

AMENDED IN ASSEMBLY APRIL 21, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1874

Introduced by Assembly Member Cohn

February 3, 2004

An act to add Section 14666.9 to the Government Code, and to amend Section 671.5 of, and to add Section 679.1 to, the Streets and Highways Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1874, as amended, Cohn. Telecommunications: Information and Advanced Communications Deployment Act of 2004.

Existing law provides that the Department of Transportation shall have full possession and control of the state highways and associated property. Existing law requires the department to approve or deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application that meets specified requirements. Existing law provides that the department's failure to notify an applicant within the required time period that a permit is denied is deemed to constitute approval of the permit. Existing law authorizes an applicant for an encroachment permit to appeal to the director of the department for a final determination of the department's denial of an application. Existing law requires the director to make a final written determination within 60 days after receipt of an applicant's appeal. Existing law entitles a city, municipal utility district, municipal

~~water district, or metropolitan water district to a blanket permit, renewable annually, for the installation of its service connections and for ordinary maintenance of its facilities located or installed in state highways. Existing law authorizes the department to revoke the blanket permit under certain conditions.~~

This bill would adopt the Information and Advanced Communications Deployment Act of 2004. The act would make it the public policy of the state to, among other things, promote the availability of a wide range of communications services to residents of California, to improve the opportunities for economic development and delivery of communications services, and to ensure that the rules, regulations, and procedures for access to public rights-of-ways advance these policies. The bill would change the number of days the department has to approve or deny an application for an encroachment permit and the number of days the director has to make a final determination of the applicant's appeal to 45 days. The bill would also ~~entitle~~ *require an encroachment permit issued to a communications provider to a blanket permit, renewable annually, for the installation of its service connections and for operational facilities located or installed in state highways to include provisions allowing the provider to access the equipment for the purposes of operation, repair, and maintenance, or alteration of its the facilities and service connections located or installed in state highways.* The bill would authorize the department to revoke the ~~blanket~~ permit under certain conditions.

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

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

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) Information and advanced communications services are the
- 4 foundations for California's continued technological and
- 5 economic leadership. It has been estimated that the widespread
- 6 deployment of information and advanced communications
- 7 services networks can generate an increase of over \$300 billion in
- 8 incremental GSP and nearly two million new jobs for the state of
- 9 California over a ten-year period.
- 10 (b) Accelerated deployment of information and advanced
- 11 communication services infrastructure is a critical component of



1 the state's economic development and an improved quality of life
2 for its constituency.

3 (c) Rights-of-way and public lands access is one of the most
4 important considerations for companies considering major new
5 investments in information and advanced communications
6 services infrastructure. In order to encourage accelerated
7 deployment of information and advanced communications
8 services in California, it is important that rights-of-way access not
9 be a barrier or impediment to investment in broadband networks.

10 (d) In order to support the goal of accelerated deployment of
11 information and advanced communications services, state entities
12 should ensure prompt access to public lands by expediting and
13 streamlining rights-of-way access for the deployment of
14 information and advanced communications services
15 infrastructure.

16 SEC. 2. Section 14666.9 is added to the Government Code, to
17 read:

18 14666.9. (a) This section shall be known, and may be cited
19 as, the Information and Advanced Communications Deployment
20 Act of 2004.

21 (b) It is the public policy of the state to do all of the following:

22 (1) Promote the availability of a wide range of communications
23 services to residents of this state at reasonable cost, including the
24 rapid accelerated deployment of information and advanced
25 communications services networks in the State of California.

26 (2) Encourage the introduction of new services, the entry of
27 new providers, the development of new technologies, and increase
28 investment in the communication infrastructure of this state.

29 (3) Improve the opportunities for economic development and
30 the delivery of communications services.

31 (4) Ensure that the rules, regulations and procedures for access
32 to public rights-of-ways advance these policies.

33 (c) Nothing in this section alters the rights provided to
34 telegraph or telephone corporations pursuant to Section 7901 of
35 the Public Utilities Code.

36 SEC. 3. Section 671.5 of the Streets and Highways Code is
37 amended to read:

38 671.5. (a) The department shall either approve or deny an
39 application from an applicant for an encroachment permit within
40 45 days of receiving a completed application, as determined by the

department. An application for an encroachment permit is complete when all other statutory requirements, including the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), have been complied with. The department's failure to notify the applicant within that 45-day period that the permit is denied shall be deemed to constitute approval of the permit. Thereafter, upon notifying the department, the applicant may act in accordance with its permit application, as if the permit had been approved.

(b) If the department denies an application for an encroachment permit, it shall, at the time of notifying the applicant of the denial, furnish to the applicant a detailed explanation of the reason for the denial.

(c) The department shall adopt regulations prescribing procedures for an applicant to appeal to the director for a final determination of the department's denial of an application. The appeal shall be made in writing to the director. There shall be a final written determination by the director within 45 calendar days after receipt of the applicant's written appeal. The adopted regulations shall require the appellant to pay to the department a fee of not more than 50 percent of the estimated administrative cost to the department of conducting the appeal.

(d) Nothing in this section precludes an applicant and the department from mutually agreeing to an extension of any time limit provided by this section.

SEC. 4. Section 679.1 is added to the Streets and Highways Code, to read:

679.1. ~~Any communications provider is entitled to a blanket permit, renewable annually, for the installation of its service connections and for operation, repair, maintenance, or alteration of its facilities and service connections, located or installed in state highways. However, the department may revoke the blanket permit if the permittee fails to comply with the provisions of this article, after reasonable notice and opportunity to cure is provided to the permittee.~~ *An encroachment permit issued to a communications provider for the installation of its facilities located or installed in state highways shall include in its terms provisions to allow the communications provider, upon proper notice to the department, to access the equipment for the purposes of operation, repair, and maintenance of those facilities. The*

- 1 *permit may be revoked if the permittee fails to comply with the*
- 2 *provisions of this article, after reasonable notice and opportunity*
- 3 *to cure is provided to the permittee.*

