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AB-1399 Department of Transportation: encroachment permits: broadband facilities. (2025-2026)

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AMENDED IN ASSEMBLY APRIL 09, 2025

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1399

Introduced by Assembly Member Hoover

February 21, 2025

An act to amend Section 671.5 of the Streets and Highways Code, relating to streets and highways.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Hoover. Department of Transportation: encroachment permits: broadband facilities.

Existing law establishes the Department of Transportation and vests it with full possession and control of all state highways and all property and rights in property for state highway purposes. Existing law authorizes the department to issue a written permit to place an encroachment on the state highway. Existing law requires the department to perform certain actions if the encroachment permit application is for a broadband facility.

~~This bill would require the department's application and review process for an encroachment permit application for a broadband facility to be uniform throughout the state. The bill would require the department to expedite review of an encroachment permit application for broadband facilities.~~

This bill would require the department to perform additional actions for an encroachment permit application for a broadband facility, including, but not limited to, requiring the application and review process for the application to be uniform throughout the state, and would require a broadband facility encroachment permit application that is deemed complete to be deemed approved.

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

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

SECTION 1. Section 671.5 of the Streets and Highways Code is amended to read:

671.5. (a) The department shall either approve ~~or~~ *or, except as provided in subdivision (b),* deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application, as determined by the department. An application for an encroachment permit is complete when all other statutory requirements, including the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), have been complied with. The department's failure to notify the applicant within that 60-day period that the permit is denied shall be deemed to constitute approval of the permit. Thereafter, upon notifying the department, the applicant may act in accordance with its permit application, as if the permit had been approved.

(b) All of the following shall apply to the department's review of an application for an encroachment permit for a broadband facility:

(1) The department shall specify in writing all permit application criteria. It is the intent of the Legislature to ensure a streamlined, predictable, and expeditious process by which the department reviews broadband facility permit applications in order to achieve the rapid deployment of broadband facilities on highways.

(2) Within 30 days after an application for an encroachment permit for a broadband facility is submitted, the department shall notify the applicant in writing whether the permit application is deemed complete. If the department does not notify the applicant within that 30-day period that the application is incomplete, the failure to notify shall be deemed to constitute a finding that the permit application is complete.

(3) If the department deems a permit application incomplete, the department shall do all of the following:

(A) At the time of notifying the applicant that the application is incomplete, furnish to the applicant a detailed explanation why the application is incomplete, with reference to the specific application criteria that the application does not meet.

(B) Identify all supplemental information necessary to complete the application.

(C) In a timely manner and no later than 14 days after a meeting is requested by the applicant, meet with the applicant to discuss any outstanding supplemental information necessary to complete the application. The department shall not be required to participate in more than three individual meetings with the applicant and shall not be required to meet in excess of four hours for each permit application.

(D) Provide the applicant with no less than 30 days to resubmit its application with the supplemental information that the department identified in the notice. The applicant's failure to respond with additional information during that period shall be deemed to constitute a withdrawal of the application.

(4) Within 30 days after receiving supplemental information from an applicant pursuant to paragraph (3), the department shall approve or deny the application.

(5) The application and review process shall be uniform throughout the state.

(6) It shall be expedited.

(7) The department shall not deny an application to place any equipment required to deploy broadband facilities, including but not limited to, access points cabinets, conduits, fibers facilities, stations, or vaults, in any right of way under the control or management of the department.

(8) For an applicant who is awarded broadband funding for a project to connect unserved or underserved communities from a state or federal program, including, but not limited to, the California Advanced Services Fund, the Federal Funding Account, or the Broadband Equity, Access, and Deployment Program, and is required to obtain an encroachment permit from the department before building the project, the department shall process the encroachment permit expeditiously and shall not place additional requirements on the applicant, including, but not limited to, undergrounding fiber lines.

(9) An application that is deemed complete shall be deemed approved.

(c) If the department denies an application for an encroachment permit, the department shall, at the time of notifying the applicant of the denial, furnish to the applicant a detailed explanation of the reason for the denial.

(d) The department shall adopt regulations prescribing procedures for an applicant to appeal to the director for a final determination of the department's denial of an application. The appeal shall be made in writing to the director. There shall be a final written determination by the director within 60 calendar days after receipt of the applicant's written appeal. The adopted regulations shall require the appellant to pay to the department a fee of not more than 50 percent of the estimated administrative cost to the department of conducting the appeal.

(e) This section does not preclude an applicant and the department from mutually agreeing to an extension of any time limit provided by this section.

(f) (1) On or before January 1, 2027, the department shall develop and adopt a process for project intake, project evaluation, and encroachment permit review for complete streets facilities, including pedestrian, bicycle, and transit priority facilities, that are sponsored by a local jurisdiction or a transit agency. The department shall design this process to enable the department to comply with subdivision (a).

(2) The department shall report annually to the commission regarding project applications submitted pursuant to the process adopted pursuant to paragraph (1). The report shall include, but not be limited to, all of the following information:

(A) The number of completed applications submitted.

(B) The number of encroachment permits issued.

(C) The number of days required to process each application.

(3) The department shall post the report described in paragraph (2) on the department's internet website.

(4) The department shall designate an encroachment permit manager in each district to ensure that applications for complete streets facilities are reviewed through the process adopted pursuant to paragraph (1). The encroachment permit manager shall have expertise in bicycle, pedestrian, and transit priority facilities.