

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 180

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO LOCAL LAND USE PLANNING; PROVIDING LEGISLATIVE INTENT; AMEND-
2 ING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
3 67-6540, IDAHO CODE, TO PROVIDE FOR THE SITING OF TELECOMMUNICATIONS
4 FACILITIES AND BROADBAND INFRASTRUCTURE; REPEALING SECTION 61-538,
5 IDAHO CODE, RELATING TO THE REGULATION OF POLE ATTACHMENTS; AMENDING
6 CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-538,
7 IDAHO CODE, TO PROVIDE FOR THE REGULATION OF POLE ATTACHMENTS; AND
8 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature
12 to promote reliable broadband and wireless connectivity in Idaho. Con-
13 nectivity is essential to public safety and a modern economy. Permitting
14 delays have hindered broadband deployment in the state despite historic in-
15 vestments in broadband. This legislation is intended to reduce delays and
16 increase deployment.

17 SECTION 2. That Chapter 65, Title 67, Idaho Code, be, and the same is
18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
19 ignated as Section 67-6540, Idaho Code, and to read as follows:

20 67-6540. SITING OF TELECOMMUNICATIONS FACILITIES AND BROADBAND IN-
21 FRASTRUCTURE. (1) A city or county shall approve, approve with modification,
22 or deny a siting application for a telecommunications or cable service
23 facility, for telecommunications or cable equipment, or for broadband in-
24 frastructure within a reasonable period of time as defined in subsection
25 (7) (b) of this section.

26 (2) If the city or county fails to approve, approve with modification,
27 or deny the application within a reasonable period of time as defined in sub-
28 section (7) (b) of this section, the application shall be deemed approved.

29 (3) If an application is incomplete, the city or county shall notify the
30 applicant in writing within ten (10) business days of submittal of the appli-
31 cation. The notice shall inform the applicant of the specific requirements
32 necessary to complete the application. The automatic approval provisions
33 under subsection (2) of this section shall apply only if the applicant satis-
34 fies the specific requirements of the notice and submits a complete applica-
35 tion within five (5) business days of receipt of the notice.

36 (4) The reasonable period of time pursuant to subsection (7) (b) of this
37 section may be extended by mutual agreement between the applicant and the
38 city or county.

39 (5) The automatic approval provisions of subsection (2) of this section
40 shall only apply if:

1 (a) The applicant provided all public notices required under applica-
2 ble law; and

3 (b) The applicant provided notice to the city or county that the reason-
4 able period of time expired and that the application is deemed approved
5 pursuant to this section.

6 (6) Within thirty (30) days of the notice provided pursuant to subsec-
7 tion (5) (b) of this section, the city or county may seek judicial review re-
8 garding the application pursuant to the provisions of this section.

9 (7) As used in this section, the following terms have the following
10 meanings:

11 (a) "Broadband infrastructure" has the same meaning as that term is de-
12 fined in section 40-517, Idaho Code.

13 (b) "Reasonable period of time" for an application means:

14 (i) For broadband infrastructure permits, sixty (60) days;

15 (ii) To collocate a small wireless facility on existing equip-
16 ment, sixty (60) days;

17 (iii) To deploy a small wireless facility on new equipment, ninety
18 (90) days;

19 (iv) To collocate a facility other than a small wireless facility
20 on existing equipment, ninety (90) days; and

21 (v) To deploy a facility other than a small wireless facility on
22 new equipment, one hundred fifty (150) days.

23 (8) This section shall not apply to any request for modification of an
24 existing wireless tower or base station that does not substantially change
25 the physical dimensions of such tower or base station and that involves:

26 (a) Collocation of new transmission equipment;

27 (b) Removal of transmission equipment; or

28 (c) Replacement of transmission equipment.

29 (9) Except as provided in subsection (1) of this section, nothing in
30 this section limits or affects the authority of a city or county over deci-
31 sions regarding the placement, construction, and modification of a wireless
32 telecommunications facility.

33 SECTION 3. That Section [61-538](#), Idaho Code, be, and the same is hereby
34 repealed.

35 SECTION 4. That Chapter 5, Title 61, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 61-538, Idaho Code, and to read as follows:

38 61-538. POLE ATTACHMENTS -- REGULATION. (1) As used in this section:

39 (a) "Broadband" has the same meaning as that term is defined in section
40 40-517, Idaho Code.

41 (b) "Cable services company" means any individual, firm, partnership,
42 corporation, company, association, or joint-stock association, and
43 includes any trustee, receiver, assignee, or personal representative
44 thereof, that transmits television signals for distribution to sub-
45 scribers of its services for a fee by means of wires or cables connecting
46 its distribution facilities with the customer's television receiver or
47 the customer's equipment connecting to the customer's receiver rather
48 than by transmission of the television signal through the air.

1 (c) "Pole attachment" means any wire or cable for the transmission of
2 a telecommunications service, as defined in 47 U.S.C. 153; broadband;
3 or cable service, as defined in section 50-3002(2), Idaho Code, and any
4 related device, apparatus, or auxiliary equipment, installed on any
5 pole or in any telegraph corporation, telephone corporation, or elec-
6 trical corporation or on a communications right-of-way, duct, conduit,
7 or other similar facilities owned or controlled, in whole or in part, by
8 one (1) or more public utilities.

9 (d) "Public utility" has the same meaning as that term is defined in
10 section 61-129, Idaho Code.

11 (2) The legislature hereby finds that many public utilities have,
12 through a course of conduct covering many years, made available space on and
13 in their poles, ducts, conduits, and other support structures for use by the
14 cable services industry for pole attachment service, and that the provision
15 of such pole attachment service by such public utilities is and has been a
16 public utility service.

17 (3) Whenever a public utility and a provider of a telecommunications
18 service or broadband or a cable services company are unable to agree on the
19 rates, terms, or conditions for pole attachments or the terms, conditions,
20 or cost of production of space needed for pole attachments, then the com-
21 mission shall establish and regulate the rates, terms, and conditions, and
22 cost of providing space needed for pole attachments to assure a public util-
23 ity the recovery of not less than all the additional costs of providing and
24 maintaining pole attachments and not more than the associated capital cost
25 and operating expenses of the public utility attributable to that portion of
26 the pole, duct, or conduit used for the pole attachment, including a share
27 of the required support and clearance space. In determining and fixing the
28 rates, terms, and conditions, the commission shall consider the interest of
29 the customers of the attaching provider of the telecommunications service,
30 broadband or cable services company, the public utility on which the attach-
31 ment is made, and the customers of the public utility.

32 (4) To the extent applicable, the procedures set forth in this title
33 shall apply under the provisions of this section.

34 (5) The commission shall establish rules, subject to legislative ap-
35 proval, relating to the timing of the permitting process for pole attach-
36 ments.

37 SECTION 5. An emergency existing therefor, which emergency is hereby
38 declared to exist, this act shall be in full force and effect on and after
39 July 1, 2025.