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June 21, 2017

The Honorable Cecilia Aguiar-Curry
Chair, Assembly Local Government Committee
State Capitol Building, Room 5144
Sacramento, CA 95814

RE: **SB 649 (Hueso). Wireless Telecommunications Facilities**.
Notice of Opposition *(As Amended 6/20/17)*

Dear Assembly Member Aguiar-Curry:

The League of California Cities is **strongly opposed** to SB 649, which would represent a major shift in telecommunications policy and law by requiring local governments to lease out the public's property, cap how much cities can lease this space out for, eliminate the ability for cities to negotiate public benefits, eliminate the public's input and full discretionary review in all communities of the state except for areas in coastal zones and historic districts, for the installation of "small cell" wireless equipment.

Despite the wireless industry's claim that the equipment would be "small" in their attempt to justify this special permitting and price arrangement solely for their industry, the bill would allow for antennas as large as six cubic feet, equipment boxes totaling 35 cubic feet (larger than previous bill version of 21 cubic feet), with no size or quantity limitations for the following equipment: electric meters, pedestals, concealment elements, demarcation boxes, grounding equipment, power transfer switches, and cutoff switches.

The industry also claims that SB 649 retains local discretion, but by moving the bill into the ministerial process, also known as over-the-counter or check-the-box permitting, their "attempt" at giving locals discretion falls flat. Cities would have to live with the size parameters established by the bill for "small cells." Furthermore, cities would be unable to impose any meaningful maintenance requirements for the industry's small cells and are limited to requiring building and encroachment permits confined to the bill's parameters written by the industry. True local discretion exists only through the use of discretionary permits, not through building or encroachment permits, especially since the public has no say in the issuance of the latter.

Furthermore, the ability for cities to negotiate any public benefit (typically negotiated because of the level of discretion cities currently have) would be eliminated by this bill. Benefits, such as network access for police, fire, libraries, and parks, negotiated lease agreements for the city general fund to pay for such services, or the ability to use pole space for public safety and/or energy efficiency measures are effectively stripped down or taken away entirely. Even if every single city resident complained about a particular "small cell" and its visual blight, cities and their councils would have no recourse to take them down, move them, or improve their appearance or any other community impacts under SB 649.

In addition to the permitting issues raised by this bill, it would also cap how much cities can negotiate leases for use of public property and a city's ability to maximize public benefit at $250 (was $850 under prior version of the bill) annually per attachment rates for each "small cell". Some cities have been able

to negotiate leases for “small cells” upwards of $3,000, while others have offered “free” access to public property in exchange for a host of tangible public benefits, such as free Wi-Fi in public places, or network build-out to underserved parts of their cities, agreements usually applauded by both cities and industry.

What’s truly perverse about SB 649 is that it would actually fail to deliver on stated promises and make it especially tough for cities that always seem to be last in line for new technology to see deployment, while also completely cutting out these communities from the review process. For example, SB 649 fails to require that their “small cells” deliver 5G, 4G, or any standard level of technology. The truth is that standards for 5G are still being developed, which is why the bill can’t require it to meet that standard which begs the question as to why this bill is necessary at all. It also fails to impose any requirement for the wireless industry to deploy their networks to unserved or underserved parts of the state.

While California has been a leader in wireless deployment, many rural and suburban parts of the state still don’t have adequate network access. The lease cap in the bill guarantees prices for the wireless industry to locate in the state’s “population hubs,” leaving other parts of the state stranded and when the technology finally does deploy, they’ll have no say in the time, place, manner, or design of the equipment, creating two different standards depending on where one lives in the state, one for coastal and historic, and a lower standard for everyone else.

As if SB 649 wasn’t wreaking enough havoc on the ability for cities to protect their residents, the latest June 20, 2017 amendments completely deregulate and eliminate all oversight for “micro-wireless” facilities which can be equipment nearly three feet long dangling between utility poles, raising significant public safety issues such as obstructing traffic sight distance without any oversight. In addition, the arbitrary “lease cap” of $850 in the prior version of the bill has now been lowered to $250 for each small cell, not just as applied to leases but also to the permitting of “small cells.” Also, the bill now applies a utility pole “attachment rate” formula which is inappropriate for equipment being placed on city buildings, street and traffic lights.

As amended, the bill is no longer limited to just “small cells.” It now applies broadly to all telecommunications providers and the equipment they use from “micro-wireless” to “small cell” to “macro-towers.” It’s clear from the direction of this bill, that this is not about 5G wireless deployment, but more about local deregulation of the entire telecommunications industry. This latest version places a new ban on city/county regulation of placement or operation of “communication facilities” within and outside the public right of way far beyond “small cells.” This new language would extend local preemption of regulation to any “provider authorized by state law to operate in the rights of way,” which can include communications facilities installed for services such as gas, electric, and water, leaving cities and counties with limited oversight only over “small cells.”

Ultimately, cities and local governments recognize that the wireless industry offers many benefits in our growing economy, but a balance with community impacts must also be preserved. SB 649, however, is the wrong approach and benefits corporate bottom lines rather than communities. The bill undermines our ability to ensure our residents have a voice and get a fair return for any use of public infrastructure. Residents that don’t happen to live in a coastal zone or in a historic district will have to wonder why their communities deserve such second-tier status. Furthermore, this bill is no longer about small cells; instead it’s about all telecommunications regulation. Such a massive shift in law and policy is unprecedented and would warrant statewide stakeholder meetings before even considering such a shift, let alone trying to jam this through between now and September.

For these reasons, the League of California Cities is **strongly opposed** to SB 649. If you have any questions regarding our position, please contact Rony Berdugo at 916-658-8283 or via email at rberdugo@cacities.org.

Sincerely,

Rony Berdugo
Legislative Representative

cc: The Honorable Ben Hueso
Members, Assembly Local Government Committee
Angela Mapp, Deputy Chief Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus