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SB-378 Local government: broadband infrastructure development project permit processing: microtrenching permit processing ordinance. (2021-2022)

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Date Published: 10/11/2021 02:00 PM

Senate Bill No. 378

CHAPTER 677

An act to add Section 65964.5 to the Government Code, relating to local government.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 378, Gonzalez. Local government: broadband infrastructure development project permit processing: microtrenching permit processing ordinance.

Existing law, the Permit Streamlining Act, governs the approval process that a city or county is required to follow when approving, among other things, a permit for construction or reconstruction for a development project for a wireless telecommunications facility and a collocation or siting application for a wireless telecommunications facility.

This bill would require a local agency to allow, except as provided, microtrenching for the installation of underground fiber if the installation in the microtrench is limited to fiber. The bill would also require, to the extent necessary, a local agency with jurisdiction to approve excavations to adopt or amend existing policies, ordinances, codes, or construction rules to allow for microtrenching. The bill would provide that these provisions do not supersede, nullify, or otherwise alter the requirements to comply with specified safety standards. The bill would authorize a local agency to impose a fee for its reasonable costs on an application for a permit to install fiber, as provided. By imposing new duties on local agencies with regard to the installation of fiber, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known as the Broadband Deployment Acceleration Best Practices Act of 2021.

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) Californians need improved access to high-speed internet now more than ever to meet a variety of demands including, but not limited to, remote work, distance learning, telehealth, emergency response and public safety, agriculture, innovation, and commerce.

(b) High-speed internet is delivered to Californians through wireline and wireless broadband infrastructure that is installed either aerially or underground. Wireless broadband service relies on wireline facilities, especially fiber backhaul lines.

(c) Deployment of fiber is critical to connect more Californians to high-speed internet.

(d) Quick and cost-effective ways to install fiber include trenching and boring as well as microtrenching.

(e) By expediting fiber permit applications, local agencies will help promote the deployment of fiber for high-speed internet access across California.

SEC. 3. Section 65964.5 is added to the Government Code, to read:

65964.5. (a) For purposes of this section, the following definitions apply:

(1) "Fiber" means fiber optic cables, and related ancillary equipment such as conduit, ancillary cables, hand holes, vaults, and terminals.

(2) "Local agency" means a city, county, city and county, charter city, special district, or publicly owned utility.

(3) "Microtrench" means a narrow open excavation trench that is less than or equal to 4 inches in width and not less than 12 inches in depth and not more than 26 inches in depth and that is created for the purpose of installing a subsurface pipe or conduit.

(4) "Microtrenching" means excavation of a microtrench.

(b) (1) The local agency with jurisdiction to approve excavations shall allow microtrenching for the installation of underground fiber if the installation in the microtrench is limited to fiber, unless the local agency makes a written finding that allowing microtrenching for a fiber installation would have a specific, adverse impact on the public health or safety.

(2) Upon mutual agreement, a microtrench may be placed shallower than 12 inches in depth.

(3) To the extent necessary, a local agency with jurisdiction to approve excavations shall adopt or amend existing policies, ordinances, codes, or construction rules to allow for microtrenching pursuant to this subdivision.

(4) Nothing in this section shall supersede, nullify, or otherwise alter the requirements to comply with safety standards, including, but not limited to, the following:

(A) Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1.

(B) Public Utilities Commission General Order No. 128, or a successor standard.

(c) A local agency may impose a fee on an application for a permit to install fiber consistent with Section 50030. The reasonable costs of providing the service for which the fee is charged, as that phrase is used in Section 50030, shall be limited to the reasonable costs of the local agency to process and issue the permit and inspect the installation that is the subject of the permit, including any costs incurred if the applicant elects to expedite processing and review.

(d) The Legislature finds and declares that installation of fiber is critical to the deployment of broadband services and other utility services, is a matter of statewide concern, and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.