
ENGROSSED SUBSTITUTE HOUSE BILL 1457

State of Washington

67th Legislature

2021 Regular Session

By House Transportation (originally sponsored by Representatives Wylie, Riccelli, Kloba, Santos, Slatter, Shewmake, Ramel, and Hackney)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to facilitating the installation of broadband
2 facilities on limited access highways; amending RCW 47.52.001 and
3 47.44.010; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that broadband is an
6 increasingly essential service necessary for economic development,
7 reduction of use of roads and highways, delivery of medical services,
8 education, and use of other technologies. The legislature also
9 understands that maximizing the use of rights-of-way during
10 construction or repair of transportation systems offers cost-
11 effective opportunities for extending and improving broadband and
12 high-speed internet connections throughout the state. It is the
13 policy of the state to expedite the installation, improvement, and
14 extension of broadband networks, and to remove barriers to cost-
15 effective and expanded access to broadband networks.

16 Transportation activities can offer opportunities for these
17 connections and it is a critical goal of the state to use the
18 transportation system to facilitate and accelerate universal access
19 through providing assistance in the development of necessary physical
20 connections, increasing affordability of access, and formation of
21 strategic partnerships. There is a need for both the near-term

1 development of options and opportunities that can be applied within
2 existing plans and mid and longer-term activities that can be
3 undertaken to develop additional options and paths for the removal of
4 barriers and to maximize the impact of actions to facilitate the
5 expansion of broadband networks.

6 **Sec. 2.** RCW 47.52.001 and 2004 c 131 s 1 are each amended to
7 read as follows:

8 (1) Unrestricted access to and from public highways has resulted
9 in congestion and peril for the traveler. It has caused undue slowing
10 of all traffic in many areas. The investment of the public in highway
11 facilities has been impaired and highway facilities costing vast sums
12 of money will have to be relocated and reconstructed.

13 (2) (~~Personal wireless service~~) Broadband, which includes a
14 range of high-speed transmission technologies, including fiber optic
15 lines and personal wireless service facilities, is a critical part of
16 the state's infrastructure. The rapid deployment of (~~personal~~
17 ~~wireless service~~) broadband facilities is critical to ensure public
18 safety, network access, quality of service, and rural economic
19 development.

20 (3) It is, therefore, the declared policy of this state to limit
21 access to the highway facilities of this state in the interest of
22 highway safety and for the preservation of the investment of the
23 public in such facilities, and to (~~assure~~) ensure that the use of
24 rights-of-way of limited access facilities accommodate the deployment
25 of (~~personal wireless service~~) broadband facilities consistent with
26 these interests. In furtherance of this policy, the department is
27 directed to adopt and maintain an agency policy that requires the
28 department to proactively provide broadband facility owners with
29 information about planned limited access highway projects to enable
30 collaboration between broadband facility owners and the department to
31 identify opportunities for the installation of broadband facilities
32 during the appropriate phase of these projects when such
33 opportunities exist. Coordination between the department and
34 broadband facility owners under this section must comply with
35 applicable state and federal law including, but not limited to,
36 chapter 47.44 RCW and RCW 47.04.045.

37 **Sec. 3.** RCW 47.44.010 and 2001 c 201 s 5 are each amended to
38 read as follows:

1 (1) The department of transportation may grant franchises to
2 persons, associations, private or municipal corporations, the United
3 States government, or any agency thereof, to use any state highway
4 for the construction and maintenance of water pipes, flume, gas, oil
5 or coal pipes, telephone, telegraph (~~and~~), fiber optic, electric
6 light and power lines and conduits, trams or railways, and any
7 structures or facilities that are part of an urban public
8 transportation system owned or operated by a municipal corporation,
9 agency, or department of the state of Washington other than the
10 department of transportation, and any other such facilities. In order
11 to minimize the disruption to traffic and damage to the roadway, the
12 department is encouraged to develop a joint trenching policy with
13 other affected jurisdictions so that all permittees and franchisees
14 requiring access to ground under the roadway may do so at one time.

15 (2) All applications for the franchise must be made in writing
16 and subscribed by the applicant, and describe the state highway or
17 portion thereof over which franchise is desired and the nature of the
18 franchise. The application must also include the identification of
19 all jurisdictions affected by the franchise and the names of other
20 possible franchisees who should receive notice of the application for
21 a franchise.

22 (3) The department of transportation shall adopt rules providing
23 for a hearing or an opportunity for a hearing with reasonable public
24 notice thereof with respect to any franchise application involving
25 the construction and maintenance of utilities or other facilities
26 within the highway right-of-way which the department determines may
27 (a) during construction, significantly disrupt the flow of traffic or
28 use of driveways or other facilities within the right-of-way, or (b)
29 during or following construction, cause a significant and adverse
30 effect upon the surrounding environment.

31 NEW SECTION. **Sec. 4.** (1) Subject to the availability of amounts
32 appropriated for this specific purpose in the omnibus transportation
33 appropriations act, the joint transportation committee shall oversee
34 a consultant study to recommend:

35 (a) An effective department of transportation strategy, and
36 specific highway corridors, that could be used to address missing
37 fiber connections and inadequate broadband service in parts of the
38 state unserved and underserved by broadband facilities while also
39 aiding the achievement of the state broadband goals specified in RCW

1 43.330.536. As part of this recommendation, the following areas must
2 also be addressed:

3 (i) What the appropriate taxonomy to apply to areas unserved or
4 underserved by broadband is to better prioritize and contextualize
5 the urgency of the need for broadband infrastructure in a given area;
6 and

7 (ii) When the inclusion of broadband conduit installation in a
8 transportation project is recommended as the most effective means of
9 facilitating broadband access, rather than an alternative broadband
10 facility placement, taking into account potential costs, and subject
11 to any limitations in understanding potential costs of installation
12 as part of a transportation project not yet undertaken;

13 (b) The role of the Washington state department of transportation
14 in a coordinated approach for broadband development statewide that
15 includes the adaptation of existing programs and activities to
16 further a state initiative to expand and improve access to broadband;

17 (c) The most promising planning and financing tools that could be
18 used by the department of transportation to provide the state with
19 greater ability to install conduit in anticipation of future
20 broadband fiber occupancy by others;

21 (d) Opportunities for mutually beneficial partnerships between
22 the department of transportation and broadband service providers that
23 could provide broadband services for transportation purposes such as
24 intelligent transportation systems, cooperative automated
25 transportation/autonomous vehicles, transportation demand management,
26 and highway maintenance activities; and

27 (e) Strategies for the mitigation of potential safety,
28 operations, and preservation impacts to transportation related to the
29 recommendations made in (a) through (d) of this subsection.

30 (2) The study must consider the most relevant best practices in
31 other states and their potential application in Washington.

32 (3) The study must also include an examination of any state and
33 federal laws and regulations that could prevent or limit the
34 implementation of these recommendations, as well as recommendations
35 for modifications to the applicable state laws and regulations and
36 recommended federal actions that could be requested by Washington
37 state legislators.

38 (4) The joint transportation committee shall consult with the
39 department of transportation, the Washington statewide broadband
40 office, and other state agencies and local jurisdictions, as

1 necessary, during development of the study's recommendations to
2 ensure the relevance and applicability of the recommendations to the
3 state.

4 (5) The joint transportation committee shall issue a report of
5 its findings and recommendations to the house of representatives and
6 senate transportation committees by January 1, 2022.

--- **END** ---