



May 16, 2023

The Honorable Chris R. Holden
Chair, Assembly Committee on Appropriations
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: AB 965 (Carrillo) Local government: broadband permit applications
OPPOSE UNLESS AMENDED (*As Amended May 1, 2023*)

Dear Assemblymember Holden:

On behalf of the California State Association of Counties (CSAC), the Rural County Representatives of California (RCRC), and the League of California Cities (Cal Cities) we write to share our regrettable Oppose Unless Amended position on Assembly Bill 965 (Carrillo), which would require local agencies to batch and process broadband permits and approve wireless applications within 60 to 90 days or have those applications deemed approved, without compliance with general health and safety requirements, unless a written finding of specific adverse impact to public health can be made.

AB 965 is described as a simple permit batching bill, necessary to deploy broadband infrastructure within the spending deadlines tied to source federal funding. However, this bill makes significant changes to California telecommunications law and local government permitting obligations, including:

Implementation of a “no limit” batching process.

The FCC batching requirements, while not limited in number, are limited to "small wireless facilities." AB 965 would apply more broadly to all broadband permitting which vastly expands the universe of projects. This bill requires a local jurisdiction to allow batching of no less than 50 broadband permits into a single application. Although it requires those 50 or more projects to be “nearly identical in terms of equipment and general design,” variables such as terrain, geographic location and size of project can make evaluation needs from application to application very different. For instance, laying five miles of fiber optic cable through the valley floor is different than installing 30 miles to fiber through granite laden foothills.

The FCC shot clocks for individual or batched applications include tolling of the time period if necessary. A local agency may demonstrate that more time is needed to process the application, as outlined in the deemed approved statute found in Government Code 65964.1. This section of law shifts the onus onto local agencies to seek judicial review and affirmatively demonstrates the need for more time, but does preserve a local government’s ability to do so. AB 965 removes these protections.

Removes a local government’s ability to protect the public health and safety.

Language included in Section 65964.3(f) of the bill states that AB 965 does not preclude a local agency from requiring compliance with “generally applicable health and safety requirements.” Yet, the same subdivision then requires a local agency to issue a written finding that the facility proposed in the broadband permit application would have a *specific* adverse impact on public health and safety in order to enforce applicable health and safety requirements. This provision applies to all applications, including for

facilities in the public right-of-way, creating potentially hazardous conditions on roadways, pedestrian walkways, surrounding buildings and to the general public.

Through the unprecedented funding allocated for broadband infrastructure in the last two years, the state and federal government have made it clear that closing the digital divide and ensuring equitable deployment of high quality and reliable broadband is a priority. Local governments, special districts and community-based organizations are stepping-up to fill the void and correct decades of digital redlining. AB 965 proposes to codify a statement in law that batching permits pursuant to this bill will help bridge the digital divide, as well as help the state meet federal funding deadlines, “while creating greater broadband equity amongst communities so more individuals can have access to high-speed internet” However, local jurisdictions currently have the ability, absent this legislation, to batch permits, expediate applications, and generally work to streamline the process of broadband deployment. Moreover, those jurisdictions that remain unserved and underserved, despite well over a decade of industry subsidization for deployment, are not the jurisdictions that lack willingness to work with Internet Service Providers (ISPs) to streamline placement of telecommunication facilities. In actuality, unserved/underserved areas remain without reliable internet access because they are deemed by the ISPs to have inadequate Return on Investment (ROI). Creating a process to expediate permitting in a jurisdiction that does not offer an adequate ROI will not incentivize deployment in those areas but will instead make building in areas that posse greater potential ROI, like those with existing infrastructure, more lucrative. This bill will not aid bridging the digital divide but will just make it more profitable to build in dense, higher cost markets.


Local governments are committed to providing robust internet access to our communities and have worked collaboratively in the past with industry partners to improve our processes while maintaining important local safeguards, including negotiating in 2021 several additional protections into Government Code 65964.1 that contained specific language to address work in the public right-of-way, which would be abrogate by the provisions of AB 965.

We appreciate the amendments the author took in policy committee narrowing the applicability of the shot clock provisions to only wireless facilities, however we continue to be gravely concerned for the reasons outlined herein and respectfully urge your “No” vote. If you have any questions, please contact us at the email addresses below.

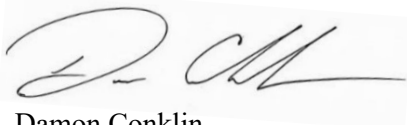
Sincerely,



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cc: The Honorable Juan Carrillo, Assembly District 39
Members and Staff, Assembly Committee on Appropriations
Joe Shinstock, Consultant, Assembly Republican Caucus