

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE MAY 9, 2006

AMENDED IN SENATE MAY 3, 2006

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE MARCH 29, 2006

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1627

Introduced by Senator Kehoe

February 24, 2006

An act to add Sections 65850.6 and 65964 to the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1627, as amended, Kehoe. Wireless telecommunication facilities.

~~The~~

(1) *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.

This bill would require a city, including a charter city, or county to administratively approve an application ~~to collocate~~ *for a collocation facility on or immediately adjacent to* a wireless telecommunications collocation facility, as defined, through the issuance of a building permit or a nondiscretionary permit, as specified.

~~The~~

(2) *The* Permit Streamlining Act defines the term “development project” to include projects involving the issuance of a permit for construction or reconstruction but not a permit to operate.

This bill would prohibit a city or county from taking certain actions as a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, and would specify that a development project for a wireless telecommunications facility is not subject to a permit to operate.

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

~~The~~

(3) *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.

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

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

1 SECTION 1. Section 65850.6 is added to the Government
2 Code, to read:
3 65850.6. (a) A collocation facility shall be a permitted use
4 not subject to a city or county discretionary permit if it satisfies
5 the following requirements:
6 (1) The collocation facility is consistent with requirements for
7 the wireless telecommunications collocation facility pursuant to
8 subdivision (b) on which the collocation facility is proposed.
9 (2) The wireless telecommunications collocation facility on
10 which the collocation facility is proposed was subject to a
11 discretionary permit by the city or county and an environmental
12 impact report was certified, or a negative declaration or mitigated
13 negative declaration was adopted for the wireless
14 telecommunications collocation facility in compliance with the
15 California Environmental Quality Act (Division 13 (commencing
16 with Section 21000) of the Public Resources Code), the
17 requirements of Section 21166 do not apply, and the collocation

1 facility incorporates required mitigation measures specified in
2 that environmental impact report, negative declaration, or
3 mitigated negative declaration.

4 (b) A wireless telecommunications collocation facility, where
5 a subsequent collocation facility is a permitted use not subject to
6 a city or county discretionary permit pursuant to subdivision (a),
7 shall be subject to a city or county discretionary permit and shall
8 comply with all of the following:

9 (1) City or county requirements for a wireless
10 telecommunications collocation facility that specifies types of
11 wireless telecommunications facilities that are allowed to include
12 a collocation facility, or types of wireless telecommunications
13 facilities that are allowed to include certain types of collocation
14 facilities; height, location, bulk, and size of the wireless
15 telecommunications collocation facility; percentage of the
16 wireless telecommunications collocation facility that may be
17 occupied by collocation facilities; and aesthetic or design
18 requirements for the wireless telecommunications collocation
19 facility.

20 (2) City or county requirements for a proposed collocation
21 facility, including any types of collocation facilities that may be
22 allowed on a wireless telecommunications collocation facility;
23 height, location, bulk, and size of allowed collocation facilities;
24 and aesthetic or design requirements for a collocation facility.

25 (3) State and local requirements, including the general plan,
26 any applicable community plan or specific plan, and zoning
27 ordinance.

28 (4) The California Environmental Quality Act (Division 13
29 (commencing with Section 21000) of the Public Resources Code)
30 through certification of an environmental impact report, or
31 adoption of a negative declaration or mitigated negative
32 declaration.

33 (c) The city or county shall hold at least one public hearing on
34 the discretionary permit required pursuant to subdivision (b) and
35 notice shall be given pursuant to Section 65091, unless otherwise
36 required by this division.

37 (d) For purposes of this section, the following definitions
38 apply:

39 (1) “Collocation facility” means the placement or installation
40 of wireless facilities, including antennas, and related equipment,

1 on, or immediately adjacent to, a wireless telecommunications
2 collocation facility.

3 (2) “Wireless telecommunications facility” means equipment
4 and network components such as towers, utility poles,
5 transmitters, base stations, and emergency power systems that are
6 integral to providing wireless telecommunications services.

7 (3) “Wireless telecommunications collocation facility” means
8 a wireless telecommunications facility that includes collocation
9 facilities.

10 (e) The Legislature finds and declares that a collocation
11 facility, as defined in this section, has a significant economic
12 impact in California and is not a municipal affair as that term is
13 used in Section 5 of Article XI of the California Constitution, but
14 is a matter of statewide concern.

15 (f) *With respect to the consideration of the environmental*
16 *effects of radio frequency emissions, the review by the city or*
17 *county shall be limited to that authorized by Section 332(c)(7) of*
18 *Title 47 of the United States Code, or as that section may be*
19 *hereafter amended.*

20 SEC. 2. Section 65964 is added to the Government Code, to
21 read:

22 65964. As a condition of approval of an application for a
23 permit for construction or reconstruction for a development
24 project for a wireless telecommunications facility, as defined in
25 Section 65850.6, a city or county shall not do any of the
26 following:

27 (a) Require an escrow deposit for removal of a wireless
28 telecommunications facility or any component thereof. *However,*
29 *a performance bond or other surety or another form of security*
30 *may be required, so long as the amount of the bond security is*
31 *rationally related to the cost of removal. In establishing the*
32 *amount of the security, the city or county shall take into*
33 *consideration information provided by the permit applicant*
34 *regarding the cost of removal.*

35 (b) Unreasonably limit the duration of any permit for a
36 wireless telecommunications facility. Limits of less than 10 years
37 are presumed to be unreasonable absent compelling land use or
38 public safety reasons. *However, cities and counties may establish*
39 *a build-out period for a site.*

1 (c) Require that all wireless telecommunications facilities be
2 limited to ~~certain geographic areas~~ or sites owned by particular
3 parties within the jurisdiction of the city or county.

4 SEC. 3. It is the intent of the Legislature that a permit to
5 operate a wireless telecommunications facility is not intended to
6 preclude compliance *by an applicant or city or county* with the
7 Permit Streamlining Act (Chapter 4.5 (commencing with Section
8 65920) of Division 1 of Title 7 of the Government Code) *or any*
9 *other applicable state or federal statutes or regulations.*

10 SEC. 4. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 a local agency or school district has the authority to levy service
13 charges, fees, or assessments sufficient to pay for the program or
14 level of service mandated by this act, within the meaning of
15 Section 17556 of the Government Code.