AGENDA

July 26, 2017

CITY COUNCIL
LAW & REGULATION COMMITTEE MEETING
5:30 P.M.
City Council Chambers
311 Vernon Street
Roseville, California

1. CALL TO ORDER

2. ROLL CALL (Appointed Committee Members)

Councilmember/Committee Member:	**John Allard**
Vice Mayor/Committee Chair:	**Bonnie Gore**

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENTS

NOTICE TO THE PUBLIC

Persons may address the City Council on items not on this agenda. Please complete a "Speaker Information Card" and present it to the City Clerk prior to the start of the meeting. Speakers shall restrict their comments to issues that are within the subject jurisdiction of the City Council and limit their comments to three (3) minutes per person. The total time allocated for Public Comment is 25 minutes. The Brown Act, with certain exceptions, does not permit the City Council to discuss or take action on issues that are not listed on the agenda.

5. MINUTES

5.1. Minutes of Prior Meetings

Memo from City Clerk Sonia Orozco recommending the Committee approve the minutes of the June 28, 2017 City Council Law & Regulation Committee meeting.

CC #: 8646

File #: 0103-32-02

CONTACT: Sonia Orozco 916-774-5263 sorozco@roseville.ca.us

6. REPORTS/COMMENTS/COMMITTEE/STAFF

6.1. SB 384 Alcohol Hours of Sale

Memo from Government Relations Administrator Mark Wolinski and Public Affairs & Communications Director Megan MacPherson with an informational report on the current status of Senate Bill 384. SB 384 the Alcoholic Beverages: Hours of Sale bill would authorize the Department of Alcoholic Beverage Control (ABC) to issue an additional hours permit to an on-sale licensee which would authorize, with or without conditions, the selling, giving, or purchasing of alcoholic beverages at the licensed premises between the hours of 2 a.m. and 4 a.m. This overview is provided for the Committee's understanding of the bill, its current status, and for the Committee's input.

CC #: 8648

File #: 0103-32-02

CONTACT: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

6.2. SB 35 Affordable Housing

Memo from Government Relations Administrator Mark Wolinski and Public Affairs & Communications Director Megan MacPherson with an informational report on the current status of Senate Bill 35. SB 35 is devised as a solution to meet the state's needs for market rate and affordable housing, but it treats all jurisdictions the same, whether they are a high producer of housing or not. This bill disproportionately penalizes pro-growth communities such as Roseville with an unattainable affordable-housing goal, requires jurisdictions to act as developers in place of the private sector, pre-empts local discretionary land-use authority and public input, offers no funding to meet new mandates, and penalizes jurisdictions that do not meet production standards regardless of whether they are already a high producer of housing.

CC #: 8647

File #: 0103-32-02

CONTACT: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

6.3. SB 649 Wireless Communications

Memo from Government Relations Administrator Mark Wolinski and Public Affairs & Communications Director Megan MacPherson with an informational report. The following is an update on SB 649 the Wireless Telecommunication Facilities bill. If passed, the bill would dramatically change how wireless communication equipment is installed throughout the city and it would reduce compensation paid to the City for use of public infrastructure. Roseville remains opposed to the bill and has provided the author with a series of amendments that would minimize several of the most troubling aspects of the bill.

CC #: 8649

File #: 0103-32-02

CONTACT: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

7. ADJOURNMENT

CITY COUNCIL
Law & Regulation Committee

CC #: 8646
File #: 0103-32-02

Title: Minutes of Prior Meetings
Contact: Sonia Orozco 916-774-5263 sorozco@roseville.ca.us

Meeting Date: 7/26/2017
Item #: 5.1.

RECOMMENDATION TO COUNCIL

Approve the minutes of the June 28, 2017 City Council Law & Regulation Committee meeting.

BACKGROUND

There is no background associated with this item.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ECONOMIC DEVELOPMENT / JOBS CREATED

There is no economic development associated with this item.

ENVIRONMENTAL REVIEW

There is no environmental review required by this item.

Respectfully Submitted,

Sonia Orozco, City Clerk

_____
Rob Jensen, City Manager

ATTACHMENTS:

Description

June 28, 2017 Minutes

MINUTES
June 28, 2017

CITY COUNCIL
LAW & REGULATION COMMITTEE MEETING
5:30 p.m.
City Council Chambers
311 Vernon Street
Roseville, California

1. CALL TO ORDER

Vice Mayor/Chair Bonnie Gore opened the June 28, 2017 Law & Regulation Committee meeting at 5:30 p.m.

2. ROLL CALL (Appointed Committee Members)

SILENT ROLL CALL
Present: Gore, Alvord

Councilmember/Committee Member:	**John Allard**
Vice Mayor/Committee Chair:	**Bonnie Gore**

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City Attorney Robert Schmitt.

4. PUBLIC COMMENTS

No public comment received.

NOTICE TO THE PUBLIC

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5. MINUTES

5.1. Minutes of Prior Meetings

Memo from City Clerk Sonia Orozco recommending the Committee approve the minutes of the May 24, 2017 Law & Regulation Committee meeting.

CC #: 8618

File #: 0103-32-02

CONTACT: Sonia Orozco 916-774-5263 sorozco@roseville.ca.us

The minutes of the May 24, 2017 Law & Regulation Committee were approved by consensus.

6. REPORTS/COMMENTS/COMMITTEE/STAFF

6.1. Electric Legislative Update

Memo from Government Relations Analyst Chris Romero and Electric Utility Director Michelle Bertolino with an informational report. Roseville Electric Utility staff has developed a legislative bill priority list. Staff continues to monitor and participate in various advocacy strategies for legislation as identified on this list.

CC #: 8619

File #: 0103-32-03

CONTACT: Chris Romero 916-746-1660 cromero@roseville.ca.us

Government Relations Analyst Chris Romero made the presentation to the Committee.

No public comment received.

For information only. No action required.

6.2. Environmental Utilities Legislative Update

Memo from Public Affairs Administrator Sean Bigley and Environmental Utilities Director Richard Plecker with a report providing the Law & Regulation Committee an update on the existing state legislation related to water, wastewater, recycled water and solid waste policy issues.

CC #: 8620

File #: 0103-32-03

CONTACT: Sean Bigley 916-774-5513 sbigley@roseville.ca.us

Public Affairs Administrator Sean Bigley made the presentation to the Committee.

No public comment received.

For information only. No action required.

6.3. Priority Legislation June 2017

Memo from Government Relations Administrator Mark Wolinski and Public Affairs

& Communications Director Megan MacPherson with an informational report. The June list of priority legislation reflects the bills that remain active after the June 2 legislative deadline for bills to pass out of their house of origin. Staff continues to track all the bills that have been identified as possibly affecting Roseville. Advocacy strategies are developed for each of the bills on this list, and the list is continually refined during the course of the legislative session. The costs of these activities are contained within the City's current budget.

CC #: 8621

File #: 0103-32-02

CONTACT: Mark Wolinski 916-774-5179 mwolinski@roseville.ca.us

Government Relations Administrator Mark Wolinski made the presentation to the Committee.

No public comment received.

For information only. No action required.

7. ADJOURNMENT

The meeting was adjourned at 6:35 p.m. by consensus.

CITY COUNCIL
Law & Regulation Committee

CC #: 8648
File #: 0103-32-02

Title: SB 384 Alcohol Hours of Sale
Contact: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

Meeting Date: 7/26/2017
Item #: 6.1.

RECOMMENDATION TO COUNCIL

This overview of SB 384 is provided for the Committee's understanding of the bill, its current status, and for the Committee's input.

BACKGROUND

The stated purpose of this bill is to provide local governments and communities an optional tool in their nightlife regulations. The bill author states, "California is a diverse state, with cities and neighborhoods that have different needs when it comes to nightlife. By granting local control to our cities to extend their late night hours, we can support areas that benefit economically and culturally from a strong nightlife presence, while ensuring that other cities and neighborhoods retain their current rules. This nuanced approach has been successful in other cities across the country, and California cities should have the same options as places like Chicago, New York, and Washington D.C." The author's office points out that SB 384 would align California with at least 15 other states where local jurisdictions have the authority to decide alcoholic beverage service hours.

Currently, ABC is vested with the exclusive authority to license and regulate the manufacture, distribution, and sale of alcoholic beverages within California. The ABC must notify local officials when an application for the issuance or transfer of a liquor license is filed. Existing law prohibits the ABC from issuing or transferring a license until at least 30 days after these notices are provided. A component of this process allows local officials to file a protest against the issuing of the license.

This bill would permit the ABC to authorize, with or without conditions, the selling, giving, delivering, or purchasing of alcoholic beverages at individual on-sale licensed premises between the hours of 2 a.m. and 4 a.m. within a city or county provided the local governing body develops and approves a local plan, relative to the additional hours of service. Once the local plan authorizing extended alcohol sales is approved, a business must then apply to the ABC for an extended-hours license. The city or county plan must include the following elements:

a) Shows that the public convenience or necessity will be served.
b) Identifies the area that will be affected and demonstrates how the area will benefit.
c) Exhibits resident and business support.

d) Includes an assessment by local law enforcement regarding the potential impact on the area and a public safety plan, created by local law enforcement.
e) Shows that transportation services are readily accessible in the area during the additional service hours.
f) Includes programs to increase public awareness of the transportation services available and the impacts of alcohol consumption.

Once a city or county has developed and certified its plan, the plan is submitted to the ABC for review and approval. If the plan is approved by the ABC, a business within the plan area would then be allowed to apply for extended hours for serving alcohol. The application process for that approval would include the following steps:

1. Requires the Department of ABC, upon receipt of an application by an on-sale licensee for additional hours, to conduct a thorough investigation to determine whether the additional hours would unreasonably interfere with local residents' quiet enjoyment of their property in the city, county, or city and county in which the applicant's licensed premises are located.
2. Requires the licensed applicant to notify law enforcement agencies, residents within 500 feet of the premises, and any other interested parties, as determined by the local governing body, of the application for additional hours within 30 consecutive days of the filing of the application in a manner determined by the local governing body.
3. Provides that protests may be filed within 30 days from the first date of notice of the filing of an application for additional hours. Also, permits the Department of ABC to extend the 30-day period by an additional 20 days.
4. Provides that the Department of ABC may reject protests, except protests made by a public agency or public official, if it determines the protests are false, vexatious, frivolous, or without reasonable or probable cause at any time before hearing thereon. If, after investigation, the ABC recommends that additional hours be authorized notwithstanding a public protest by a public agency or a public official, the ABC must notify the agency or official in writing of its determination and the reasons for its findings.
5. Provides that if, after investigation, the Department of ABC recommends that additional hours be authorized, with or without conditions on the applicant's license, the Department of ABC must notify the local governing body and all protesting parties whose protests have been accepted in writing of its determination.
6. Provides that any person who has filed a verified protest in a timely fashion that has been accepted by the Department of ABC may request a hearing on the issue or issues raised in the protest.
7. Requires the Department of ABC to notify the applicant of the outcome of the application and provides that any conditions placed upon the license shall be subject to existing provisions of the ABC Act pertaining to conditional licenses.
8. Requires the applicant to include an unspecified fee with his/her application for additional hours, which shall be deposited in the ABC Fund.
9. The bill would prohibit a new license to operate during extended hours from being issued until any existing license issued by the ABC at the premises has been canceled.
10. Makes various findings and declarations related to allowing local jurisdictions to extend the hours of alcoholic beverage service in their respective communities, subject to state approval.

Staff recently had discussions with Assemblymember Kiley regarding concerns the City had with the bill. Staff shared that the City appreciated the local control aspect of the bill, but had concerns that if an adjoining city applied for and received the authority to have extended hours of alcohol sales, that the extended hours would result in an increase in the numbers of impaired drivers being on Roseville's streets, which would lead to safety issues and necessitate that the City pay for

more traffic enforcement during early morning hours.

Staff from the City Attorney's office developed amendment language to the bill to address these issues and has forwarded the amendment language to Assemblymember Kiley's staff. The amendments are as follows:

• Section 3 (D) . . .This includes an assessment of the potential impact of an additional hours service area on adjacent cities, counties, or cities and counties, including but not limited to nearby law enforcement agencies.
• Section 3 (i) If the additional-hours service area reasonably results in increased law enforcement costs to adjacent cities, counties, or city and counties, such adjacent cities, counties, or city and counties shall be eligible for reimbursement of such reasonable costs from the city, county, or city and county allowing the additional hours service area.

The Assemblymember's staff has indicated that he will discuss the City's concerns and amendments with the author of the bill for his consideration.

Bill Status
The bill recently passed out of the Assembly Committee on Governmental Organization on a 15-4 vote. The bill passed out of its house of origin with similar strong support (27-9). The next action on the bill is to be heard in the Assembly Appropriations Committee. The date of that hearing has not been set at this time. However, staff continues to advocate for the City's amendments.

Conclusion
SB 384 defines a process for cities and counties to apply to the ABC for a permit to extend the hours for the sales of alcohol from 2 a.m. to 4 a.m. While the City recognizes the local control aspect of the bill, the City has concerns with a potential increase in impaired drivers being on City streets and the associated increased cost to the City for extended traffic enforcement in the early morning hours. Staff is working with Assemblymember Kiley's staff to have amendments taken on the bill that would address the City's concerns.

FISCAL IMPACT

The costs of these activities are contained within the City's current budget.

ECONOMIC DEVELOPMENT / JOBS CREATED

The activities detained in this report will not result in job development or creation.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §1506(b) (3). The action of reviewing proposed CEQA legislation does not include the potential for a significant environmental effect, therefore is not subject to CEQA.

Respectfully Submitted,

Mark Wolinski, Government Relations Administrator

Megan MacPherson, Public Affairs and Communications Director

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Rob Jensen, City Manager

ATTACHMENTS:

Description

SB 384 Attachment A

Attachment A

AMENDED IN SENATE March 20, 2017

AMENDED IN SENATE May 26, 2017

AMENDED IN ASSEMBLY June 29, 2017

CALIFORNIA LEGISLATURE--2017-2018 REGULAR SESSION

Senate Bill

No. 384

Introduced by Senators Wiener and Anderson

February 14, 2017

(Coauthor: Senator Allen)

(Principal coauthors: Assembly Members Dababneh and Santiago)

(Coauthor: Assembly Member Obernolte)

An act to amend Section 25631 of, and to add Section 25634 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 384, as amended, Wiener. Alcoholic beverages: hours of sale.

The Alcoholic Beverage Control Act provides that any on- or off-sale licensee, or agent or employee of the licensee, who sells, gives, or delivers to any person any alcoholic beverage between the hours of 2 a.m. and 6 a.m. of the same day, and any person who knowingly purchases any alcoholic beverages between those hours, is guilty of a misdemeanor. Existing law provides for moneys collected as fees pursuant to the act to be deposited in the Alcohol Beverage Control Fund, with those moneys generally allocated to the Department of Alcoholic Beverage Control upon appropriation by the Legislature.

This bill would ~~allow an on-sale licensee to apply to~~ authorize the Department of Alcoholic Beverage Control to issue an additional hours permit to an on-sale licensee which would authorize, with or without ~~conditions on the on-sale license,~~ conditions, the selling, giving, or purchasing of alcoholic beverages at the licensed premises between the hours of 2 a.m. and 4 a.m., upon completion of specified requirements by the local jurisdiction in which the licensee is located and upon payment of a fee to be deposited in the Alcohol Beverage Control Fund, as provided. The bill would require the applicant to notify specified persons of the application for

an additional hours permit and would provide a procedure for protest and hearing regarding the application. ~~The bill would prohibit a new license to operate during extended hours under these provisions from being issued until any existing license issued by the department at the premises has been canceled.~~

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 Required: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES Immediate Effect NO Urgency: NO Tax Levy: NO Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: NO

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

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the policy of the state to promote the responsible consumption of alcoholic beverages through making multiple planning options available to local communities and entertainment areas of the state, including the option of extended services hours up to a limit of 4 a.m. in communities and areas of the state where those extended hours are found by the governing body of the responsible community to be proper and appropriate.

(b) At least 15 states across the country delegate complete or partial authority for setting service hours to local jurisdictions or allow local jurisdictions to extend the hours of service, subject to state approval.

(c) The Legislature supports a well-planned and managed nightlife that can have a profound positive impact on a local economy, generating direct tax revenues, and growing public funds through revitalized business districts, and increased tourism.

(d) The Legislature supports the world-renowned California licensed restaurant, venue, and entertainment industry, which generates more than $50 billion every year in consumer spending in California communities on jobs, goods and services, and related industries, and that attracts world-class acts as well as tourists to visit and enjoy California.

(e) The Legislature has determined that it is in the best interest of the State of California for extended hours of operation policies to be administered by the Department of Alcoholic Beverage Control in connection with applications for additional hour privileges, with the fees for those applications to be determined and assessed by the department at a rate that will fully reimburse the department for administrative expenses.

SEC. 2. Section 25631 of the Business and Professions Code is amended to read:

25631. (a) (1) Except as provided in subdivision (b), any on- or off-sale licensee, or agent or employee of that licensee, who sells, gives, or delivers to any persons any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 2 a.m. and 6 a.m. of the same day, is guilty of a misdemeanor.

(2) For the purposes of this subdivision, on the day that a time change occurs from Pacific standard time to Pacific daylight saving time, or back again to Pacific standard time, "2 a.m." means two hours after midnight of the day preceding the day such change occurs.

(b) (1) In a city, county, or city and county that has additional serving hours pursuant to Section 25634, any on-sale licensee, or agent or employee of the licensee, who sells or gives to any person any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 4 a.m. and 6 a.m. of the same day, is guilty of a misdemeanor.

(2) For the purposes of this subdivision, on the day that a time change occurs from Pacific standard time to Pacific daylight savings time, or back again to Pacific standard time, "4 a.m." means four hours after 12 midnight of the day preceding the day the change occurs.

SEC. 3. Section 25634 is added to the Business and Professions Code, to read:

25634. (a) Notwithstanding Section 25631, the department may issue an additional hours permit which would authorize, with or without conditions, the selling, giving, or purchasing of alcoholic beverages at an individual on-sale licensed premises between the hours of 2 a.m. and 4 a.m. within a city, county, or a city and county if the local governing body of that city, county, or city and county, or its designated subordinate officer or body does the following:

(1) Develops and approves a local plan that meets the following requirements:

(A) Shows that the public convenience or necessity will be served by the additional hours.

(B) Identifies the area that will be affected by the additional hours and demonstrates how that area will benefit from the additional hours.

(C) Shows that residents and businesses within the additional hours service area support the additional hours.

(D) Includes an assessment by local law enforcement regarding the potential impact of an additional hours service area and the public safety plan, created by local law enforcement, for managing those impacts that has been approved by the local governing body.

(E) Shows that transportation services are readily accessible in the additional hours service area during the additional service hours.

(F) Includes programs to increase public awareness of the transportation services available in the additional hours service area and the impacts of alcohol consumption.

(2) Resolves and certifies the local plan and submits the local plan to the department.

(b) Upon receipt of a local plan developed pursuant to paragraph (1) of subdivision (a), the department may review the local plan to ensure compliance with existing law.

(c) An on-sale licensee shall not apply for an additional hours permit pursuant to this section until the department has received the local plan of the city, county, or city and county in which the licensed premises is located.

(d) (1) Upon receipt of an application by an on-sale licensee for an additional hours permit pursuant to this section, the department shall make a thorough investigation to determine whether the additional hours permit sought by the applicant would unreasonably interfere with the quiet enjoyment of their property by the residents of the city, county, or city and county in which the applicant's licensed premises are located.

(2) The applicant shall notify the law enforcement agencies of the city, county, or city and county, the residents of the city, county, or city and county located within 500 feet of the premises for which an additional hours ~~are~~ permit is sought, and any other interested parties, as determined by the local governing body, of the application by an on-sale licensee for an additional hours permit pursuant to this section within 30 consecutive days of the filing of the application, in a manner determined by the local governing body.

(3) Protests may be filed at any office of the department within 30 days from the first date of notice of the filing of an application by an on-sale licensee for an additional hours permit. The time within which a local law enforcement agency may file a protest shall be extended by the period prescribed in Section 23987.

(4) The department may reject protests, except protests made by a public agency or public official, if it determines the protests are false, vexatious, frivolous, or without reasonable or probable cause at any time before hearing thereon, notwithstanding Section 24300. If, after investigation, the department recommends that an additional hours ~~be authorized~~ permit be issued notwithstanding a protest by a public agency or a public official, the department shall notify the agency or official in writing of its determination and the reasons therefor, in conjunction with the notice of hearing provided to the protestant pursuant to Section 11509 of the Government Code. If the department rejects a protest as provided in this section, a protestant whose protest has been rejected may, within 10 days, file an accusation with the department alleging the grounds of protest as a cause for revocation of the additional hours permit and the department shall hold a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) This section shall not be construed as prohibiting or restricting any right that the individual making the protest might have to a judicial proceeding.

(e) (1) If, after investigation, the department recommends that an additional hours ~~be authorized, with or without conditions on the applicant's license,~~ permit be issued, with or without conditions, notwithstanding that one or more protests have been accepted by the department, the

department shall notify the local governing body and all protesting parties whose protests have been accepted in writing of its determination.

(2) Any person who has filed a verified protest in a timely fashion pursuant to subdivision (d) that has been accepted pursuant to this section may request that the department conduct a hearing on the issue or issues raised in the protest. The request shall be in writing and shall be filed with the department within 15 business days of the date the department notifies the protesting party of its determination as required under paragraph (1).

(3) At any time prior to the issuance of the ~~license,~~ permit, the department may, in its discretion, accept a late request for a hearing upon a showing of good cause. Any determination of the department pursuant to this subdivision shall not be an issue at the hearing nor grounds for appeal or review.

(4) If a request for a hearing is filed with the department pursuant to paragraph (2), the department shall schedule a hearing on the protest. The issues to be determined at the hearing shall be limited to those issues raised in the protest or protests of the person or persons requesting the hearing.

(5) Notwithstanding that a hearing is held pursuant to paragraph (4), the protest or protests of any person or persons who did not request a hearing as authorized in this section shall be deemed withdrawn.

(6) If a request for a hearing is not filed with the department pursuant to this section, any protest or protests shall be deemed withdrawn and the department may approve the on-sale licensee's application for an additional hours permit without any further proceeding.

(7) If the person filing the request for a hearing fails to appear at the hearing, the protest shall be deemed withdrawn.

(f) The department shall notify the applicant of the outcome of the application for ~~additional hours.~~ an additional hours permit. Any conditions placed upon the ~~license~~ permit pursuant to this section shall be subject to Article 1.5 (commencing with Section 23800).

(g) The applicant shall, at the time of application for an additional hours permit pursuant to this section, accompany the application with a fee of two thousand five hundred dollars ($2,500). Fees collected pursuant to this section shall be deposited in the Alcohol Beverage Control Fund.

~~(h) An extended license described by this section shall not be issued until any existing licenses issued at the premises by the department are canceled.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556

of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB of the California Constitution.

CITY COUNCIL
Law & Regulation Committee

CC #: 8647
File #: 0103-32-02

Title: SB 35 Affordable Housing
Contact: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

Meeting Date: 7/26/2017
Item #: 6.2.

RECOMMENDATION TO COUNCIL

This update is provided for the Committee's understanding of the current status of the bill and for the Committee's input.

BACKGROUND

Roseville has had a track record of success in zoning for affordable housing and in facilitating construction of affordable units. Over the past several years Roseville has issued nearly 1,000 single-family building permits per year. Over the coming fiscal year it is expected that the same level of single-family residential development will occur. In addition, construction of two new high-density apartment projects totaling 696 units will also take place.

All residential rezones in Roseville require 10 percent of new units to be affordable housing units. Since the implementation of this affordable housing policy, established in 1992, the development community has produced 2,867 affordable housing units in the Roseville Affordable Housing Program. By prioritizing affordable housing and integrating it into community development guidelines, we have gained support for projects when they come forward and have built trust within our community through the open, public process these projects are required to pass through.

As a high producer of affordable housing for a variety of income levels, the City has significant concerns with SB 35 including the following:

• The creation of additional unfunded state mandates at the same time when state and federal affordable-housing funding have slowed to a trickle. The elimination of redevelopment agencies in 2011 meant that more than $1 billion annually in affordable housing money has evaporated. In addition, funds from the 2006 state housing bond have been exhausted. Federal dollars have been declining for decades. This massive withdraw of resources has contributed to the current challenges, yet no significant source of ongoing affordable housing funding is on the horizon.
• SB 35 does not recognize market conditions such as downturns in housing markets and it will jeopardize the development community's ability to build market-rate and affordable-housing units.

Since 2004, the City of Roseville has approved approximately 20,000 residential units. Approximately 14,000 units remain to be constructed. The City has no control over when the private market will choose to build the remaining units. These units are subject to market factors, financing and funding constraints by lenders that the City does not control.

• The requirement that local jurisdictions themselves, act as developers and produce actual housing units to meet the RHNA requirements is not feasible. The City of Roseville would need to build 500 units a year of low or very low income units to meet its RHNA goal. This is an unattainable goal since funding is not available to public agencies to construct affordable units. The City has no control on when the private market place will chose to construct affordable housing products on land previously entitled by the City.

• When production standards are not met, it would push Roseville into a four-year Housing Element cycle instead of an eight-year cycle, which would likely result in the City's affordable housing goal being increased. This would take City resources away from other supportive housing efforts, such as our voucher programs.

• The legislation requires these future projects use prevailing wage. This additional cost without a funding resource, such as past redevelopment funds, will make financing these projects unfeasible.

• The bill increases the City's risk of lawsuits if it is not able to comply with adopted state legislation.

• Allowing construction by right without a public design review process will invite public opposition to affordable housing and erode our community's acceptance for these projects. The City's design standards were developed in conjunction with the community and follow established administrative approval processes, which ensure the community obtains a quality product. The community has a right to voice concerns about traffic, parking and other development impacts. Not having an opportunity for input only serves to increase public distrust in government.

Roseville already uses an open, streamlined specific-plan process to allow certain parcels to have a built-in streamlined review. By way of example, the Riverside Specific Plan and the Downtown Specific Plan are designated catalyst sites. If projects come forward that meet the development standards and design guidelines defined within the plans, they are approved by right. Meaning no additional approvals are required since those types of projects were already approved in the process that was used to create the plans. The process used to develop the plans involved public participation that approved those types of projects in the process. The specific plan process also gives developers assurance regarding the ability to build their projects. This is a much better, more open, inclusive planning model than one that would eliminate community input from the process.

<u>Bill Status</u>

The bill recently passed out of the Assembly Committee on Housing and Community Development on a 6-2 vote with one member not voting. The bill passed out of its house of origin with similar strong support. The next action on the bill will be a floor vote by the Assembly. The date of that vote has not been set at this time. Staff recognizes the potential to stop in the bill in the legislature is remote. However, staff continues to advocate in opposition to the bill and to work with the city's state lobbyist to alter the outcome of the bill being signed into law.

Conclusion

SB 35 is devised as a solution to meet the state's needs for market rate and affordable housing, but it treats all jurisdictions the same, whether they are a high producer of housing or not. In addition, this bill disproportionately penalizes pro-growth communities such as Roseville with an

unattainable affordable-housing goal.

FISCAL IMPACT

The costs of these activities are contained within the City's current budget.

ECONOMIC DEVELOPMENT / JOBS CREATED

The activities detained in this report will not result in job development or creation.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §1506(b) (3). The action of reviewing proposed CEQA legislation does not include the potential for a significant environmental effect, therefore is not subject to CEQA.

Respectfully Submitted,

Mark Wolinski, Government Relations Administrator

Megan MacPherson, Public Affairs and Communications Director

_____

Rob Jensen, City Manager

ATTACHMENTS:

Description

SB 35 Attachment A

Attachment A

AMENDED IN SENATE February 21, 2017

AMENDED IN SENATE March 09, 2017

AMENDED IN SENATE March 21, 2017

AMENDED IN SENATE April 04, 2017

AMENDED IN SENATE May 26, 2017

AMENDED IN ASSEMBLY June 20, 2017

AMENDED IN ASSEMBLY July 05, 2017

CALIFORNIA LEGISLATURE--2017-2018 REGULAR SESSION

Senate Bill

No. 35

Introduced by Senator Wiener

December 05, 2016

(Principal coauthor: Senator Atkins)

(Coauthors: Senators Allen and Vidak)

(Coauthor: Assembly Member Caballero)

An act to amend Sections 65400 and 65582.1 of, and to add Section 65913.4 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Wiener. Planning and zoning: affordable housing: streamlined approval process.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs.

This bill would require the planning agency to include in its annual report specified information regarding units of net new housing, including rental housing and housing designated for home ownership, that have been issued an entitlement, building permit, or certificate of occupancy. The bill would also require the Department of Housing and Community Development to post an annual report submitted pursuant to the requirement described above on its Internet Web site, as provided.

(2) Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would authorize a development proponent to submit an application for a multifamily housing development that satisfies specified planning objective standards is subject to a streamlined, ministerial approval process, as provided, and not be subject to a conditional use permit. The bill would require a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of those objective standards by a specified time; otherwise, the development is deemed to comply with those standards. The bill would limit the authority of a local government to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that if a local government approves a project pursuant to that process, that approval will not expire if that project includes investment in housing affordability, and would otherwise provide that the approval of a project expire automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would prohibit a local government from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions.

(3) The bill would make findings that ensuring access to affordable housing is a matter of statewide concern and declare that its provisions would apply to all cities and counties, including a charter city, a charter county, or a charter city and county.

(4) By imposing new duties upon local agencies with respect to the streamlined approval process and reporting requirement described above, this bill would impose a state-mandated local program.

(5) 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 Required: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES Immediate Effect NO Urgency: NO Tax Levy: NO Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: NO

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

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(D) The number of net new units of housing, including both rental housing and housing designated for home ownership, that have been issued an entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing, including both rental housing and housing designated for home ownership, satisfies. That report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units that satisfy each income category and the number of units that are housing designated for home ownership that satisfy each income category. The report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier, such as street address, ZIP Code, or assessor's parcel number.

(E) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its Internet Web site within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65582.1 of the Government Code is amended to read:

65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the approval and construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Accessory dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(l) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

(p) Streamlining housing approvals during a housing shortage (Section 65913.4).

SEC. 3. Section 65913.4 is added to the Government Code, to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies both of the following:

(A) Is an urban infill site as defined by Section 21061.3 of the Public Resources Code.

(B) Is a site zoned for residential use or residential mixed-use development with at least two-thirds of the square footage designated for residential use.

(3) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land use restriction for the following applicable minimum durations:

(A) Fifty-five years for units that are rented.

(B) Forty-five years for units that are owned.

(4) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, satisfies both of the following:

(A) Is located in a locality that the Department of Housing and Community Development has ~~determined, based on the last production report submitted by the locality to the department,~~ determined is eligible under this subparagraph on the basis that the number of units that have been issued building permits is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph for four years after the date that the department determined the locality was eligible, and, at that date, the department shall determine, based on the last production report submitted by the locality, whether the locality is eligible for another four-year period on the basis described above. A locality shall be deemed to be eligible under this subparagraph if it has not submitted an annual housing element report to the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval under this section.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on either of the following:

(i) The locality did not submit its latest production report to the Department of Housing and Community Development by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that ~~year.~~ reporting period. In addition, if the project contains more than 10 units of housing, the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, including at least 5 percent of the total number of units affordable to households making below 50 percent of the area median income. If the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that zoning ordinance applies.

(ii) The locality did not submit its latest production report to the Department of Housing and Community Development by the time period required by Section 65400, or that production report reflects that there were fewer units of housing affordable to households making below 80 percent of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that ~~year,~~ reporting period, and the project seeking

approval dedicates 50 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that ordinance applies.

(5) The development is consistent with objective zoning standards, including the Density Bonus Law in Section 65915, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted sufficient fire hazard mitigation measures as may be determined by their local agency with land use authority.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Occupied habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power, or housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(8) The development proponent has certified that one of the following is true:

(A) The project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the project is not a public work, that all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections

1773 and 1773.9 of the Labor Code. If the development is subject to this subparagraph, then all of the following shall apply:

(i) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) Contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages.

(iii) Except as provided in clause (iv), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(iv) Clause (iii) shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(v) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirements of paragraph (2) of subdivision (c) of Section 1773.1 of the Labor Code do not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(C) For developments that are not 100 percent subsidized affordable housing and are larger than ____ units, that a skilled and trained workforce shall be used to complete the project. For purposes of this subparagraph, "skilled and trained workforce" has the same meaning as provided in subdivision (d) of Section 2601 of the Public Contract Code.

(9) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(d) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing parking requirements in multifamily developments, shall not impose parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(e) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making below 80 percent of the area median income.

(2) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(f) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, 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.

(g) For purposes of this section:

(1) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(2) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(3) "Production report" means the information reported pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 65400.

(4) "Subsidized" means units that are price or rent restricted such that the units are permanently affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(5) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair. Therefore, the changes made by this act are applicable to a charter city, a charter county, and a charter city and county.

SEC. 5. Each provision of this measure is a material and integral part of this measure, and the provisions of this measure are not severable. If any provision of this measure or its application is held invalid, this entire measure shall be null and void.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB 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.

CITY COUNCIL
Law & Regulation Committee

CC #: 8649
File #: 0103-32-02

Title: SB 649 Wireless Communications
Contact: Mark Wolinski 774-5179 mwolinski@roseville.ca.us

Meeting Date: 7/26/2017
Item #: 6.3.

RECOMMENDATION TO COUNCIL

This update is provided for the Committee's understanding of the current status of the bill and for the Committee's input.

BACKGROUND

SB 649 would prohibit local discretionary review of "small cell" wireless antennas, including equipment collocated on existing structures or located on new "poles, structures, or non-pole structures," including those within the public right-of-way and buildings. The proposal preempts adopted local land use plans by mandating that "small cells" be allowed in all zones as a use by-right, including all residential zones.

As currently structured, SB 649 provides a de facto exemption to the California Environmental Quality Act (CEQA) for the installation of such facilities and precludes consideration by the public of the aesthetic, nuisance, and environmental impacts of these facilities, all of which are of particular importance when the proposed location of facilities is within a residential zone.

SB 649 also preempts local authority by requiring local governments to make available sites they own for the installation of a "small cell." While the city may place "fair and reasonable terms and conditions" on the use of city property, the proposal does not provide the city with any discretion to deny a "small cell" to be located on city property except for fire department sites. In effect, this measure gives control of public property to private telecommunications companies, while also placing a "cap" of $250 annually on the amount a local government may charge for the leasing of the publicly owned-property. Currently, the City has leases that provide $2,500 monthly in revenue for the same purpose.

The telecommunications industry is aggressively advocating for this bill saying it will bring greater connectivity to communities, create jobs and boost economic development throughout the state. In addition, the industry claims it needs the additional small cell infrastructure in order to implement 5G technology at some, still to be determined, date in the future. They claim the only way this can be done effectively is to use the infrastructure that cities and counties have constructed in the public rights-of-way.

Roseville, as with many other cities and counties that are opposed to this bill do not disagree that increased access and the effectiveness of wireless technology is beneficial to our communities. However, there is no documented problem that requires the dramatic changes contained within this bill to the current process for the approval of the placement of wireless equipment on the public infrastructure. The current process allows for the placement of equipment once an applicant's permit has been approved. Roseville's current process includes local input into the location and design of the equipment, an analysis that the infrastructure can safely accommodate the equipment, and the negotiated market rate lease for the use of the publicly owned infrastructure. This bill drastically changes this process, prohibiting what input the local authority has over the process and approval for the placement of this equipment on city or county owned infrastructure.

Roseville currently receives more than $200,000 from negotiated cell tower leases. If SB 649 is signed into law it would negate current leases held by cities and counties on January 1, 2018 and would require the leases to be renegotiated using the new conditions and limits required by this bill.

Bill Status

The bill was most recently heard by the Assembly Communications and Conveyance Committee on July 12 and passed out of the Committee on a 10-0 vote with three committee members not voting. The bill passed out of its house of origin with similar strong support and with only a small number of legislators voting against the bill. Staff recognizes that the potential to stop in the bill in the legislature is virtually non-existent. That said, staff continues to advocate against the bill and is working with the City's state lobbyist to bring amendments to the bill author that would minimize the negative impacts the bill presents to the city.

A working group of staff recently crafted more than 14 amendments that address the most concerning elements of the bill including safety, placement of equipment, design and lease limits. The City's state lobbyist will be taking the amendments to the author for discussion and his consideration. Staff will continue to provide support and input to the lobbyist throughout the entirety of the legislative process in the effort to have the amendments taken on the bill.

Conclusion

Roseville typically encourages new technology into the community because of its potential to improve the quality of life for the residents. However, this proposal goes too far by requiring local governments to approve "small cells" in all land use zones, including residential zones, through a ministerial permit, thereby shutting the public out of decisions that could affect the aesthetics of their community and the quality of their environment. In addition, it would reduce compensation paid to the City for use of public infrastructure. Staff will continue to work with the city's state lobbyist to minimize the negative elements of SB 649 that restricts local input and negates a fair rate for the use of the public infrastructure.

FISCAL IMPACT

The costs of these activities are contained within the City's current budget.

ECONOMIC DEVELOPMENT / JOBS CREATED

The activities detained in this report will not result in job development or creation.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §1506(b) (3). The action of reviewing proposed CEQA legislation does not include the potential for a significant environmental effect, therefore is not subject to CEQA.

Respectfully Submitted,

Mark Wolinski, Government Relations Administrator

Megan MacPherson, Public Affairs and Communications Director

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Rob Jensen, City Manager

ATTACHMENTS:

Description

SB 649 Attachment A

Attachment A

AMENDED IN SENATE March 28, 2017

AMENDED IN SENATE May 02, 2017

AMENDED IN ASSEMBLY June 20, 2017

AMENDED IN ASSEMBLY July 03, 2017

CALIFORNIA LEGISLATURE--2017-2018 REGULAR SESSION

Senate Bill

No. 649

Introduced by Senator Hueso

February 17, 2017

(Principal coauthor: Assembly Member Quirk)

(Coauthor: Senator Dodd)

(Coauthor: Assembly Member Dababneh)

An act to ~~amend Section 65964 of, and to~~ add Sections 65964.2 and 65964.5 ~~to,~~ to the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 649, as amended, Hueso. Wireless telecommunications facilities.

Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria, but a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit.

This bill would provide that a small cell is a permitted use, subject only to a specified permitting process adopted by a city or county, if the small cell meets specified requirements. By imposing new duties on local agencies, this bill would impose a state-mandated local program. The bill would authorize a city or county to require an encroachment permit or a building permit, and any additional ministerial permits, for a small cell, as specified. The bill would authorize a city or county to charge 3 types of fees: an annual ~~administrative permit fee,~~ charge for each small cell attached to city or county vertical infrastructure, an annual attachment rate, or a ~~on-time~~ one-time

reimbursement fee. The bill would require the city or county to comply with notice and hearing requirements before imposing the annual attachment rate. The bill would require an action or proceeding to challenge a fee imposed under the provisions of this bill to be commenced within 120 days of the effective date of the ordinance or resolution. The bill would define the term "small cell" for these purposes.

This bill would prohibit a city or county from adopting or enforcing any regulation on the placement or operation of a communications facility in the rights-of-way by a provider that is authorized by state law to operate in the rights-of-way or from regulating that service or imposing any tax, fee, or charge, except as provided in specified provisions of law or as specifically required by law.

~~Under existing law, a city or county, as a condition of approval of an application for a permit for construction or reconstruction of a development project for a wireless telecommunications facility, may not require an escrow deposit for removal of a wireless telecommunications facility or any component thereof, unreasonably limit the duration of any permit for a wireless telecommunications facility, or require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county, as specified.~~

~~This bill would require permits for these facilities to be renewed for equivalent durations, as specified.~~

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 Required: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES Immediate Effect NO Urgency: NO Tax Levy: NO Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: NO

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

SECTION 1. The Legislature finds and declares that, to ensure that communities across the state have access to the most advanced communications technologies and the transformative solutions that robust wireless and wireline connectivity enables, such as Smart Communities and the Internet of Things, California should work in coordination with federal, state, and local officials to create a statewide framework for the deployment of advanced wireless communications infrastructure in California that does all of the following:

(a) Reaffirms local governments' historic role and authority with respect to communications infrastructure siting and construction generally.

(b) Reaffirms that deployment of telecommunications facilities in the rights-of-way is a matter of statewide concern, subject to a statewide franchise, and that expeditious deployment of telecommunications networks generally is a matter of both statewide and national concern.

(c) Recognizes that the impact on local interests from individual small wireless facilities will be sufficiently minor and that such deployments should be a permitted use statewide and should not be subject to discretionary zoning review.

(d) Requires expiring permits for these facilities to be renewed so long as the site maintains compliance with use conditions adopted at the time the site was originally approved.

(e) Requires providers to obtain all applicable building or encroachment permits and comply with all related health, safety, and objective aesthetic requirements for small wireless facility deployments on a ministerial basis.

(f) Grants providers fair, reasonable, nondiscriminatory, and nonexclusive access to locally owned utility poles, streetlights, and other suitable host infrastructure located within the public rights-of-way and in other local public places such as stadiums, parks, campuses, hospitals, transit stations, and public buildings consistent with all applicable health and safety requirements, including Public Utilities Commission General Order 95.

(g) Provides for full recovery by local governments of the costs of attaching small wireless facilities to utility poles, streetlights, and other suitable host infrastructure in a manner that is consistent with existing federal and state laws governing utility pole attachments generally.

(h) Permits local governments to charge wireless permit fees that are fair, reasonable, nondiscriminatory, and cost based.

(i) Advances technological and competitive neutrality while not adding new requirements on competing providers that do not exist today.

~~SEC. 2. Section 65964 of the Government Code is amended to read:~~

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

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

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

~~site. A permit shall be renewed for equivalent durations unless the city or county makes a finding that the wireless telecommunications facility does not comply with the codes and permit conditions applicable at the time the permit was initially approved.~~

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

~~SEC. 3.~~ SEC. 2. Section 65964.2 is added to the Government Code, to read:

65964.2. (a) A small cell shall be a permitted use subject only to a permitting process adopted by a city or county pursuant to subdivision (b) if it satisfies the following requirements:

(1) The small cell is located in the public rights-of-way in any zone or in any zone that includes a commercial or industrial use.

(2) The small cell complies with all applicable federal, state, and local health and safety regulations, including the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(3) The small cell is not located on a fire department facility.

(b) (1) A city or county may require that the small cell be approved pursuant to a building permit or its functional equivalent in connection with placement outside of the public rights-of-way or an encroachment permit or its functional equivalent issued consistent with Sections 7901 and 7901.1 of the Public Utilities Code for the placement in public rights-of-way, and any additional ministerial permits, provided that all permits are issued within the timeframes required by state and federal law.

(2) Permits issued pursuant to this subdivision may be subject to the following:

(A) The same permit requirements as for similar construction projects and applied in a nondiscriminatory manner.

(B) A requirement to submit additional information showing that the small cell complies with the Federal Communications Commission's regulations concerning radio frequency emissions referenced in Section 332(c)(7)(B)(iv) of Title 47 of the United States Code.

(C) A condition that the applicable permit may be rescinded if construction is not substantially commenced within one year. Absent a showing of good cause, an applicant under this section may not renew the permit or resubmit an application to develop a small cell at the same location within six months of rescission.

(D) A condition that small cells no longer used to provide service shall be removed at no cost to the city or county.

(E) Compliance with building codes, including building code structural requirements.

(F) A condition that the applicant pay all electricity costs associated with the operation of the small cell.

(G) A condition to comply with feasible design and collocation standards on a small cell to be installed on property not in the rights-of-way.

(3) Permits issued pursuant to this subdivision shall not be subject to:

(A) Requirements to provide additional services, directly or indirectly, including, but not limited to, in-kind contributions from the applicant such as reserving fiber, conduit, or pole space.

(B) The submission of any additional information other than that required of similar construction projects, except as specifically provided in this section.

(C) Limitations on routine maintenance or the replacement of small cells with small cells that are substantially similar, the same size or smaller.

(D) The regulation of any micro wireless facilities mounted on a span of wire.

(4) Notwithstanding any other provision of this section, a city or county shall not impose permitting requirements or fees on the installation, placement, maintenance, or replacement of micro wireless facilities that are suspended, whether embedded or attached, on cables or lines that are strung between existing utility poles in compliance with state safety codes.

(c) A city or county shall not preclude the leasing or licensing of its vertical infrastructure located in public rights-of-way or public utility easements under the terms set forth in this subdivision. Vertical infrastructure shall be made available for the placement of small cells under fair and reasonable fees, subject to the requirements in subdivision (d), terms, and conditions, which may include feasible design and collocation standards. A city or county may reserve capacity on vertical infrastructure if the city or county adopts a resolution finding, based on substantial evidence in the record, that the capacity is needed for projected city or county uses.

(d) (1) A city or county may charge the following fees:

(A) An annual ~~administrative permit fee~~ charge not to exceed two hundred fifty dollars ($250) for each small cell attached to city or county vertical infrastructure.

(B) An annual attachment rate that does not exceed an amount resulting from the following requirements:

(i) The city or county shall calculate the rate by multiplying the percentage of the total usable space that would be occupied by the attachment by the annual costs of ownership of the vertical infrastructure and its anchor, if any.

(ii) The city or county shall not levy a rate that exceeds the estimated amount required to provide use of the vertical infrastructure for which the annual recurring rate is levied. If the rate creates revenues in excess of actual costs, the city or county shall use those revenues to reduce the rate.

(iii) For purposes of this subparagraph:

(I) "Annual costs of ownership" means the annual capital costs and annual operating costs of the vertical infrastructure, which shall be the average costs of all similar vertical infrastructure owned or controlled by the city or county. The basis for the computation of annual capital costs shall be historical capital costs less depreciation. The accounting upon which the historical capital costs are determined shall include a credit for all reimbursed capital costs. Depreciation shall be based upon the average service life of the vertical infrastructure. Annual cost of ownership does not include costs for any property not necessary for use by the small cell.

(II) "Usable space" means the space above the minimum grade that can be used for the attachment of antennas and associated ancillary equipment.

(C) A one-time reimbursement fee for actual costs incurred by the city or county for rearrangements performed at the request of the small cell provider.

(2) A city or county shall comply with the following before adopting or increasing the rate described in subparagraph (B) of paragraph (1):

(A) At least 14 days before the hearing described in subparagraph (C), the city or county shall provide notice of the time and place of the meeting, including a general explanation of the matter to be considered.

(B) At least 10 days before the hearing described in subparagraph (C), the city or county shall make available to the public data indicating the cost, or estimated cost, to make vertical structures available for use under this section if the city or county adopts or increases the proposed rate.

(C) The city or county shall, as a part of a regularly scheduled public meeting, hold at least one open and public hearing at which time the city or county shall permit the public to make oral or written presentations relating to the rate. The city or county shall include a description of the rate in the notice and agenda of the public meeting in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950.5) of Part 1 of Division 2 of Title 5).

(D) The city or county may approve the ordinance or resolution to adopt or increase the rate at a regularly scheduled open meeting that occurs at least 30 days after the initial public meeting described in subparagraph (C).

(3) A judicial action or proceeding to attack, review, set aside, void, or annul an ordinance or resolution adopting, or increasing, a fee described in this subdivision, shall be commenced within 120 days of the effective date of the ordinance or resolution adopting or increasing the fee. A city or county or interested person shall bring an action described in this paragraph pursuant to

Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure in a court of competent jurisdiction.

(4) This subdivision does not prohibit a wireless service provider and a city or county from mutually agreeing to an annual ~~administrative permit fee~~ charge or attachment rate that is ~~less than~~ different from the fees or rates established above.

(e) A city or county shall not discriminate against the deployment of a small cell on property owned by the city or county and shall make space available on property not located in the public rights-of-way under terms and conditions that are no less favorable than the terms and conditions under which the space is made available for comparable commercial projects or uses. These installations shall be subject to reasonable and nondiscriminatory rates, terms, and conditions, which may include feasible design and collocation standards.

(f) This section does not alter, modify, or amend any franchise or franchise requirements under state or federal law, including Section 65964.5.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Micro wireless facility" means a small cell that is no larger than 24 inches long, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches.

(2) (A) "Small cell" means a wireless telecommunications facility, as defined in paragraph (2) of subdivision (d) of Section 65850.6, or a wireless facility that uses licensed or unlicensed spectrum and that meets the following qualifications:

(i) The small cell antennas on the structure, excluding the associated equipment, total no more than six cubic feet in volume, whether an array or separate.

(ii) Any individual piece of associated equipment on pole structures does not exceed nine cubic feet.

(iii) The cumulative total of associated equipment on pole structures does not exceed 21 cubic feet.

(iv) The cumulative total of any ground-mounted equipment along with the associated equipment on any pole or nonpole structure does not exceed 35 cubic feet.

(v) The following types of associated ancillary equipment are not included in the calculation of equipment volume:

(I) Electric meters and any required pedestal.

(II) Concealment elements.

(III) Any telecommunications demarcation box.

(IV) Grounding equipment.

(V) Power transfer switch.

(VI) Cutoff switch.

(VII) Vertical cable runs for the connection of power and other services.

(VIII) Equipment concealed within an existing building or structure.

(B) "Small cell" includes a micro wireless facility.

(C) "Small cell" does not include the following:

(i) Wireline backhaul facility, which is defined to mean a facility used for the transport of communications data by wire from wireless facilities to a network.

(ii) Coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna or collocation.

(iii) Wireless facilities placed in any historic district listed in the National Park Service Certified State or Local Historic Districts or in any historical district listed on the California Register of Historical Resources or placed in coastal zones subject to the jurisdiction of the California Coastal Commission.

(iv) The underlying vertical infrastructure.

(3) (A) "Vertical infrastructure" means all poles or similar facilities owned or controlled by a city or county that are in the public rights-of-way or public utility easements and meant for, or used in whole or in part for, communications service, electric service, lighting, traffic control, or similar functions.

(B) For purposes of this paragraph, the term "controlled" means having the right to allow subleases or sublicensing. A city or county may impose feasible design or collocation standards for small cells placed on vertical infrastructure, including the placement of associated equipment on the vertical infrastructure or the ground.

(h) Existing agreements ~~between a wireless service provider, or its agents and assigns, and a city, a county, or a city or county's agents and assigns,~~ regarding the leasing or licensing of vertical infrastructure entered into before the operative date of this section remain in effect, subject to applicable termination ~~or other provisions in the existing agreement, or unless otherwise modified by mutual agreement of the parties. A wireless service provider may require the rates of this section for new small cells sites that are deployed after the operative date of this section in accordance with applicable change of law provisions in the existing agreements.~~ provisions. The operator of a small cell may accept the rates of this section for small cells that are the subject of

an application submitted after the agreement is terminated pursuant to the terms of the agreement.

(i) Nothing in this section shall be construed to authorize or impose an obligation to charge a use fee different than that authorized by Part 2 (commencing with Section 9510) of Division 4.8 of the Public Utilities Code on a local publicly owned electric utility.

(j) This section does not change or remove any obligation by the owner or operator of a small cell to comply with a local publicly owned electric utility's reasonable and feasible safety, reliability, and engineering policies.

(k) A city or county shall consult with the utility director of a local publicly owned electric utility when adopting an ordinance or establishing permitting processes consistent with this section that impact the local publicly owned electric utility.

(l) ~~Except as provided in subdivisions (a) and (b), nothing~~ Nothing in this section shall be construed to modify the rules and compensation structure that have been adopted for an attachment to a utility pole owned by an electrical corporation or telephone corporation, as those terms are defined in Section 216 of the Public Utilities Code pursuant to state and federal law, including, but not limited to, decisions of the Public ~~Utility~~ Utilities Commission adopting rules and a compensation structure for an attachment to a utility pole owned by an electrical corporation or telephone corporation, as those terms are defined in Section 216 of the Public Utilities Code.

(m) Nothing in this section shall be construed to modify any applicable rules adopted by the Public Utilities Commission, including General Order 95 requirements, regarding the attachment of wireless facilities to a utility pole owned by an electrical corporation or telephone corporation, as those terms are defined in Section 216 of the Public Utilities Code

(n) The Legislature finds and declares that small cells, as defined in this section, have a significant economic impact in California and are not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but are a matter of statewide concern.

~~SEC. 4.~~ SEC. 3. Section 65964.5 is added to the Government Code, to read:

65964.5. Except as provided in Sections 65964, 65964.2, and 65850.6, or as specifically required by state law, a city or county may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way by a provider authorized by state law to operate in the rights-of-way, and may not regulate any communications services or impose or collect any tax, fee, or charge not specifically authorized under state law.

~~SEC. 5.~~ SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB 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.