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HOUSE BILL 2171

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Hudgins and McCoy

Read first time 02/11/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to developing a statewide map of high-speed  
2 internet availability and adoption; amending RCW 43.105.020; adding new  
3 sections to chapter 43.105 RCW; creating new sections; repealing RCW  
4 43.105.350; providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares the  
7 following:

8 (a) The deployment and adoption of high-speed internet services and  
9 information technology has resulted in enhanced economic development  
10 and public safety for the state's communities, improved health care and  
11 educational opportunities, stimulated business and job growth,  
12 increased the amount of valuable information available to residents,  
13 businesses, and institutions, and served to provide a better quality of  
14 life for the state's residents.

15 (b) Continued progress in the deployment and adoption of  
16 affordable, reliable high-speed internet services and other advanced  
17 telecommunications services will benefit all citizens and businesses  
18 within the state.

1 (2) Therefore, it is the legislature's intent to conduct a  
2 statewide assessment of the availability, location, service levels, and  
3 other characteristics of high-speed internet services and other  
4 advanced telecommunications services in the state.

5 **Sec. 2.** RCW 43.105.020 and 2003 c 18 s 2 are each amended to read  
6 as follows:

7 ~~((As used in this chapter, unless the context indicates otherwise,~~  
8 ~~the following definitions shall apply:)) The definitions in this  
9 section apply throughout this chapter unless the context clearly  
10 requires otherwise.~~

11 (1) "Department" means the department of information services((+)).

12 (2) "Board" means the information services board(+).

13 (3) "Committee" means the state interoperability executive  
14 committee(+).

15 (4) "Local governments" includes all municipal and quasi municipal  
16 corporations and political subdivisions, and all agencies of such  
17 corporations and subdivisions authorized to contract separately(+).

18 (5) "Director" means the director of the department(+).

19 (6) "Purchased services" means services provided by a vendor to  
20 accomplish routine, continuing, and necessary functions. This term  
21 includes, but is not limited to, services acquired for equipment  
22 maintenance and repair, operation of a physical plant, security,  
23 computer hardware and software installation and maintenance,  
24 telecommunications installation and maintenance, data entry, keypunch  
25 services, programming services, and computer time-sharing(+).

26 (7) "Backbone network" means the shared high-density portions of  
27 the state's telecommunications transmission facilities. It includes  
28 specially conditioned high-speed communications carrier lines,  
29 multiplexors, switches associated with such communications lines, and  
30 any equipment and software components necessary for management and  
31 control of the backbone network(+).

32 (8) "Telecommunications" means the transmission of information by  
33 wire, radio, optical cable, electromagnetic, or other means(+).

34 (9) "Information" includes, but is not limited to, data, text,  
35 voice, and video(+).

36 (10) "Information processing" means the electronic capture,

1 collection, storage, manipulation, transmission, retrieval, and  
2 presentation of information in the form of data, text, voice, or image  
3 and includes telecommunications and office automation functions((+)).

4 (11) "Information services" means data processing,  
5 telecommunications, office automation, and computerized information  
6 systems((+)).

7 (12) "Equipment" means the machines, devices, and transmission  
8 facilities used in information processing, such as computers, word  
9 processors, terminals, telephones, wireless communications system  
10 facilities, cables, and any physical facility necessary for the  
11 operation of such equipment((+)).

12 (13) "Information technology portfolio" or "portfolio" means a  
13 strategic management process documenting relationships between agency  
14 missions and information technology and telecommunications  
15 investments((+)).

16 (14) "Oversight" means a process of comprehensive risk analysis and  
17 management designed to ensure optimum use of information technology  
18 resources and telecommunications((+)).

19 (15) "Proprietary software" means that software offered for sale or  
20 license((+)).

21 (16) "Video telecommunications" means the electronic  
22 interconnection of two or more sites for the purpose of transmitting  
23 and/or receiving visual and associated audio information. Video  
24 telecommunications shall not include existing public television  
25 broadcast stations as currently designated by the department of  
26 community, trade, and economic development under chapter 43.330  
27 RCW((+)).

28 (17) "K-20 educational network board" or "K-20 board" means the K-  
29 20 educational network board created in RCW 43.105.800((+)).

30 (18) "K-20 network technical steering committee" or "committee"  
31 means the K-20 network technical steering committee created in RCW  
32 43.105.810((+)).

33 (19) "K-20 network" means the network established in RCW  
34 43.105.820((+)).

35 (20) "Educational sectors" means those institutions of higher  
36 education, school districts, and educational service districts that use  
37 the network for distance education, data transmission, and other uses  
38 permitted by the K-20 board((+)).

1 (21) "Bandwidth" means the transmission capacity of an electronic  
2 communications device or system.

3 (22) "Broadband" means a high-speed, high-capacity transmission  
4 medium, using land-based, satellite, wireless, or any other mechanism,  
5 that can carry either signals or transmit data, or both, over long  
6 distances by using a wide range of frequencies with a minimum download  
7 speed greater than or equal to seven hundred sixty-eight kilobits per  
8 second and an upload speed greater than two hundred kilobits per  
9 second.

10 (23) "High-speed internet" means broadband.

11 (24) "High-speed internet strategy work group" means the group  
12 convened by the department as authorized by chapter 262, Laws of 2008.

13 (25) "Public entity" includes, but is not limited to, the  
14 following: State departments and agencies; public schools and school  
15 districts; public universities; counties, cities, and municipalities in  
16 the state; and state and local police agencies.

17 NEW SECTION. Sec. 3. A new section is added to chapter 43.105 RCW  
18 to read as follows:

19 The department shall, based upon the final recommendations of the  
20 high-speed internet work group, accomplish the following objectives:

21 (1) Create and regularly update a detailed, geographic information  
22 system map of the high-speed internet services and other relevant  
23 telecommunications and information technology services owned or leased  
24 by public entities in the state. The map must, at a minimum, detail  
25 the following criteria:

26 (a) The physical location of all high-speed internet infrastructure  
27 owned or leased by public entities;

28 (b) The type of delivery technology used;

29 (c) Either the service or infrastructure provider, or both;

30 (d) The existence of unused conduits;

31 (e) The amount of bandwidth capacity available in the presently  
32 deployed high-speed internet infrastructure;

33 (f) The average amount of bandwidth capacity utilized;

34 (g) The extent to which the high-speed internet infrastructure is  
35 active or inactive; and

36 (h) The x,y coordinates of available infrastructure;

1 (2) Contract with a nongovernmental, third-party mapping entity  
2 that will work collaboratively with telecommunications providers and  
3 internet service providers to assess, create, and regularly update a  
4 geographic information system map of the privately owned high-speed  
5 internet infrastructure in the state. The department must purchase  
6 aggregated map data owned by private entities in accordance with the  
7 requirements in this section and must provide instructions to the  
8 third-party mapping entity that any proprietary and competitively  
9 sensitive private data must be maintained in a confidential manner by  
10 the entity. The map must, at a minimum, detail the following criteria:

11 (a) To the extent possible, the physical location of all high-speed  
12 internet infrastructure owned or leased by private entities;

13 (b) The type of delivery technology used;

14 (c) Either the service provider or the infrastructure provider, or  
15 both;

16 (d) To the extent possible, the existence of unused conduits;

17 (e) The amount of bandwidth capacity available in the presently  
18 deployed high-speed internet infrastructure;

19 (f) The average amount of bandwidth capacity utilized;

20 (g) The extent to which the high-speed internet infrastructure is  
21 active or inactive;

22 (h) Specific download and upload speeds as reported in the  
23 provider's most recent report to the federal communications commission;

24 (i) Specific adoption levels as reported in the provider's most  
25 recent report to the federal communications commission; and

26 (j) Provide detail at the census tract level or at the level  
27 specified by the federal communications commission, whichever is more  
28 comprehensive;

29 (3) Combine the geographic information system map of high-speed  
30 internet infrastructure owned by public entities with the geographic  
31 information system map of high-speed internet infrastructure owned by  
32 private entities to create and regularly update a statewide inventory  
33 of all high-speed internet infrastructure in the state. The combined  
34 map of both public and privately owned or leased high-speed internet  
35 service must:

36 (a) Aggregate the information from subsections (1) and (2) of this  
37 section;

1 (b) Be made available in interactive form, online, to the general  
2 public;

3 (c) Be able to pan, zoom, and identify available specific high-  
4 speed internet service types and levels;

5 (d) Be able to display specific adoption rates by delivery  
6 technology and service levels;

7 (e) Meet other criteria as determined by the department, subject to  
8 available funding;

9 (4) Make available to the public quarterly reports on the  
10 department's progress in developing the geographic information system  
11 map;

12 (5) Use the aggregated geographic information system map of all  
13 high-speed internet infrastructure in the state, both public and  
14 privately owned or leased, to identify and regularly update the  
15 geographic gaps in high-speed internet service, including an assessment  
16 of the population demographic located in each of those geographic gaps;

17 (6) Track statewide residential and business adoption of high-speed  
18 internet, computers, and related information technology, including an  
19 identification of barriers to adoption;

20 (7) Spur the development of high-speed internet resources in the  
21 state, which may include, but is not limited to:

22 (a) Receiving funding in the form of grants or donations from  
23 private or public entities; and

24 (b) Applying for and receiving funding from the federal government.

25 (i) The department is the single eligible entity in the state to  
26 receive a grant under the federal broadband data improvement act, P.L.  
27 110-385.

28 (ii) Funding received by the department under the federal broadband  
29 data improvement act, P.L. 110-385, must be used in accordance with the  
30 requirements of that act and, subject to those requirements, may be  
31 distributed by the department on a competitive basis to other entities  
32 in the state to achieve the purposes of that act; and

33 (8) Contingent upon available funding, the department may update  
34 the geographic information system map of high-speed internet  
35 infrastructure to include detail at the census block level.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.105 RCW  
37 to read as follows:

1 The broadband development and deployment account is created in the  
2 custody of the state treasurer. All receipts from state, federal, or  
3 private sources for the purposes of accomplishing this act must be  
4 deposited in the account. Expenditures from the account may be used  
5 only for the purposes of this act. Only the director of the department  
6 or the director's designee may authorize expenditures from the account.  
7 The account is subject to the allotment procedures under chapter 43.88  
8 RCW, but an appropriation is not required for expenditures.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.105 RCW  
10 to read as follows:

11 Except as indicated in section 3(6)(b)(i) of this act, nothing in  
12 this chapter may be construed to limit the ability of any municipality,  
13 county, other unit of local government, or any nongovernmental  
14 organization to apply for and receive funds or technical assistance to  
15 undertake projects that address the level of high-speed internet access  
16 available to businesses and residents or any similar high-speed  
17 internet deployment project in the state.

18 NEW SECTION. **Sec. 6.** The department of information services, in  
19 coordination with the department of community, trade, and economic  
20 development and the utilities and transportation commission, shall  
21 reconvene the high-speed internet work group previously established by  
22 chapter 262, Laws of 2008. The work group shall prepare a report that  
23 identifies the geographic areas of greatest priority for the deployment  
24 of advanced telecommunications infrastructure in the state, a cost-  
25 study estimate for serving the geographic areas identified, and a  
26 proposed build-out schedule to residential homes and small businesses  
27 in the areas identified. To the greatest extent possible, the report  
28 should be based upon the information identified in the geographic  
29 system maps developed under the requirements of this act. The report  
30 must be delivered to the appropriate committees of the legislature by  
31 September 1, 2009, and must also include, at a minimum, an  
32 identification of the geographic areas of greatest priority for  
33 deployment for:

- 34 (1) Wireless voice service in unserved areas;  
35 (2) Advanced wireless broadband, defined as a wireless service  
36 delivering data to the end user transmitted at a speed of at least

1 three megabits per second downstream and at least one megabit per  
2 second upstream over an end-to-end internet protocol wireless network,  
3 in underserved areas;

4 (3) Basic broadband service, defined as a service delivering data  
5 to the end user transmitted at a speed of at least five megabits per  
6 second downstream and at least one megabit per second upstream, in  
7 unserved areas; and

8 (4) Advanced broadband service, defined as a service delivering  
9 data to the end user transmitted at a speed of at least forty-five  
10 megabits per second downstream and at least fifteen megabits per second  
11 upstream in underserved areas.

12 NEW SECTION. **Sec. 7.** If funding for the purpose of accomplishing  
13 this act is not provided either through federal or private sources by  
14 June 30, 2011, this act is null and void. The office of financial  
15 management must provide the code reviser's office with written notice  
16 by June 30, 2011, concerning the status of funds referenced in this  
17 section.

18 NEW SECTION. **Sec. 8.** The code reviser's office is directed to put  
19 the defined terms in RCW 43.105.020 in alphabetical order.

20 NEW SECTION. **Sec. 9.** If any part of this act is found to be in  
21 conflict with federal requirements that are a prescribed condition to  
22 the allocation of federal funds to the state, the conflicting part of  
23 this act is inoperative solely to the extent of the conflict and with  
24 respect to the agencies directly affected, and this finding does not  
25 affect the operation of the remainder of this act in its application to  
26 the agencies concerned. Rules adopted under this act must meet federal  
27 requirements that are a necessary condition to the receipt of federal  
28 funds by the state.

29 NEW SECTION. **Sec. 10.** RCW 43.105.350 (Request for information  
30 from providers--Limitation) and 2008 c 262 s 3 are each repealed.

31 NEW SECTION. **Sec. 11.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the



1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 12.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 July 1, 2009.

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