

Eco-Rapid Transit, formerly known as the Orangeline Development Authority, is a joint powers authority (JPA) created to pursue development of a transit system that moves as rapidly as possible, uses grade separation as appropriate, and is environmentally friendly and energy efficient. The system is designed to enhance and increase transportation options for riders of this region utilizing safe, advanced transit technology to expand economic growth that maximizes ridership in Southern California. The Authority is composed of the following public agencies:

- City of Artesia
- City of Bell
- City of Bell Gardens
- City of Cudahy
- City of Downey
- City of Glendale
- City of Huntington Park
- City of Maywood
- City of Paramount
- City of South Gate
- Burbank-Glendale-Pasadena Airport Authority

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City Manager Representative

AGENDA REPORT

TO: Members of Eco-Rapid Transit Board of Directors
FROM: Michael Kodama, Executive Director
DATE: April 14, 2021
SUBJECT: **AUTHORIZATION TO OPPOSE SENATE BILL 556 (SENATOR DODD SB556), WIRELESS BROADBAND INFRASTRUCTURE – REMOVAL OF LOCAL AUTHORITY OF PUBLIC RIGHTS-OF-WAY**

Public comments on items on the agenda will be taken at the time the item is called and are limited to 3 minutes per speaker

ISSUE

Authorization to oppose senate bill 556 (Senator Dodd), Wireless Broadband Infrastructure Bill which removes and reduces local authority along public rights-of-way.

BACKGROUND

Senate Bill 556 (SB 556 Dodd) relates to wireless broadband infrastructure deployment. It seems that SB 556 conflicts with the Federal Communications Commission's (FCC) adopted regulations on wireless services deployment, which cities and counties across the nation are actively implementing. This measure requires local governments to make space available to telecommunications providers without recognizing local authority to manage the public right-of-way preserved in federal law.

Additionally, SB 556 creates ambiguity in the fees local governments can charge for access to their infrastructure. SB 556 restricts fees to "actual cost" and "reasonable actual cost."

In March, 2021, the California League of Cities distributed recommendations to oppose SB 556 and said that, "SB 556 is an attempt by the telecommunications industry to undermine local authority while making no meaningful progress towards closing the digital divide in California's unserved and underserved communities."

See attached from the California League of Cities legislative report and letter opposing SB 556.

RECOMMENDATION

It is recommended that the Board:

1. Discuss information presented and offer action items; and/or



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2. Authorization to oppose SB 556 (Dodd) which impacts wireless and broadband infrastructure opportunities and reduces local authority along the public right-of-way.

Broadband Permitting (FCC)

- **AB 537 (Quirk) Local permitting: broadband projects.**
 - Would implement FCC rules around broadband permitting into state law; and
 - Cities and counties could not prohibit, or unreasonably discriminate in favor of or against any particular technology in the broadband permitting process.

Pending: oppose

- **SB 556 (Dodd) Utility poles and support structures: attachments.**
 - Would implement FCC rules around broadband permitting into state law;
 - Require cities/counties to make utility poles/traffic signal poles/street light poles available to telecommunications providers;
 - Federal law allows locals to "manage" the public right-of-way; and
 - The mandate of the draft bill does not allow us to manage the public right-of-way.

Pending: oppose



March 30, 2021

The Honorable Ben Hueso
Chair, Senate Energy, Utilities, and Communications Committee
State Capitol Building, Room 4035
Sacramento, CA 95814

RE: SB 556 (Dodd) Street Light Poles, Traffic Signal Poles, Utility Poles, and Support Structures: Attachments.
Notice of OPPOSITION *(As Amended 03/16/21)*

Dear Senator Hueso,

The League of California Cities (Cal Cities) must respectfully oppose SB 556 (Dodd), related to wireless broadband infrastructure deployment. While we oppose SB 556, Cal Cities, as detailed in our 2021 strategic priorities, is committed to closing the digital divide while continuing to protect and modernize the critical infrastructure in our communities.

SB 556 directly conflicts with the Federal Communications Commission's (FCC) adopted regulations on wireless services deployment, which cities and counties across the nation are actively implementing. This measure requires local governments to make space available to telecommunications providers without recognizing local authority to manage the public right-of-way preserved in federal law. FCC regulations explicitly enable local governments to ensure that such installations meet appearance and design standards, maintain traffic safety, protect historical resources' integrity, and safeguard citizens' quality of life. To protect the public's investment, the control of the public rights-of-way must remain local.

Additionally, SB 556 creates ambiguity in the fees local governments can charge for access to their infrastructure. Federal law explicitly outlines conditions for valid fees, limiting fees to a "reasonable approximation of the local government's actual and direct costs," including costs to maintain a structure within the right-of-way, process an application or permit, and review a siting application. SB 556, on the other hand, chooses not to incorporate these federal standards, further restricting fees to "actual cost" and "reasonable actual cost." If the goal of SB 556 is to implement the existing FCC orders into state law, there should be no added ambiguity created by changes from what was already decided at the federal level.

SB 556 is an attempt by the telecommunications industry to undermine local authority while making no meaningful progress towards closing the digital divide in California's unserved and underserved communities. As previously mentioned, cities and counties across the nation are implementing the FCC's orders. If California is to close the digital divide, legislative efforts should focus on encouraging and incentivizing telecommunications companies to service areas that for too long have not had access to reliable and affordable internet.

While Cal Cities stands ready to work with the Legislature to further the state's broadband goals, these efforts do not inherently conflict with the appropriate local authority to manage the right-of-way and comply with existing FCC decisions. For these reasons, Cal Cities opposes SB 556 (Dodd). If you have any questions, do not hesitate to contact me at (916) 658-8218.

Sincerely,



Jason Rhine
Assistant Legislative Director

- cc. The Honorable Bill Dodd
Members, Senate Energy, Utilities, and Communications Committee
Sarah Smith, Consultant, Senate Energy, Utilities, and Communications Committee
Kerry Yoshida, Consultant, Senate Republican Caucus

AMENDED IN SENATE MARCH 16, 2021

SENATE BILL

No. 556

Introduced by Senator Dodd

February 18, 2021

An act to amend ~~Section 9510.5~~ of Sections 9510, 9510.5, 9511, 9511.5, 9512, 9513, 9514, and 9515 of, to amend the heading of Part 2 (commencing with Section 9510) of Division 4.8 of, and to add Section 9514.5 to, the Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as amended, Dodd. ~~Utility poles~~ *Street light poles, traffic signal poles, utility poles*, and support structures: attachments.

Existing law requires a local publicly owned electric utility to make appropriate space and capacity on and in their utility poles, as defined, and support structures available for use by cable television corporations, video service providers, and telephone corporations. Under existing law, "utility poles" include electrical poles, except those electrical poles used solely for the transmission of electricity at 50 kilovolts or higher.

This bill would revise the definition of a utility pole to include an electrical transmission tower, while continuing to exclude an electrical pole, but not an electrical transmission tower, used solely for the transmission of electricity at 50 kilovolts or higher. *The bill would require a local publicly owned electric utility to make available appropriate space and capacity for use by cable television corporations, video service providers, and telephone corporations on and in their street light poles, traffic signal poles, and supporting structures. The bill would require local governments to make appropriate space and capacity on and in their street light poles, traffic signal poles, and supporting structures in a similar manner as is required for a local*

publicly owned electric utility. By placing additional requirements upon local publicly owned electric ~~utilities~~, *utilities and local governments*, the bill would impose a state-mandated local program.

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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*
3 (1) *Communities across California face a multitude of barriers*
4 *to the deployment of resilient and accessible networks. Broadband*
5 *internet access service in urban communities varies by*
6 *neighborhood, with great discrepancies in infrastructure*
7 *technology. Communities in rural areas often lack sufficient*
8 *broadband internet access service, as well as the backhaul*
9 *infrastructure, to provide broadband services.*
10 (2) *The COVID-19 pandemic has highlighted the extent to which*
11 *broadband access is essential for education, telehealth, remote*
12 *working, public safety, public health and welfare, and economic*
13 *resilience. The pandemic adds greater urgency to develop new*
14 *strategies and expand on existing successful measures to deploy*
15 *reliable networks. Connection to the internet at reliable speeds is*
16 *also crucial to California’s economic recovery from the impact of*
17 *COVID-19. Millions of children are attending classes remotely,*
18 *telehealth visits have skyrocketed, and many more Californians*
19 *are telecommuting from their places of residence. Additionally,*
20 *with unprecedented growth in unemployment caused by COVID-19*
21 *and the need to participate in society from home, the demand for*
22 *reliable broadband internet access service has significantly*
23 *increased as millions of additional Californians need access to*
24 *successfully weather the pandemic and to recover.*
25 (3) *Mobile broadband internet access is critical to distance*
26 *learning. Just as important, mobile broadband internet access is*
27 *needed to address the digital divide. In 2017, for example, 73*

1 *percent of households accessed the internet using a cellular phone.*
2 *The Federal Communications Commission reports that nearly 70*
3 *percent of teachers assign homework that requires broadband*
4 *access. Although California has made progress closing the digital*
5 *divide at schools, internet access at home is still a challenge.*
6 *Almost 16 percent of schoolage children, about 945,000, had no*
7 *internet connection at home in 2017 and 27 percent, about 1.7*
8 *million, did not have broadband connections. Access varies*
9 *significantly by family income, parental education, race or*
10 *ethnicity, and geography. For example, 22 percent of low-income*
11 *households with schoolage children did not have any internet*
12 *connection at home and 48 percent reported no broadband*
13 *subscription at home.*

14 *(4) Over 2,000,000 Californians lack access to high-speed*
15 *broadband at benchmark speeds of 100 megabits per second*
16 *download, including 50 percent of rural housing units. More than*
17 *14,000,000 Californians, over one-third of the population, do not*
18 *subscribe to broadband at the minimum benchmark speed to*
19 *support distance learning and technologies that depend on upload*
20 *speed. Only 34 percent of adults over 60 years of age use the*
21 *internet, excluding older adults from access to telemedicine, social*
22 *services, and other support.*

23 *(5) The Centers for Medicare and Medicaid Services define*
24 *telehealth as “a two-way, real-time interactive communication*
25 *between a patient and a physician or practitioner at a distant site*
26 *through telecommunications equipment that includes, at a*
27 *minimum, audio and visual equipment.” Telemedicine encompasses*
28 *a growing number of applications and technologies, including*
29 *two-way live or streaming video, videoconferencing,*
30 *store-and-forward imaging along with the internet, email, smart*
31 *phones, wireless tools, and other forms of telecommunication.*
32 *These technologies facilitate and leverage the latest innovations*
33 *in computer, network, and peripheral equipment to promote the*
34 *health of patients around the world. Critical to its success is*
35 *reliable broadband internet access.*

36 *(6) Telehealth technology permits health care services to be*
37 *delivered without in-person contact, reducing the risk of disease*
38 *transmission to both patients and health care workers, and frees*
39 *up in-person resources for COVID-19 patients. Telehealth allows*
40 *patients to receive health services away from settings where the*

1 potential for contracting COVID-19 is high, such as hospitals,
2 health clinic waiting rooms, private practices, and other medical
3 facilities. Telehealth can also expand the reach of resources to
4 communities that have limited access to needed services.

5 (7) Due to widespread restrictions, and with fewer elective
6 procedures occurring in California and around the country to
7 reserve beds for COVID-19 patients, the telehealth share of total
8 medical claim lines, which is the individual service or procedure
9 listed on an insurance claim, increased 8,336 percent nationally
10 from April 2019, to April 2020. Similar percentage increases have
11 occurred in California.

12 (8) Millions of Californians are working from home while
13 sheltering in place. Even employers that had not previously
14 permitted remote-work arrangements have changed their policies
15 during the pandemic. The Department of General Services reports
16 that 83.9 percent of state workers are working from home. Survey
17 data indicates that nearly two-thirds of those who still had jobs
18 during the pandemic were almost exclusively working from home.
19 That compares with just 13 percent of workers who said they did
20 so even a few times a week prior to the COVID-19 pandemic.
21 Telework is expected to continue at rates much higher than before
22 COVID-19 even after the pandemic is over. Among those workers
23 surveyed who had previously not regularly worked from home, 62
24 percent said they were enjoying the change, and 75 percent expect
25 their employers to continue to provide flexibility in where they
26 work after the pandemic has passed. Indeed, the State of California,
27 one of California's largest employers, has stated the desire for 75
28 percent of the state's workforce to remain home, at least part time,
29 for the foreseeable future. The Metropolitan Transportation
30 Commission in the San Francisco Bay Area voted to adopt a
31 strategy to have large, office-based companies require people to
32 work from home three days a week as a way to slash emissions of
33 greenhouse gases from car commutes. Critical to the success of
34 telework is reliable broadband internet access.

35 (9) The enormous increases in distance learning, telehealth,
36 and telework require a significant boost in broadband
37 infrastructure, especially near the homes where these activities
38 take place. To promote wireless broadband internet access near
39 homes, it is in the interest of the state to ensure the deployment of
40 wireless facilities on utility poles, street light poles, and traffic

1 *signal poles. It is in the interest of the state to ensure that local*
2 *publicly owned electric utilities and local governments that own*
3 *or control utility poles, traffic signal poles, or street light poles*
4 *make available appropriate space and capacity on and in those*
5 *structures to communications service providers, under reasonable*
6 *rates, terms, and conditions.*

7 *(10) The state has a compelling interest in ensuring that local*
8 *governments provide access to utility poles, traffic signal poles,*
9 *or street light poles, with nondiscriminatory fees that recover*
10 *reasonable actual costs. Therefore, it is the intent of the Legislature*
11 *that this part supersedes all conflicting local laws and this part*
12 *shall apply in charter cities.*

13 *(11) Time is of the essence to approve small wireless facility*
14 *siting applications given the immediate need for broadband internet*
15 *access, as amplified by the COVID-19 pandemic.*

16 *(b) It is the intent of the Legislature to facilitate the deployment*
17 *of wireless broadband internet access and to bridge the digital*
18 *divide by connecting students, families, and communities with*
19 *reliable internet connectivity that will remain a necessity after the*
20 *COVID-19 pandemic has abated.*

21 *SEC. 2. The heading of Part 2 (commencing with Section 9510)*
22 *of Division 4.8 of the Public Utilities Code is amended to read:*

23

24 **PART 2. STREET LIGHT POLES, TRAFFIC SIGNAL POLES,**
25 **UTILITY POLES POLES, AND SUPPORT STRUCTURES**

26

27 *SEC. 3. Section 9510 of the Public Utilities Code is amended*
28 *to read:*

29 9510. (a) The Legislature finds and declares ~~that in order that~~
30 *to promote wireline and wireless broadband access and adoption,*
31 *it is in the interest of the state to ensure that local governments*
32 *and local publicly owned electric utilities, including irrigation*
33 *districts, that own or control street light poles, traffic signal poles,*
34 *utility poles poles, and support structures, including ducts and*
35 *conduits, as applicable, make available appropriate space and*
36 *capacity on and in those structures to cable television corporations,*
37 *video service providers, and telephone corporations under*
38 *reasonable rates, terms, and conditions.*

39 (b) The Legislature further finds and declares that the oversight
40 of fees and other requirements imposed by local publicly owned

1 electric utilities *or local governments* as a condition of providing
 2 the space or capacity described in subdivision (a) is a matter of
 3 statewide interest and concern. Therefore, it is the intent of the
 4 Legislature that this part supersedes all conflicting local laws and
 5 this part shall apply in charter cities.

6 (c) The Legislature further finds and declares that local publicly
 7 owned electric utilities *and local governments* should provide
 8 access to *street light poles, traffic signal poles, utility poles poles,*
 9 *and support—structures structures, as applicable, with—a*
 10 *nondiscriminatory fees that allow for the recovery of reasonable*
 11 *actual costs without subsidizing for-profit cable television*
 12 *corporations, video service providers, and telephone corporations.*

13 ~~SECTION 4.~~

14 *SEC. 4.* Section 9510.5 of the Public Utilities Code is amended
 15 to read:

16 9510.5. As used in this part, the following terms have the
 17 following meanings:

18 (a) “Communications service provider” means a cable television
 19 corporation, video service provider, or telephone corporation.

20 (b) “Governing body” means the governing body of a *local*
 21 *government or local publicly owned electric utility, including,*
 22 *where applicable, a board appointed by a city council.*

23 (c) “*Local government*” means a city, including a charter city,
 24 county, or city and county.

25 ~~(e)~~

26 (d) “Street light pole” means a pole, arm, or fixture used
 27 primarily for street, pedestrian, or security lighting.

28 (e) “*Traffic signal pole*” means a pole, arm, or fixture used
 29 *primarily for signaling traffic flow.*

30 ~~(f)~~

31 (f) “Utility pole” means an electrical pole, electrical transmission
 32 tower, or telephone pole, but does not include a street light pole
 33 or an electrical pole used solely for the transmission of electricity
 34 at 50 kilovolts or higher and not intended for distribution of
 35 communications signals or electricity at lower voltages.

36 *SEC. 5.* Section 9511 of the Public Utilities Code is amended
 37 to read:

38 9511. (a) (1) (A) A local publicly owned electric utility shall
 39 make appropriate space and capacity on and in a *street light pole,*
 40 *traffic signal pole, utility pole pole, and support structure owned*

1 or controlled by the local publicly owned electric utility available
2 for use by a communications service provider pursuant to
3 reasonable terms and conditions. ~~Rates,~~

4 (B) Rates, terms, and conditions that are specified in a contract
5 executed *with a local publicly owned electric utility* before January
6 1, 2012, shall remain valid until the contract, rate, term, or
7 condition expires or is terminated according to its terms by one of
8 the parties. If an annual fee is included in a contract executed
9 before January 1, 2012, but the amount of the fee is left
10 unspecified, the requirements of Section 9512 apply.

11 (2) (A) *A local government shall make appropriate space and*
12 *capacity on and in a street light pole, traffic signal pole, and*
13 *support structure owned or controlled by the local government*
14 *available for use by a communications service provider pursuant*
15 *to reasonable terms and conditions.*

16 (B) *Unless the communications service provider and local*
17 *government otherwise agree, if the contractual rates exceed two*
18 *hundred seventy dollars (\$270) per year per pole, the rates, terms,*
19 *and conditions that are specified in a contract executed before*
20 *January 14, 2019, shall remain valid only for wireless equipment*
21 *that has already been attached to a pole by a communications*
22 *service provider before January 1, 2022, and only until the*
23 *contract, rate, term, or condition expires or is terminated according*
24 *to its terms by one of the parties.*

25 (b) (1) *A local publicly owned electric utility or a local*
26 *government shall respond to a request for use by a communications*
27 *service provider of a street light pole, traffic signal pole, utility*
28 *pole pole, or support-structure structure, as applicable, owned or*
29 *controlled by the local publicly owned electric utility or local*
30 *government within 45 days of the date of receipt of the request, or*
31 *60 days if the request is to attach to over 300 poles. If the request*
32 *is denied, the local publicly owned electric utility or local*
33 *government shall provide in the response the reason for the denial*
34 *and the remedy to gain access to the street light pole, traffic signal*
35 *pole, utility pole pole, or support structure. If a request to attach*
36 *is accepted, the local publicly owned electric utility, utility or local*
37 *government, within 14 days after acceptance of the request, shall*
38 *provide a nondiscriminatory cost estimate, based on reasonable*
39 *actual cost, as described in the Federal Communications*
40 *Commission's Declaratory Ruling on Wireless Broadband*

1 *Deployment (FCC 18-133, 33 FCC Rcd 9088 (2018))*, for any
2 necessary make-ready work required to accommodate the
3 attachment. The requesting party shall accept or reject the
4 make-ready cost estimate within 14 days. Within 60 days of
5 acceptance of the cost estimate, the local publicly owned electric
6 utility *or local government* shall notify any existing third-party
7 attachers that make-ready work for a new attacher needs to be
8 performed. The requesting party shall have the responsibility to
9 coordinate with third-party existing attachers for make-ready work
10 to be completed. All parties shall complete all make-ready work
11 within 60 days of the notice, or within 105 days in the case of a
12 request to attach to over 300 poles. The local publicly owned
13 electric utility *or local government* may complete make-ready
14 work without the consent of the existing attachers, if the existing
15 attachers fail to move their attachments by the end of the
16 make-ready timeline requirements specified in this paragraph.

17 (2) The timelines described in paragraph (1) may be extended
18 under special circumstances upon agreement of the local publicly
19 owned electric utility *or local government* and the communications
20 service provider.

21 (c) ~~A—Unless the communication service provider agrees to~~
22 ~~replace the street light pole, traffic signal pole, utility pole, or~~
23 ~~support structure, a local publicly owned electric utility or local~~
24 ~~government may deny an application for use of a street light pole,~~
25 ~~traffic signal pole, utility pole pole, or support structure structure,~~
26 ~~as applicable, because of insufficient capacity or safety, reliability,~~
27 ~~or engineering concerns. In denying an application, a local publicly~~
28 ~~owned electric utility or local government may also take into~~
29 ~~account the manner in which a request from a communications~~
30 ~~service provider under this part could impact an approved project~~
31 ~~for future use by the local publicly owned electric utility or the~~
32 ~~local government of its street light poles, traffic signal poles, utility~~
33 ~~poles poles or support structures for delivery of its core utility or~~
34 ~~municipal service.~~

35 (d) This part does not limit the authority of a local publicly
36 owned electric utility *or local government* to ensure compliance
37 with all applicable provisions of law in determining whether to
38 approve or disapprove use of a *street light pole, traffic signal pole,*
39 *utility pole pole, or support structure. structure, as applicable.*

1 *SEC. 6. Section 9511.5 of the Public Utilities Code is amended*
2 *to read:*

3 9511.5. (a) ~~If a~~ *A local publicly owned electric utility or local*
4 *government that has the authority pursuant to other law to impose*
5 *a fee to provide the use described in Section 9511, that 9511 shall*
6 *adopt and levy only the fee shall be adopted and levied described*
7 *in Section 9511, consistent with the requirements of this part.*

8 (b) *The governing body of the local publicly owned electric*
9 *utility or a local government shall determine the fee pursuant to*
10 *Section 9512.*

11 (c) *This part does not grant additional authority to a local*
12 *publicly owned electric utility or local government to impose a*
13 *fee that is not otherwise authorized by law.*

14 *SEC. 7. Section 9512 of the Public Utilities Code is amended*
15 *to read:*

16 9512. (a) (1) *An annual fee charged by a local publicly owned*
17 *electric utility or a local government for the use of a street light*
18 *pole, traffic signal pole, or utility pole pole, as applicable, by a*
19 *communications service provider for an attachment shall be*
20 *imposed pursuant to reasonable terms and conditions, and shall*
21 *not exceed an amount determined by multiplying the percentage*
22 *of the total usable space that would be occupied by the attachment*
23 *by the annual costs of ownership of the pole and its supporting*
24 *anchor. As used in this paragraph and paragraph (2), “usable space”*
25 *means the space above the minimum grade level that can be used*
26 *for the attachment of wires, cables, and associated equipment. It*
27 *shall be presumed, subject to factual rebuttal, that a single*
28 *attachment occupies one foot of usable space and that an average*
29 *street light pole, traffic signal pole, or utility pole contains 13.5*
30 *feet of usable space.*

31 (2) *An annual fee charged by a local publicly owned electric*
32 *utility or local government for use of a support structure by a*
33 *communications service provider shall not exceed the local publicly*
34 *owned electric utility’s or local government’s annual costs of*
35 *ownership of the percentage of the volume of the capacity of the*
36 *structure rendered unusable by the equipment of the*
37 *communications service provider.*

38 (3) *As used in this subdivision, the “annual costs of ownership”*
39 *is the sum of the annual capital costs and annual operation costs*
40 *of the pole street light pole, traffic signal pole, utility pole, or*

1 support structure, which shall be the average costs of all similar
 2 *street light poles, traffic signal poles, utility-poles poles, or*
 3 structures owned or controlled by the local publicly owned electric
 4 ~~utility.~~ *utility or local government.* The basis for the computation
 5 of annual capital costs shall be historical capital costs less
 6 depreciation. The accounting upon which the historical capital
 7 costs are determined shall include a credit for all reimbursed capital
 8 costs. Depreciation shall be based upon the average service life of
 9 the *street light pole, traffic signal pole, utility-pole pole, or support*
 10 structure. “Annual cost of ownership” does not include costs for
 11 any property not necessary for use by the communications service
 12 provider.

13 (b) (1) A local publicly owned electric utility *or local*
 14 *government* shall not levy a fee that exceeds the estimated amount
 15 required to provide use of the *street light pole, traffic signal pole,*
 16 *utility-pole pole, or support-structure structure, as applicable,* for
 17 which the annual recurring fee is levied. If the fee creates revenues
 18 in excess of actual costs, those revenues shall be used to reduce
 19 the fee.

20 (2) *A local publicly owned electric utility or local government*
 21 *establishes a rebuttable presumption that its fees are based on*
 22 *reasonable actual costs if they conform to the presumptively*
 23 *reasonable fees set forth in the Federal Communications*
 24 *Commission’s Declaratory Ruling on Wireless Broadband*
 25 *Deployment (FCC 18-133, 33 FCC Rcd 9088 (2018)).*

26 (c) A jointly owned pole is not included within the requirements
 27 of this section, if a joint owner other than the local publicly owned
 28 electric utility *or local government* has control of access to the
 29 space that would be used by the communications service provider.

30 SEC. 8. *Section 9513 of the Public Utilities Code is amended*
 31 *to read:*

32 9513. (a) A local publicly owned electric utility *or local*
 33 *government* may require an additional one-time charge equal to
 34 three years of the annual fee described in Section 9512, for
 35 attachments reasonably shown to have been made without
 36 authorization that are discovered on or after January 1, 2012.

37 (b) A local publicly owned electric utility *or local government*
 38 may remove an attachment made without authorization, if all of
 39 the following conditions are met:

1 (1) The owner of the attachment fails to pay the charge described
2 in subdivision (a), if that charge is applicable.

3 (2) The owner of the attachment does not seek approval to attach
4 pursuant to this part within a reasonable period of time.

5 (3) The owner of the attachment does not contest that the
6 attachment was made without authorization.

7 (c) An attachment of a service drop wire is not made without
8 authorization for the purposes of this section, if the owner of the
9 attachment seeks approval to attach pursuant to this part within 45
10 days of the attachment.

11 *SEC. 9. Section 9514 of the Public Utilities Code is amended*
12 *to read:*

13 9514. ~~Nothing in this~~ This part shall *not* be construed to prohibit
14 a local publicly owned electric utility *or local government* from
15 requiring a one-time fee to process a request for attachment, if the
16 one-time fee does not exceed the actual cost of processing the
17 request.

18 *SEC. 10. Section 9514.5 is added to the Public Utilities Code,*
19 *to read:*

20 9514.5. *This part does not prohibit a wireless service provider*
21 *and a local government from mutually agreeing to a rate, charge,*
22 *term, or condition that is different from that provided in this part.*
23 *Either party may withdraw from a negotiation for an agreement*
24 *upon written notice to the other party.*

25 *SEC. 11. Section 9515 of the Public Utilities Code is amended*
26 *to read:*

27 9515. (a) In the event that it becomes necessary for the local
28 publicly owned electric utility *or local government* to use space
29 or capacity on or in a support structure occupied by the
30 communications service provider's equipment, the communications
31 service provider shall either pay all costs for rearrangements
32 necessary to maintain the pole attachment or remove its equipment
33 at its own expense.

34 (b) (1) If the communications service provider requests a
35 rearrangement of ~~the~~ *a street light pole, traffic signal pole, utility*
36 ~~pole~~ *pole, or support structure of a local publicly owned electric*
37 *utility, and the local publicly owned electric utility has the authority*
38 *to levy fees as described in Section 9511.5, the local publicly*
39 *owned electric utility may charge a one-time reimbursement fee*
40 *for the actual costs incurred for the rearrangement.*

1 (2) *If the communication service provider requests a*
2 *rearrangement of a street light pole, traffic signal pole, or*
3 *supporting structure of a local government, the local government*
4 *may charge a one-time reimbursement fee for the actual costs*
5 *incurred for the rearrangement.*

6 ~~SEC. 2.~~

7 SEC. 12. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 a local agency or school district has the authority to levy service
10 charges, fees, or assessments sufficient to pay for the program or
11 level of service mandated by this act, within the meaning of Section
12 17556 of the Government Code.



Eco-Rapid Transit, formerly known as the Orangeline Development Authority, is a joint powers authority (JPA) created to pursue development of a transit system that moves as rapidly as possible, uses grade separation as appropriate, and is environmentally friendly and energy efficient. The system is designed to enhance and increase transportation options for riders of this region utilizing safe, advanced transit technology to expand economic growth that maximizes ridership in Southern California. The Authority is composed of the following public agencies:

April 14, 2021

The Honorable Ben Hueso
Chair, Senate Energy, Utilities, and Communications Committee
State Capitol Building, Room 4035
Sacramento, CA 95814

RE: Opposition to SB 556 (Dodd) Street Light Poles, Traffic Signal Poles, Utility Poles, and Support Structures (As Amended 03/16/21)

Dear Senator Hueso,

Eco-Rapid Transit respectfully opposes SB 556 (Dodd), related to wireless broadband infrastructure deployment.

SB 556 conflicts with the Federal Communications Commission's (FCC) adopted regulations on wireless services deployment, which cities and counties across the nation are actively implementing. This measure requires local governments to make space available to telecommunications providers without recognizing local authority to manage the public right-of-way preserved in federal law. FCC regulations enable local governments to ensure that such installations meet appearance and design standards, maintain traffic safety, protect historical resources' integrity, and safeguard citizens' quality of life. To protect the public's investment, we believe the control of the public rights-of-way must remain local.

Additionally, SB 556 creates ambiguity in the fees local governments can charge for access to their infrastructure. Federal law outlines conditions for valid fees, limiting fees to a "reasonable approximation of the local government's actual and direct costs," including costs to maintain a structure within the right-of-way, process an application or permit, and review a siting application. SB 556, chooses not to incorporate these federal standards, further restricting fees to "actual cost" and "reasonable actual cost."

SB 556 seems to undermine local authority while making no meaningful progress towards closing the digital divide in our unserved and underserved communities. If we are going to close the digital divide, legislative efforts should focus on encouraging and incentivizing telecommunications companies to service areas, like ours, that for too long have not had access to reliable and affordable internet.

Eco-Rapid Transit is a Joint Powers Authority consisting of 12 members (11 cities and the Burbank Airport) working together to develop a 34-mile rail transit corridor. The ability to use existing rights-of-way and public infrastructure is key for our economic and community development opportunities.

City of Artesia

City of Bell

City of Bell Gardens

City of Cudahy

City of Cerritos

City of Downey

City of Glendale

City of Huntington Park

City of Maywood

City of Paramount

City of South Gate

Burbank-Glendale-Pasadena
Airport Authority

Chair

Karina Macias
Councilmember
City of Huntington Park

Vice-Chair

Ali Sajjad Taj
Councilmember
City of Artesia

Secretary

Sean Ashton
Councilmember
City of Downey

Treasurer

Vrej Agajanian
Mayor
City of Glendale

Internal Auditor

Jose R. Gonzalez
Mayor
City of Cudahy

Executive Director

Michael R. Kodama

General Counsel

Teresa L. Highsmith

Ex-Officio

William Rawlings
City Manager Representative



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City Manager Representative

While Eco-Rapid Transit and its members are ready to work with the Legislature to further the state's broadband goals. We support appropriate local authority to manage the right-of-way and comply with existing FCC decisions. For these reasons, Eco-Rapid Transit opposes SB 556 (Dodd).

Sincerely,

Karina Macias
Chair, Eco-Rapid Transit

cc: The Honorable Bill Dodd
Kristine Guerrero, League of California Cities, kguerrero@cacities.org