
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Steven Bradford, Chair
2023 - 2024 Regular

Bill No: AB 965 **Hearing Date:** 6/20/2023
Author: Juan Carrillo
Version: 6/7/2023 Amended
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

SUBJECT: Local government: broadband permit applications

DIGEST: This bill establishes requirements for local governments to process batched permits for broadband infrastructure.

ANALYSIS:

Existing law:

- 1) Defines a local agency as a city, county, city and county, charter city, special district, or publicly owned utility (POU). (Government Code §65964.5)
- 2) Specifies that a wireless siting application shall be deemed approved if the applicant meets certain requirements and a local agency fails to approve or reject the application within a reasonable time period established by the Federal Communications Commission (FCC). (Government Code §65964.1)
- 3) Requires a local agency to allow microtrenching for the installation of underground fiber unless the local agency makes a written finding that allowing microtrenching for fiber would have a specific, adverse impact on public health or safety. (Government Code §65964.5)
- 4) Establishes a process for approving communications facility attachments to utility poles owned or controlled by a local electric POU. Existing law requires POU's to make appropriate space and capacity on their utility poles for use by a communications provider on reasonable terms and conditions. Existing law specifies timelines for attachments to poles, including multiple pole attachments. (Public Utilities Code §9511)

- 5) Establishes the Dig Safe Board and requirements for safe excavation near utility facilities and establishes penalties for entities that excavate without complying with dig safe rules. (Government Code §4216 et. seq.)
- 6) Prohibits cities and counties from charging telecommunications facility siting fees that exceed the reasonable costs of conducting the permitting and siting services. Existing law specifies that these fees may not be collected for general revenue purposes. (Government Code §50030)

This bill:

- 1) Defines a “local agency” as a city, county, city and county, charter city, or special district and specifies that this definition does not include a POU.
- 2) Defines “batch broadband permit processing” as the simultaneous processing of multiple broadband permit applications for substantially similar broadband project sites under a single permit.
- 3) Requires local agencies to process broadband project permits in batches if the local agency receives two or more broadband permit applications for substantially similar broadband project sites submitted at the same time by the same applicant.
- 4) Requires batched wireless broadband projects to be processed within existing deadlines unless a longer time is permitted under law. This bill specifies that if a local agency does not approve or reject batched wireless permits within existing shot clocks, all the wireless permits in a batch shall be deemed approved.
- 5) Authorizes a local agency to set reasonable limits on the number of projects batched into a single permit based on the following:
 - a) Cities with a population less than 50,000 persons may limit the number of sites batched into a single permit to no less than 25 sites.
 - b) Counties with a population fewer than 150,000 persons may limit the number of sites batched into a single permit to no less than 25 sites.
 - c) Cities and counties with populations greater than 50,000 and 150,000 persons respectively may limit the number of sites batched into a single permit to no less than 50 sites.

- 6) Authorizes a local agency to impose a fee on broadband permit processing, as specified in existing law, and requires local agencies to work with applicants to resolve issues associated with limited local permitting resources. To address these limitations, local governments may receive supplemental resources from an applicant.
- 7) Specifies that nothing in this bill limits the application of existing utility safety requirements, including dig safe requirements for underground excavations.

Background

State permitting recommendations have recognized batched permitting as a local streamlining practice. In August 2022, the Governor's Office of Business and Economic Development (GO-Biz) released a guidance document, the *State of California Local Permitting Playbook*, to help communities plan for broadband investments. This guidance document recognizes batched permitting as a strategy that local governments can use to streamline permit approvals for broadband projects with multiple sites that have repetitive permit characteristics. The GO-Biz Playbook states: "As with some of the other strategies presented here, a batch permitting process might reduce the permit application caseload, decrease the permit processing timeline, and improve a broadband deployer's timeline." The guidebook suggests that when considering a batching process, local governments should consider available staff resources, geographic boundaries for batching, and caps on the number of permits that can be batched. The playbook recognizes that not all permit streamlining strategies are appropriate for all local governments; however, it suggests that where appropriate, batching can lower permit processing timelines for larger multi-site broadband deployment projects within a single jurisdiction.

Are this bill's requirements flexible enough for all local governments? While nothing in existing law prohibits a local government from adopting rules enabling the processing of broadband facility permits in batches, this bill would require local governments to do so. This bill also allows local governments to set a limit on the maximum amount of permits in a single batch. However, this bill also specifies that smaller cities and counties can only set a maximum limit at or above 25 permits per batch; all larger cities and counties must allow batching of at least 50 sites per permit.

While some local governments already allow certain telecommunications facilities to process their permits in batches, these local governments' permit batching rules

may not meet this bill's requirements. The cities of Long Beach and Davis have both adopted rules facilitating the batching of small wireless facility permits; however, these cities' batching processes do not encompass all wireless facilities, and they set much lower thresholds for the maximum amount of sites that can be batched into one permit. The City of Long Beach allows a maximum of 10 sites to be batched into a single permit, and the City of Davis allows a maximum of five sites to be batched into a single permit. This bill would require these cities to substantially increase their rules for both the scope and amount of wireless facilities that can be batched in a single permit application.

Shot clocks may indirectly prioritize processing wireless permits. Shot clocks are time periods during which agencies must take action on an application. Shot clocks do not require agencies to approve applications; however, if an agency does not approve or reject a permit within a shot clock, that agency may be forced to issue a permit for the applicant. While there are no shot clocks for wireline broadband permits, both state law and federal regulations have adopted shot clocks for wireless permitting. In 2018, the FCC updated its wireless deployment orders related to local government permitting. As part of this update, the FCC expanded the types of wireless facilities covered by the FCC's permit streamlining rules and also shortened the shot clocks for local government permit application reviews. The 2018 order adopted the following shot clocks for wireless permits:

- 60 days for applications for installations on existing infrastructure
- 90 days for all other applications.

Existing state law has codified these shot clocks and specified that wireless permits that are not approved or rejected within the applicable shot clock are "deemed approved."

While this bill does not create a batched permit process exclusively for wireless or establish new shot clocks for processing wireless permits, the bill applies existing wireless shot clocks to batched wireless permits. The application of existing wireless shot clocks to batched permitting could encourage local governments to prioritize processing batched wireless permits ahead of wireline broadband projects to comply with shot clock deadlines.

Double Referral. Should this bill pass out of this committee, it will be re-referred to the Senate Committee on Governance and Finance.

Prior/Related Legislation

SB 717 (Dodd, Chapter 813, Statutes of 2022) required the California Department of Technology to submit a report to the Legislature by May 1, 2024, regarding specified barriers to broadband infrastructure deployment, including the extent to which obtaining state and local permits poses a barrier to deploying broadband infrastructure.

SB 556 (Dodd, 2022) would have established permitting requirements for the placement of small wireless facilities on street light and traffic signal poles owned by local governments. The bill was vetoed.

AB 537 (Quirk, Chapter 467, Statutes of 2021) updated existing state law regarding timelines and processes for approving wireless telecommunications facility permits to reflect new federal deadlines.

SB 378 (Gonzalez, Chapter 677, Statutes of 2021) required local governments to allow microtrenching for the installation of underground fiber optic equipment unless the local government makes a specified finding.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

Bay Area Council
California African American Chamber of Commerce
California Apartment Association
California Asian Pacific Chambers of Commerce
California Association of Micro Enterprise Opportunity
California Broadband & Video Association
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Communications Association
California Emerging Technology Fund
California Hispanic Chambers of Commerce
California Wireless Association
Coalition of Small & Disabled Veteran Businesses
Consolidated Communications
Crown Castle

CTIA
Dev/Mission
Frontier Communications Corporation
Hispanic Chambers of Commerce of San Francisco
INCOMPAS
Kern County Hispanic Chamber of Commerce
Los Angeles County Business Federation
Los Angeles Latino Chamber of Commerce
Los Angeles Metropolitan Hispanic Chambers of Commerce
National Federation of Independent Businesses
Orange County Business Council
San Francisco Chamber of Commerce
San Juan Capistrano Chamber of Commerce
San Mateo County Economic Development Association
Silicon Valley Leadership Group
Slavic American Chamber of Commerce
Southwest Hispanic Chamber of Commerce
USTelecom - The Broadband Association
Wireless Infrastructure Association

OPPOSITION:

5G Free California
Alliance of Nurses for Healthy Environments
As You Sow
Boyle Heights Community Garden
Breast Cancer Prevention Partners
California Nurses for Environmental Health and Justice
Californians for Safe Technology
Center for Environmental Health
City and County of San Francisco
Consumers for Safe Cell Phones
Clean Earth 4 Kids
Dietrick Institute for Applied Insect Ecology
Ecological Options Network
EMF Safety Network Education/Outreach
Environmental Health Trust
Environmental Working Group
FACTS: Families Advocating for Chemical and Toxics Safety
Feather River Action!

GMOScience
Health & Habitat, Inc.
Keep Cell Antennas Away
Malibu for Safe Tech
Moms Across America
Mothers of East LA
Neighbors for Safe Metering
Parents for a Safer Environment
Physicians for Safe Technology
Plumas Wired!
Preserve Rural Sonoma County
Safe Tech for Santa Rosa
Safer 5G Moraga
Sonoma County Tomorrow
Sonoma Neighbors for Safe Tech
Sonoma Safe Agriculture Safe Schools
Stop Smart Meters!
Wine & Water Watch
Wire California
Wireless Radiation Education & Defense
20 Individuals

ARGUMENTS IN SUPPORT: According to the author:

AB 965 will accelerate broadband deployment and help close our state's digital divide while retaining local control. The bill simply requires local jurisdictions to make a decision on a group of broadband permits in a reasonable amount of time (2-3 months) – they can approve, reject or extend the amount of time needed for review.

Broadband permit batching is a best practice used by local jurisdictions, state government and the private sector to streamline and expedite the deployment of broadband infrastructure so local communities can more quickly get connected to high-speed internet. It can make the difference between connecting communities in months instead of years. When a broadband project in a community involves dozens of nearly identical permits for a variety of locations, the permits are submitted and processed at the same time as one large group concurrently through various city departments instead of individually.

This bill will ensure Californians will quickly benefit from high-speed internet projects by allowing broadband installers to submit their nearly identical broadband project applications at the same time and local governments to process this batch of permits together within existing shot clocks. Processing several substantially similar broadband permit applications at the same time will allow local governments to still receive permit fees, but staff can more easily process routine, high-volume broadband permits as a group instead of individually to help bridge the digital divide and more quickly connect communities to high-speed internet. AB 965 will help the state meet the federal broadband funding deadline of December 31, 2024.

A recent report conducted by the Bay Area Council Economic Institute found that 75% of California voters support statewide streamlining of broadband projects, while 70% support requiring all local governments to follow a uniform state mandated review process for broadband projects.

ARGUMENTS IN OPPOSITION: In opposition, Consumers for Safe Cell Phones states:

... Wireless networks consume more energy than wired networks, property values near antennas are declining, small wireless facilities increase the risk of fires, telecom corporations are not insured for health claims, government research proves that exposure to radiofrequency radiation (RFR) causes cancer, wireless networks are more easily hacked, and there's already a much better, safer, faster, more reliable and more affordable solution for broadband connectivity.

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