



July 6, 2017

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500

Facsimile
916.441.5507

The Honorable Miguel Santiago
Chairman, Assembly Communications and Conveyance Committee
State Capitol, Room 6027
Sacramento, CA 95814

**Re: SB 649 (Hueso): Wireless telecommunications facilities
As amended on July 3, 2017 – OPPOSE
Set for hearing on July 12, 2017 – Assembly Communications and Conveyance
Committee**

Dear Assembly Member Santiago:

The California State Association of Counties (CSAC) is opposed to SB 649 by Senator Hueso. This bill would unnecessarily curtail local governments' discretion in the leasing of taxpayer-funded public property and eliminate public input on small cell siting applications by requiring applications to be approved pursuant to a building permit or encroachment permit and "any additional ministerial permits." Local governments support the deployment of new and forthcoming telecommunications technology, as demonstrated by their willingness to lease public property for installations similar "small cells" without any obligation to do so under current law. Unfortunately, SB 649 goes too far in limiting necessary local discretion and public review.

Permitting without Discretionary Public Review

SB 649 would undercut the ability of local governments require comprehensive and public review to ensure that small cells fit into the communities where they will be deployed for many years. The bill would limit review of the aesthetic impacts of small cells by requiring that they be approved as a permitted use in all zones including commercial, mixed residential and commercial, or industrial land uses via ministerial permits. Small cells would also be a permitted use next to public roadways in all zones, including exclusively residential neighborhoods. Discretionary review is vital to ensuring that small cells are deployed in a context-sensitive manner. A resident shouldn't come home to find a small cell installed on a taxpayer-funded streetlight without an ability to comment on its design. Such discretion is especially warranted given that "small cells" are defined to include antennas of up to six cubic feet, and other equipment attached to poles of up to 21 cubic feet (with individual components up to nine cubic feet).

Mandated Lease of Public Property to Private Companies

The same discretion that ensures appropriate design has allowed for the provision of public benefits, like free Wi-Fi access, as part of small cell siting deals that benefit the industry, local governments, and, most importantly, the general public. SB 649 would upend this discretion by *requiring* local governments to lease publicly-owned property for the installation of wireless "small cells." In fact, local governments could not preclude the leasing of streetlights and traffic signals to private wireless companies. This represents an unprecedented state intrusion into local government control of public property— counties have never been required to lease public streetlights and traffic signals to the private sector. While the proponents have argued that local jurisdictions could adopt discretionary "siting plans" to "reserve locations for their own use," the bill actually precludes counties from

reserving space on even a single pole unless the Board of Supervisors adopts a resolution, supported by “substantial evidence” in the record that the space will be needed for some future use.

SB 649 also imposes concepts developed for installations on utility poles to the attachment of “small cell” wireless facilities to streetlights and traffic signals, by establishing an arbitrary cap on the rates local governments could charge for the use of this property. CSAC understands that these rates are far-below the market rate for such installations. Finally, SB 649 would also preclude counties from requiring any in-kind service or other public benefit in exchange for the use of public property, undercutting the already limited ability of local agencies to promote policy goals like expanding access to close the digital divide.

SB 649 is the Wrong Approach at the Wrong Time

While “small cells” are anticipated to be a necessary component of deploying forthcoming 5G wireless technology, CSAC understands that this technology is still several years away. Given the newness of this technology, as well as the unprecedented concept that streetlights and traffic signals must be treated as de facto utility poles in order to deploy “small cells,” CSAC urges the committee to reject this bill to encourage an alternate approach that streamlines “small cell” deployment without unnecessarily limiting local government discretion over the leasing and public review of aesthetic impacts.

For these reasons, we oppose SB 649. Should you have any questions regarding our position, please do not hesitate to contact me at 916-327-7500, ext. 566, or kvalentine@counties.org.

Sincerely,



Kiana L. Valentine
Legislative Representative

cc: Honorable Ben Hueso, California State Senate
Members, Assembly Communications and Conveyance Committee
Edmond Cheung, Chief Consultant, Assembly Communications and Conveyance Committee
Daniel Ballon, Assembly Republican Caucus