ~~7099.1. (a) (1) With respect to tax advice, the protections of~~
38 ~~confidentiality that apply to a communication between a client and~~
39 ~~an attorney, as set forth in Article 3 (commencing with Section~~
40 ~~950) of Chapter 4 of Division 8 of the Evidence Code, shall also~~

1 apply to a communication between a taxpayer and any federally
2 authorized tax practitioner to the extent the communication would
3 be considered a privileged communication if it were between a
4 client and an attorney. A federally authorized tax practitioner has
5 the legal obligation and duty to maintain confidentiality with
6 respect to privileged communication.

7 (2) Paragraph (1) may only be asserted in any noncriminal tax
8 matter before the State Board of Equalization.

9 (3) For purposes of this section:

10 (A) “Federally authorized tax practitioner” means any individual
11 who is authorized under federal law to practice before the Internal
12 Revenue Service if the practice is subject to federal regulation
13 under Section 330 of Title 31 of the United States Code, as
14 provided by federal law as of January 1, 2000.

15 (B) “Tax advice” means advice given by an individual with
16 respect to a state tax matter, which may include federal tax advice
17 if it relates to the state tax matter. For purposes of this
18 subparagraph, “federal tax advice” means advice given by an
19 individual within the scope of the individual’s authority to practice
20 before the federal Internal Revenue Service on noncriminal tax
21 matters.

22 (C) “Tax shelter” means a partnership or other entity, any
23 investment plan or arrangement, or any other plan or arrangement
24 if a significant purpose of that partnership, entity, plan, or
25 arrangement is the avoidance or evasion of federal income tax.

26 (b) The privilege under subdivision (a) shall not apply to any
27 written communication between a federally authorized tax
28 practitioner and a director, shareholder, officer, or employee, agent,
29 or representative of a corporation in connection with the promotion
30 of the direct or indirect participation of the corporation in any tax
31 shelter, or in any proceeding to revoke or otherwise discipline any
32 license or right to practice by any governmental agency.

33 (c) This section shall be operative for communications made
34 on or after the effective date of the act adding this section.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7902 is added to the Public Utilities Code, to read:

7902. (a) For purposes of this section and Section 7902.1, the following terms have the following meanings:

(1) "Cable service," "video service," and "public rights-of-way" have the same meanings as defined in Section 5830.

(2) "Communications service provider" has the same meaning as defined in Section 9510.5.

(3) "Information service" and "telecommunications service" have the same meanings as defined in Section 153 of Title 47 of the United States Code.

(4) "Small wireless facilities," "personal wireless services facility," "collocate," and "antenna" have the same meanings as defined in Section 1.6002 of Subpart U of Part 1 of Title 47 of the Code of Federal Regulations.

(5) "Utility pole" means a pole or similar structure that is or may be used in whole or in part by or for wireline communications, distribution of electricity, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities. "Utility pole" does not include wireless support structures or an electricity pole used solely for the transmission of electricity at 50 kilovolts or higher and not intended for distribution of communications signals or electricity at lower voltages.

(b) A facilities-based communications service provider authorized to operate personal wireless service facilities may, as a permitted use, not subject to zoning review or approval, collocate small wireless facilities and install, maintain, modify, operate, and replace utility poles along, upon, and under the public roads, highways, or other rights-of-way. Small wireless facilities shall be so installed and maintained as to not obstruct or hinder the usual travel and public safety of the public rights-of-way or to obstruct the lawful use of the public rights-of-way by public utilities and publicly owned utilities.

(c) (1) A city, county, or other entity of local government shall not adopt requirements, including aesthetic requirements, for the approval of small wireless facilities to be located within the public roads, highways, or other rights-of-way that are not applied in an equivalent manner under similar circumstances to other lines and related equipment used in the provision of telecommunications service, information service, cable service, or video service.

(2) A city, county, or other entity of local government shall not adopt aesthetic standards for approval of aboveground deployment of small wireless facilities unless roughly equivalent aesthetic standards are made applicable in similar locations to providers of telecommunications service, information service, cable service, and video service.

(3) A city, county, or other entity of local government shall not adopt requirements to supply information in support of an application to construct and operate small wireless facilities to be located within the public roads, highways, or other rights-of-way that are not applied in an equivalent manner under similar circumstances to other lines and related equipment used in the provision of telecommunications service, information service, cable service, or video service. A city, county, or other entity of local government may require that an application include construction and engineering drawings and information demonstrating that construction and operation



of a small wireless facility will not result in any of the consequences described in subdivision (a) of Section 7902.1.

(d) A city, county, or other entity of local government shall not ban either of the following:

(1) The aboveground placement and operation of antennas for use with small wireless facilities.

(2) The placement of poles for use with small wireless facilities where placement of poles is permitted for providing electrical distribution service, telecommunications service, information service, cable service, or video service.

(e) A city, county, or other entity of local government shall not condition approval of an application to construct and operate small wireless facilities upon the applicant doing either of the following:

(1) Obtaining a franchise from the city, county, or other entity of local government, if the applicant holds a certificate of public convenience and necessity from the commission to provide telecommunications services or holds a state franchise issued by the commission pursuant to Division 2.5 (commencing with Section 5800).

(2) Performing services or providing goods unrelated to the application, such as in-kind contributions, including reserving of fiber, conduit, or pole space for the city, county, or other entity of local government.

(f) A city, county, or other entity of local government shall not require approval of more than one application, or payment of more than one fee, to construct and operate a small wireless facility if the applicant is a facilities-based communications service provider authorized to operate personal wireless service facilities. Approval of the application shall entitle the facilities-based communications service provider to all permits necessary to construct and operate the small wireless facility. If multiple departments of a city, county, or other entity of local government are required to approve the application, the review and approval process shall be undertaken at the same time by each department and not consecutively.

(g) A city, county, or other entity of local government shall not do any of the following:

(1) Require the collocation of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.

(2) Require the use of specific utility pole types or configurations when installing new or replacement utility poles.

(3) Require the underground placement of small wireless facilities that are, or are designated in an application to be, pole mounted or ground mounted.

(h) A city, county, or other entity of local government shall not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements from existing small wireless facilities, utility poles, or other structures.

(i) (1) A city, county, or other entity of local government shall not require an application for any of the following:

(A) Routine maintenance of a small wireless facility.

(B) The replacement of a small wireless facility with a small wireless facility that is substantially similar or that is the same size or smaller.

(C) The installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles, in compliance with the applicable codes.



(2) A city, county, or other entity of local government may require a permit for work that requires excavation or closure of sidewalks or vehicular lanes within the public roads, highways, or other rights-of-way for such activities. A city, county, or other entity of local government shall issue a permit to the applicant on a nondiscriminatory basis upon terms and conditions applied to any other person's activities within the public roads, highways, or other rights-of-way that require excavation, closing of sidewalks, or vehicular lanes.

(j) A city, county, or other entity of local government shall allow batching consistent with the requirements of subsection (c) of Section 1.6003 of Title 47 of the Code of Federal Regulations.

SEC. 2. Section 7902.1 is added to the Public Utilities Code, to read:

7902.1. (a) A city, county, or other entity of local government may deny an application to collocate a small wireless facility or the installation, modification, or replacement of a utility pole if construction and operation of the small wireless facility would do any of the following:

- (1) Materially interfere with the safe operation of traffic control equipment.
- (2) Materially interfere with sight lines or clear zones for transportation or pedestrians.
- (3) Materially interfere with compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.) or similar federal or state standards regarding pedestrian access or movement.
- (4) Fail to comply with reasonable and nondiscriminatory horizontal spacing requirements of general application adopted by ordinance that concern the location of ground-mounted equipment and new utility poles. Any spacing requirements shall not prevent a facilities-based communications service provider authorized to operate personal wireless service facilities from serving any location.
- (5) Locate a new utility pole for the purpose of collocating a small wireless facility within seven feet in any direction of an electrical conductor, unless the applicant obtains the written consent of the electricity supplier that owns or manages the electrical conductor.
- (6) Fail to comply with applicable codes that apply in a nondiscriminatory manner.

(b) A facilities-based communications service provider shall comply with reasonable and nondiscriminatory requirements that prohibit the installation of utility poles or wireless support structures within the public roads, highways, or other rights-of-way, in an area designated solely for underground communications and electrical lines, where (1) the city, county, or other entity of local government has required all those lines to be placed underground by three months prior to the submission of the application, and (2) the utility poles the city, county, or other entity of local government allows to remain are made available to facilities-based communications service providers for the collocation of small wireless facilities, and may be replaced by a facilities-based communications service provider to accommodate the collocation of small wireless facilities. For small wireless facilities installed before a city, county, or other entity of local government adopts requirements that communications and electrical lines be placed underground, the city, county, or other entity of local government adopting those requirements shall permit a facilities-based communications service provider to maintain the small wireless facilities in place subject to any



applicable pole attachment agreement with the utility pole owner, or permit the facilities-based communications service provider to replace the associated utility pole within 50 feet of the prior location.

(c) A city, county, or other entity of local government may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures in a historic district. Any design or concealment measures may not have the effect of prohibiting any provider's technology, nor may any design or concealment measures be considered a part of the small wireless facility for purposes of the size limits applicable to a small wireless facility.

(d) A facilities-based communications service provider shall be permitted to collocate on or replace decorative poles when necessary to deploy a small wireless facility. A city, county, or other entity of local government may require the collocation or decorative pole replacement to reasonably conform to the design aesthetics of the original decorative poles, provided those requirements are technically feasible. For purposes of this subdivision, "decorative pole" means a pole of the city, county, or other entity of local government specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, lighting, specially designed informational or directional signage, or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal rules or codes.

(e) A city, county, or other entity of local government may require an applicant to construct and operate small wireless facilities to include an attestation that the small wireless facilities will be operational for use by the applicant within one year after the date of approval of the application, unless the city, county, or other entity of local government and the applicant agree to extend this period or delay is caused by lack of commercial electricity or communications transport facilities to the site.

SEC. 3. Section 9510.5 of the Public Utilities Code is amended to read:

9510.5. As used in this part, the following terms have the following meanings:

(a) "Communications service provider" means ~~a cable television corporation, video service provider, or telephone corporation.~~ provider of cable service or video service, as defined in Section 5830, a telephone corporation, including a facilities-based provider of mobile telephony services, a provider of interconnected Voice over Internet Protocol service, or a provider of voice communication utilizing Internet Protocol enabled service.

(b) "Governing body" means the governing body of a local publicly owned electric utility, including, where applicable, a board appointed by a city council.

(c) "Street light pole" means a pole, arm, or fixture used primarily for street, pedestrian, or security lighting.

(d) "Utility pole" means an electricity or telephone pole, but does not include a street light pole or an electricity pole used solely for the transmission of electricity at 50 kilovolts or higher and not intended for distribution of communications signals or electricity at lower voltages.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Communications: small wireless facilities: local requirements and approvals.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations.

Under existing law, telephone corporations are authorized to construct 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.

This bill would authorize a facilities-based communications service provider authorized to operate personal wireless service facilities to collocate small wireless facilities and to install, maintain, modify, operate, and replace utility poles along, upon, and under the public roads, highways, or other rights-of-way as a permitted use, not subject to zoning review or approval. The bill would require that small wireless facilities be so installed and maintained as to not obstruct or hinder the usual travel and public safety of the public rights-of-way and to not obstruct the lawful use of the public rights-of-way by public utilities, including publicly owned utilities. The bill would prohibit a city, county, or other entity of local government from adopting requirements, including aesthetic requirements, for the approval of small wireless facilities to be located within the public roads, highways, or other rights-of-way that are not applied in an equivalent manner under similar circumstances to other lines and equipment used in the provision of telecommunications service, information service, cable service, or video service. The bill would place various other limitations upon what a city, county, or other entity of local government may do with respect to applications to construct and operate small wireless facilities. The bill would authorize a city, county, or other entity of local government to deny an application to collocate a small wireless facility or the installation, modification, or replacement of a utility pole if construction and operation of the small wireless facility would have specified consequences. The bill



would require a facilities-based communications service provider to comply with reasonable and nondiscriminatory requirements that prohibit the installation of utility poles or wireless support structures within the public roads, highways, or other rights-of-way in an area designated solely for underground communications and electrical lines under specified conditions. The bill would authorize a city, county, or other entity of local government to require reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures in a historic district.

Existing law requires a local publicly owned electric utility to make appropriate space and capacity on and in its utility poles, as defined, and support structures available for use by communications service providers, defined as including cable television corporations, video service providers, and telephone corporations.

This bill would explicitly make that space and capacity available to Voice over Internet Protocol, and Internet Protocol service providers.

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



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An act to add Section 65964.3 to the Government Code, relating to local government.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65964.3 is added to the Government Code, to read:

65964.3. (a) A development proponent may submit an application for a broadband Internet access service development project that is subject to the streamlined, ministerial approval process provided by subdivision (b) and is not subject to a conditional use permit if the project satisfies the functional and feasible objective design standards, based upon the design criteria for a substantial change, described in Section 1.6002 of Title 47 of the Code of Federal Regulations, as it may be amended from time to time.

(b) (1) If a local agency determines that a broadband Internet access service development project submitted pursuant to this section is in conflict with any of the objective design standards specified in subdivision (a), it shall provide the project proponent written documentation of which standard or standards the project conflicts with, and an explanation for the reason or reasons the project conflicts with that standard or standards, within 60 days of receiving the completed application.

(2) If the local agency fails to provide the required documentation pursuant to paragraph (1), the project shall be deemed to satisfy the objective design standards.

(3) For purposes of this section, a project is consistent with the objective design standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent with the objective design standards.

(c) (1) A local agency shall, when and where feasible, utilize microtrenching to install fiber.

(2) A local agency shall allow for above ground and below ground installation of fiber.

(3) Where existing utilities are present, a local agency shall allow fiber to be deployed in the same fashion as the existing utilities.

(d) (1) All license fees for projects under this section shall be objective, technology-neutral fees based upon the reasonable cost recovery of documented staff time.

(2) A local agency may require payment of a reasonable application fee, not to exceed five hundred dollars (\$500), to cover the cost of processing the application.

(3) A local agency shall not adopt or impose any requirement, including, but not limited to, increased fees, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(e) For purposes of this section, all of the following shall apply:

(1) "Broadband Internet access service" means any wire or radio, including mobile broadband, that provides the capability to transmit any data to and receive any data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, or provides a functional equivalent of that service, but excluding dial-up Internet access service.

(2) "Local agency" has the same meaning as in Section 65930.

(3) "Microtrench" means a narrow open excavation trench that is less than or equal to 8 inches in width and less than or equal to 26 inches in depth and that is created for the purpose of installing a subsurface pipe or conduit.



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(4) "Microtrenching" means excavation of a microtrench.

(f) The Legislature finds and declares that the application approval process for broadband Internet access service development projects is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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201275628077BILMA04

LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.

General Subject: Local government: streamlined, ministerial approval process:
broadband Internet access service development project.

The California Constitution authorizes a city or county to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Existing law, the Permit Streamlining Act, governs the approval process that a city or county is required to follow when approving, among other things, a permit for construction or reconstruction for a development project for a wireless telecommunications facility and a collocation or siting application for a wireless telecommunications facility.

This bill would authorize a development proponent to submit an application for a broadband Internet access service development project that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the project satisfies specified federal objective design standards. If the local agency determines that the project does not comply with one or more of the objective design standards, the bill would require the local agency to provide the project proponent written documentation of which standard or standards the project conflicts with within 60 days of receiving the completed application. The bill would deem the project to satisfy the objective design standards if the local agency fails to provide the written documentation. The bill would require a local agency to utilize microtrenching to install fiber, to allow for above ground and below ground installation of fiber, and to allow fiber to be deployed in the same fashion as existing utilities. The bill would require license fees for projects under this section to be objective, technology-neutral fees based upon the reasonable cost recovery of documented staff time, and would authorize a local agency to require a reasonable application fee, not to exceed \$500. By imposing new duties upon local agencies with respect to the streamlined, ministerial approval process described above, the bill would impose a state-mandated local program.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if



it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

Because the approval process established by the bill is streamlined and ministerial in nature, the approval of projects subject to this process would be exempt from CEQA.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Broadband Infrastructure Deployment and to
Support Service Providers in the State of
California.

Rulemaking 20-09-001
(Filed September 10, 2020)

**COMMENTS OF CROWN CASTLE
ON THE ORDER INSTITUTING RULEMAKING**

JOSHUA S. TRAUNER
Senior Government Relations Counsel
Crown Castle Fiber LLC

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October 12, 2020

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Broadband Infrastructure Deployment and to
Support Service Providers in the State of
California.

Rulemaking 20-09-001
(Filed September 10, 2020)

**COMMENTS OF CROWN CASTLE
ON THE ORDER INSTITUTING RULEMAKING**

I. INTRODUCTION

In accordance with the instructions set forth in the above-captioned *Order Instituting Rulemaking* (“OIR”) adopted by the California Public Utilities Commission (“CPUC”) on September 10, 2020, Crown Castle Fiber LLC (“Crown Castle”) hereby files its comments responding to the OIR.

Founded in 1994, Crown Castle is the nation's largest provider of communications infrastructure--connecting people and businesses to essential data, technology & Broadband services (including wireless and wireline). Crown Castle is also the nation’s largest independent owner and operator of shared wireless infrastructure, with more than 40,000 towers, 70,000 small cell installations either on air or under construction, and over 80,000 route miles of fiber nationwide. We install, operate and maintain Broadband for a variety of customers including K-12 school districts, local governments, universities, internet service providers, and cell phone carriers. In California, Crown Castle has more than 4000 cell towers, 15,000 small cells and 10,500 route miles of fiber which serve more than 200 government, school and public safety customers in addition to other business enterprises.

We share the CPUC's goal of accelerating Broadband deployment to improve the quality of life for all Californians regardless of income level or geographic location. Crown Castle works with local governments around the country on a daily basis to install high-speed internet through fiber networks, cell towers and small cells.

Action is needed now more than ever to accelerate Broadband deployment due to COVID and the public's increased reliance on Broadband infrastructure for remote work & school, telehealth, emergency response, and commerce.

We believe that the quickest and most cost-effective reform the CPUC can take to accelerate Broadband deployment is to adopt rules that strongly encourage that all existing and future Broadband related permits be approved within 90 days or less by Permitting Authorities ("Permitting Authorities" include cities, counties, state agencies and any other entity that may be required to issue a permit for a Broadband project, *e.g.*, water districts and municipal utilities). There are currently thousands of Broadband related permits throughout the state that are awaiting approval by a Permitting Authority.

Thirty other states already have laws in place to ensure the quick deployment of Broadband. Some Permitting Authorities in California utilize best practices to streamline permit approvals for Broadband deployment, however many Permitting Authorities take years to approve permits that are being approved in under 90 days in best-practice Permitting Authorities. These delays result in many residents having to wait years for improved internet connectivity while residents in neighboring area are benefitting right now.

A non-discretionary 90-day approval timeframe that also includes a deemed approved remedy at its conclusion for any Broadband related permit from a Permitting Authority would be the single most important and cost-effective action the CPUC could encourage or recommend to

accelerate Broadband deployment in California. An additional requirement the CPUC should consider, is to condition the availability of any state funding going to Permitting Authorities - such as from the California Advanced Services Fund - on the issuance of permits within such a timeline.

Below are specific recommendations to accelerate the deployment of Broadband projects based on the best practices utilized by Permitting Authorities in California and around the country:

RECOMMENDATIONS TO ACCELERATE BROADBAND DEPLOYMENT

1. **Broadband projects should be defined as wireline and wireless** – this ensures that all connectivity improvements – regardless of the specific technology or connection method utilized - will be included in these actions and will assure that capital extends further with maximum flexibility to reach more people.
2. **Existing pending permits should be approved immediately.** Permitting Authorities should identify all pending Broadband permits and lease amendments and utilize a 90-day or less review period so local residents can benefit from improved connectivity quickly. Some Broadband permits have been pending with Permitting Authorities for years, preventing local residents from accessing high-speed internet.
3. **There should be a 90-day maximum permit review period for new Broadband projects** with standardized tolling permitted for incompleteness – and if that timeline is

not met then projects should be deemed approved to allow installation to begin. This prevents projects from being delayed months and years which happens regularly today.

4. **All Broadband permits should be approved through a non-discretionary, ministerial process with no administrative appeals.** Discretionary review processes - such as conditional use permits - are often imposed by Permitting Authorities on Broadband projects. This unnecessarily heavy-handed review only serves as a “pathway to no” and swamps bureaucracies with applications that do not need such involved review.
5. **Reassert competitively-neutral treatment of undergrounding requirements for all Broadband installations.** In particular, where there are existing above-ground utilities, new Broadband facilities should be permitted to be deployed in the same fashion, *e.g.* if above-ground utility lines exist along the same route as a proposed fiber line, then the new fiber line must be permitted to be installed above-ground as well. Permitting Authorities should not be permitted to require new facilities to go below ground when existing facilities are permitted to remain above. This is quicker and cheaper than new trenching underground – and such neutral treatment is required by federal law.
6. **Encourage swifter adoption of new installation methods.** Permitting Authorities should be required to permit the use of microtrenching as an installation method to install fiber underground. **Microtrenching** is more efficient than traditional open trenching which closes streets and adversely impacts local communities. It is also 50-70% cheaper than traditional street trenching. Please see the average cost estimates below:

Major Urban
Open Trench estimated at ~\$400 per foot
Microtrench estimated at ~\$125 per foot
Microtrenching costs an estimated 31% of the cost of open trenching

Small - medium size community
Open Trench estimated at ~\$300 per foot
Microtrench estimated at ~\$125 per foot
Microtrenching costs an estimated 42% of the cost of open trenching

For more information on microtrenching please see <https://www.youtube.com/watch?v=rIoGDUxWYw>. The City of Los Angeles recently adopted a microtrenching ordinance which is leading to accelerated Broadband deployment and serves as a model for a statewide requirement.

7. **Application fees by Permitting Authorities should be limited to reasonable cost recovery** – Permitting Authorities often charge application fees of thousands (or tens of thousands) of dollars per permit and prevent limited dollars from going to as many Broadband projects as possible. Often, increased fees are used to supplement a multi-layered, unnecessary, permitting process that includes multiple reviews and hearings and appeals. Broadband fees should be reasonable and not exceed a Permitting Authority's costs in processing these applications. Consequently, the CPUC should promote adopting the FCC's presumptively reasonable safe harbors for small wireless facilities as a hard cap maximum for permitting fees charged by a Permitting Authority for a Broadband project.¹ Short of that, fees should be limited to reimbursement of actual,

¹ See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133A (September 26, 2018), ¶ 43, *et. seq.*

reasonable costs and applied in a nondiscriminatory manner to all Broadband projects regardless of technology utilized.

The City of Long Beach is currently working towards a master permit process where design and locations for a full multiple-node project is agreed upon upfront, fees are paid, and inspections to confirm compliance occur post construction. This allows for expedited construction schedules and the city has access to the fees immediately.

8. **Permitting Authorities should be limited to issuing one permit per project applied for.** Often projects require multiple permits from multiple departments within a single permitting authority and these departments do not coordinate review nor fee collection.
9. **Objective and clear design standards should be required from Permitting Authorities for permit review** – standards should be objective, technology-neutral (purpose-neutral) and physically feasible. Inconsistent application of standards and technically infeasible design restrictions cause significant delays. Further restrictive aesthetic limitations often creates inconsistent levels of connectivity for residents between different neighborhoods and different communities due to design restrictions limiting technology.
10. **Clarify CEQA** – The CPUC should use its authority to clarify that it is the lead agency for all Broadband projects. Certain Permitting Authorities continue to perform a separate CEQA review for Broadband projects which is an unnecessary expense and consumes resources that would otherwise go toward constructing Broadband projects.

We commend the CPUC for addressing the critical issue of expediting Broadband deployment. We look forward to working with you in the coming weeks to accelerate the approval of high-speed internet projects throughout the state. Thank you for your consideration of this request.

Respectfully submitted,

Date: October 12, 2020

By: /s/ Joshua S. Trauner

Joshua S. Trauner

Senior Government Relations Counsel
Crown Castle Fiber LLC

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Crown Castle

March 27, 2020

The Honorable Governor Jared Polis

Dear Governor Polis,

These are indeed trying and unprecedented times. You and your staff have engaged in a leadership role in which you likely never imagined and for that we are enormously grateful. As you know broadband infrastructure, both wireless and wireline, has been taxed to its full capacity as health workers, students, public officials, governments, and remote employees are conducting business and consuming record amounts of data. The telecommunications industry is working hard to meet these demands but needs a unifying voice to organize the nature of the issue and offer collective solutions.

We at Crown Castle are in a unique position and stand ready to add value to your office in the following ways:

- Establish and lead a working group of industry and government stakeholders with the sole charter of establishing priorities based on the health and safety of our population, identifying communications needs, strategizing the best and quickest solution, and coordinating construction efforts in install antennas, fiber, power, and whatever other infrastructure is required.
- We have 120 route miles of fiber, 625 cell sites, and more than 1400 fiber-based small cell nodes that can become part of the working group's conversation as we determine how to best pinpoint broadband capacity where needed. I have also spoken with other industry partners who are willing to make the same commitment.
- Should it be required, Crown Castle has over 300 wireless and fiber projects that are shovel ready, but lack only a permit from local municipalities. Should these sites be determined necessary in the above working group, they could be deployed quickly.

This crisis is a sobering reminder of the need for critical infrastructure. Our Government Affairs Manager in the region, Scott Harry, will be your main point of contact and is able to lead the above mentioned working group. Should you have any questions or comments, please do not hesitate to reach out to him at 720-402-9277.

Sincerely,

John Toccalino
Vice President, Engineering and Operations



GUIDANCE TO STATE EXECUTIVE DEPARTMENTS AND AGENCIES, MUNICIPALITIES, COUNTIES, AND TELECOMMUNICATIONS PROVIDERS REGARDING PERMITTING AND SERVICE FOR TELECOMMUNICATIONS DUE TO THE PRESENCE OF COVID-19

My administration, along with other State, local, and federal authorities, has undertaken a wide array of actions to mitigate the effects of novel coronavirus 2019 (COVID-19), prevent further spread, and preserve our healthcare resources. During this pandemic emergency, it is essential that we protect Coloradans' health and safety by making the internet more accessible for Coloradans to engage in remote work, online coursework, and leisure. In consultation and alignment with municipalities, counties, telecommunications providers, and the Governor's Council for Economic Stabilization and Growth, I am providing the following guidance to State executive departments and agencies, municipalities, counties, and telecommunications providers that are trying to deploy technology that will assist our efforts to limit the spread of COVID-19 while making the internet more accessible to Coloradans' within the next forty-five (45) days.

FINDINGS

1. On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State.
2. The Centers for Disease Control and Prevention (CDC), within the United States Department of Health and Human Services, recommends community mitigation strategies, including social distancing measures to limit the spread of the virus. People gathering in large numbers is an area of concern for possible transmission of the disease.

GUIDANCE

I am providing the following guidance to State executive departments and agencies, municipalities, counties, and telecommunications providers within the State concerning how to safely and efficiently permit and deploy technology to keep Coloradans connected for the next forty-five (45) days. We encourage all providers and contractors to observe the social distancing requirements contained within Public Health Order (PHO) 20-24, as amended, or any subsequent, related PHO.

1. Municipalities and counties should consider all work associated with the expansion, upgrade, and maintenance of telecommunications networks to be a Critical Business or essential service for a Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended, especially in cases where such work will protect public safety or support another Critical Business or Critical Government Function.
2. Municipalities and counties should consider the definitions and guidance provided by the U.S. Department of Homeland Security and Cyber and Infrastructure Security Agency (CISA), found



here <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>, regarding critical and essential services and infrastructure.

3. Municipalities and counties should continue to partner with telecommunications providers to ensure telecommunications providers have the ability to do all necessary work, especially when doing so will protect public safety or support a Critical Business or Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended.
4. Telecommunications providers should work cooperatively with property owners to expedite access to properties to place, repair, or augment telecommunications facilities and infrastructure.
5. State executive departments and agencies, municipalities, and counties should suspend, waive, or expedite permitting requirements for new construction or upgrades of any communication infrastructure (including fiber, small cells, ground-based, strand mounted, or cable), especially when doing so will protect public safety or support a Critical Business or Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended.
6. Telecommunications providers should prioritize and ensure the connectivity of schools, libraries, hospitals or health care facilities, first responders, courthouses, and other community anchor institutions.
7. Telecommunications providers should prioritize the deployment of affordable broadband and wireless infrastructure to rural communities to ensure connectivity, and telecommunications providers should prioritize connectivity for students and teachers, telehealth, and businesses in these areas.
8. State executive departments and agencies, municipalities, and counties should partner with Telecommunications providers to identify shovel-ready projects that can be implemented in the next forty-five (45) days. I encourage State executive departments and agencies, municipalities, and counties to prioritize these projects to protect public safety.
9. Municipalities and counties should allow telecommunications providers access to roads and public rights of way for new construction or upgrades of any communication infrastructure, especially when doing so will protect public safety or support a Critical Business or Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended.
10. Municipalities and counties should allow telecommunications providers to maintain an electronic copy of permits at worksites.
11. Municipalities and counties should allow electronic reviews and approvals for all permitting for telecommunications providers, especially when doing so will protect public safety or support a Critical Business or Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended.
12. Municipalities and counties should develop processes for excavation and construction permits to be conducted electronically, especially when doing so will protect public safety or support a Critical Business or Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended.
13. Municipalities and counties should perform remote inspections for new construction or upgrades of any communication infrastructure, especially when doing so will protect public safety or



support a Critical Business or Critical Government Function, as such terms are defined in Public Health Order 20-24, as amended.

The State will continue to work with municipalities, counties, telecommunications providers as the COVID-19 situation continues to develop. As Coloradans, we are all in this together and I am grateful for your service to our communities.

GIVEN under my hand this
twenty- second day of April, 2020.



Jared Polis
Governor

