

AMENDED IN ASSEMBLY MAY 9, 2013  
AMENDED IN ASSEMBLY APRIL 23, 2013  
AMENDED IN ASSEMBLY MARCH 21, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 162**

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**Introduced by Assembly Member Holden**

January 23, 2013

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An act to add Section 65964.5 to the Government Code, relating to telecommunications facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 162, as amended, Holden. ~~Wireless telecommunications facilities. telecommunications: 911 emergency assistance.~~

*Existing law, the federal Middle Class Tax Relief and Job Creation Act of 2012, establishes a grant program to make grants to states to assist states and local jurisdictions to identify, plan, and implement the most efficient and effective way to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety broadband network to satisfy the wireless communications and data service needs of those jurisdictions.*

*This bill would make legislative findings and declarations relating to the criticalness of maintaining signal strength and call reliability for 911 calls from cellular telephones, and would state the intent of the Legislature to subsequently amend this bill to include provisions that would increase network capacity on existing wireless structures in order to serve the needs of safety personnel and the people of the state.*

~~The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances that, among other things, regulate~~

~~the use of buildings, structures, and land as between industry, business, residences, and open space. Existing law, the federal Middle Class Tax Relief and Job Creation Act of 2012, prohibits a state or local government from denying an eligible facilities request, as defined, for a modification of an existing wireless tower or base station that does not substantially change the tower or base station.~~

~~This bill would prohibit a local government from denying an eligible facilities request, as defined, for a modification of an existing wireless telecommunications facility or structure that does not substantially change the physical dimensions of the wireless telecommunications facility or structure, as specified. The bill would require a local government to act on an eligible facilities request within 90 days of receipt of a request, as specified. The bill would prohibit a local government from requiring proof of gap in coverage as part of the approval of an eligible facilities request. By adding to the duties of a local government, the bill would impose a state-mandated local program.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

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

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

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Nearly one in every three Californians communicates only
- 4 via a cellular device and does not own or operate a landline
- 5 telephone.
- 6 (b) Of the 240,000,000 calls to telephone number 911 for
- 7 emergency assistance placed nationwide each year, 70 percent
- 8 now originate from cellular devices.
- 9 (c) In 2010, 5 percent of all 911 calls originating from cellular
- 10 devices were dropped, resulting in 8,400,000 dropped 911 calls.
- 11 (d) Recognizing the public’s shift toward cellular telephone use,
- 12 the Legislature passed Senate Bill 1375 (Chapter 332 of the Statutes

1 of 2010), authorizing telephone corporations to deactivate 911  
2 emergency service from any landline telephone not subscribing to  
3 paid telephone service.

4 (e) Given the increased reliance on cellular phones, maintaining  
5 signal strength and call reliability for 911 calls from cellular  
6 telephones is critical to protecting public safety and saving lives  
7 of Californians.

8 (f) The Final Report of the National Commission on Terrorist  
9 Attacks Upon the United States (known as the 9/11 Commission  
10 Report) identified the lack of coordination among first responder  
11 agencies and communication challenges in the 9/11 attacks and  
12 emphasized the need for uniform and reliable communications for  
13 all first responders.

14 (g) The federal Middle Class Tax Relief and Job Creation Act  
15 of 2012 (Public Law 112-96) creates a framework for the public  
16 sector to partner with commercial providers to leverage the private  
17 sector's investments in broadband technologies to efficiently  
18 deploy an interoperable broadband network for public safety.

19 ~~(h) The federal Middle Class Tax Relief and Job Creation Act~~  
20 ~~of 2012 (Public Law 112-96) That act~~ allocated seven billion  
21 dollars (\$7,000,000,000) for grants to states to build the nationwide  
22 public safety broadband network.

23 (i)

24 (h) The Federal Communications Commission has found that  
25 delays by local governments in approving ministerial requests have  
26 delayed the implementation of next-generation broadband services  
27 for consumers and first responders.

28 (j)

29 (i) It is the intent of the Legislature to *subsequently amend this*  
30 *measure to include provisions that would* increase network capacity  
31 on existing wireless structures in order to serve the needs of safety  
32 personnel and the people of the state.

33 **SEC. 2.** Section 65964.5 is added to the Government Code, to  
34 read:

35 65964.5. (a) ~~Notwithstanding any other law, and pursuant to~~  
36 ~~Section 6409 of the federal Middle Class Tax Relief and Job~~  
37 ~~Creation Act of 2012 (47 U.S.C. Sec. 1455), a local government~~  
38 ~~shall approve and shall not deny any eligible facilities request for~~  
39 ~~a modification of an existing wireless telecommunications facility~~

1 or structure that does not substantially change the physical  
2 dimensions of the wireless telecommunications facility or structure.

3 (b) ~~The failure to act on an eligible facilities request within 90~~  
4 ~~days of receipt of a request shall be deemed an approval of the~~  
5 ~~request. The 90 days shall be tolled if the request is determined to~~  
6 ~~be incomplete. If the request is determined to be incomplete, the~~  
7 ~~local government shall comply with subdivision (c) of Section~~  
8 ~~65943 of the Government Code.~~

9 (c) ~~A local government shall not require proof of gap in coverage~~  
10 ~~as part of the approval of an eligible facilities request.~~

11 (d) For purposes of this section, the following definitions shall  
12 apply:

13 (1) “Collocation” means the mounting of the wireless  
14 telecommunications facility and related equipment on an existing  
15 tower, building, or structure for the purpose of transmitting or  
16 receiving signals for telecommunications or public safety services.

17 (2) ~~“Eligible facilities request” or “request” means any request~~  
18 ~~for modification of an existing wireless telecommunications facility~~  
19 ~~or collocation on an existing structure that involves any of the~~  
20 ~~following:~~

- 21 (A) ~~Collocation of upgraded transmission equipment.~~
- 22 (B) ~~Removal of transmission equipment.~~
- 23 (C) ~~Replacement of transmission equipment.~~
- 24 (D) ~~Collocation and deployment of transmission equipment~~  
25 ~~necessary to construct or maintain public safety broadband~~  
26 ~~communication systems.~~
- 27 (3) ~~“Public safety broadband communications system” means~~  
28 ~~any regional interoperable communications system, the nationwide~~  
29 ~~public safety broadband network, the first responder analog-D~~  
30 ~~block, or any other government-operated communications system~~  
31 ~~used by first responders or emergency management systems.~~

32 (4) “Substantially change” means any of the following:

33 (A) ~~The mounting of the proposed antenna on the wireless~~  
34 ~~telecommunications facility or structure would increase the existing~~  
35 ~~height of the wireless telecommunications facility by more than~~  
36 ~~10 percent, or by the height of one additional antenna array with~~  
37 ~~separation from the nearest existing antenna not to exceed 20 feet,~~  
38 ~~whichever is greater, except that the mounting of the proposed~~  
39 ~~antenna may exceed the size limits set forth in this subparagraph~~  
40 ~~if necessary to avoid interference with existing antennas.~~

1 ~~(B) The mounting of the proposed antenna would involve the~~  
2 ~~installation of more than the standard number of new equipment~~  
3 ~~cabinets for the technology involved, not to exceed four equipment~~  
4 ~~cabinets, or more than one additional equipment shelter.~~

5 ~~(C) The mounting of the proposed antenna would involve adding~~  
6 ~~an appurtenance to the body of the wireless telecommunications~~  
7 ~~facility or structure that would protrude from the edge of the~~  
8 ~~wireless telecommunications facility more than 20 feet, or more~~  
9 ~~than the width of the wireless telecommunications facility at the~~  
10 ~~level of the appurtenance, whichever is greater, except that the~~  
11 ~~mounting of the proposed antenna may exceed the size limits set~~  
12 ~~forth in this subparagraph if necessary to shelter the antenna from~~  
13 ~~inclement weather or to connect the antenna to the wireless~~  
14 ~~telecommunications facility via cable.~~

15 ~~(D) The eligible facility request fails to comply with all existing~~  
16 ~~aesthetic requirements imposed by a local government for the~~  
17 ~~specific facility subject to the request. Nothing in this section shall~~  
18 ~~be construed to require that any new aesthetic enhancements to be~~  
19 ~~made to an eligible facility that were not existing requirements at~~  
20 ~~the time the eligible facility request was made.~~

21 ~~(5) “Wireless telecommunications facility” means equipment~~  
22 ~~and network components, including towers, utility poles,~~  
23 ~~transmitters, base stations, and emergency power systems that are~~  
24 ~~integral to providing wireless telecommunications services.~~

25 ~~SEC. 3.— If the Commission on State Mandates determines that~~  
26 ~~this act contains costs mandated by the state, reimbursement to~~  
27 ~~local agencies and school districts for those costs shall be made~~  
28 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
29 ~~4 of Title 2 of the Government Code.~~

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32 **CORRECTIONS:** \_\_\_\_\_

33 **Text—Page 4.**