



County of Santa Cruz

BOARD OF SUPERVISORS

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Meeting Date: April 11, 2017
Date: April 5, 2017
To: The Board of Supervisors
From: John Leopold, First District Supervisor
Subject: RESOLUTION OPPOSING SENATE BILL 649 – WIRELESS
TELECOMMUNICATIONS FACILITIES

Dear Members of the Board:

I am writing to recommend that the Board oppose the passage of Senate Bill 649 (HUESO), Wireless Telecommunications Facilities. This bill would eliminate discretionary review for the installation of small cells, as defined, within the public right-of-way and utility easements, as well as anywhere within land use zones that include commercial or industrial uses. The bill would also, for the first time, prohibit cities and counties from precluding the leasing of their so-called “vertical infrastructure”, including streetlights and stoplights, for the installation of wireless telecommunications facilities. The bill would impose a cap developed for utility poles on the rents that cities or counties could charge for the use of their publicly-owned non-utility pole vertical infrastructure.

SB 649 would eliminate discretionary review for the installation of small cells in significant portions of communities and everywhere within the public-right-of-way. This broad language limits the county’s discretion and the ability to consider public input and aesthetics impacts of small cells installed within the public right-of-way in all zones (including residential neighborhoods) or anywhere inside or outside of the public right-of-way in mixed use residential/commercial zones. Instead counties would only be able to approve small cells located in these areas through an “administrative permit.” It is unclear as to what constitutes an administrative permit for the purposes of this bill. Our county should be able to maintain our traditional level of control over the time, place and manner (including aesthetics) of encroachments to the public right-of-way.

Counties would not be able to preclude the lease of their publicly-owned or controlled vertical infrastructure under SB 649. Our ability to determine areas where small cells

may or may not be appropriate is not made clear in the bill.

There also appear to be requirements that work against our own planning process. For instance, counties may not be able to reserve space for future public uses of their streetlights or stoplights when a small cell is installed on a publicly-owned pole (for example, if there were plans to install an additional signal head on a county-owned traffic signal pole). The bill must clarify our ability to ensure that the installation of small cells would not preclude the intended use of the publicly-owned infrastructure.

The bill also imposes limits to rents for installations on these non-utility poles. Given the public investment used in developing this infrastructure, the County owes it to our taxpayers to secure a fair rent for the lease of this public property. The limitations created by SB 649 would attempt to apply rates developed for utility poles to streetlights and stoplights, where there is no precedent for requiring these types of installations and where the formulas developed for utility poles do not apply. Finally, the bill is unclear as to how the prohibition on precluding the lease of pole space for small cells would apply to streetlights that are leased, not owned by public agencies. These leased poles could be considered "controlled" by the public agency, and would therefore fall under the bill's provisions.

Finally, I am concerned that public property outside of the public right-of-way be leased for small cells if it is leased for any commercial purpose. This requirement should at least be limited to circumstances where the public property is leased for a purpose *similar* to the installation of small cell wireless antennas to avoid situations of conflicting uses of a structure.

We regularly hear from constituents about their concerns around legislation governing our control over wireless infrastructure. Both the California State Association of Counties and the League of California Cities oppose SB 649 because of the bill's stripping away of any local control over wireless infrastructure. Accordingly, I recommend that the Board adopt the attached resolution opposing the passage of Senate Bill 649 and direct the Clerk of the Board to distribute the resolution as indicated.

Submitted by:



John Leopold, First District Supervisor

4/5/2017

Attachments:

Resolution SB 649
Senate Bill 649

CC:

Senator Bill Monning
Assemblymember Anna Caballero
Senate Government and Finance Committees
Assemblymember Mark Stone
League of Cities
California State Association of Counties