

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1336**

Chapter 294, Laws of 2021  
(partial veto)

67th Legislature  
2021 Regular Session

PUBLIC ENTITIES—RETAIL TELECOMMUNICATIONS SERVICES

EFFECTIVE DATE: July 25, 2021

Passed by the House April 23, 2021  
Yeas 65 Nays 32

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 11, 2021  
Yeas 27 Nays 22

DENNY HECK

**President of the Senate**

Approved May 13, 2021 11:33 AM with  
the exception of section 11, which is  
vetoed.

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1336** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 13, 2021

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 1336

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AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

**State of Washington**                      **67th Legislature**                      **2021 Regular Session**

**By** House Community & Economic Development (originally sponsored by Representatives Hansen, Ybarra, Berry, Simmons, Ramel, Valdez, Leavitt, Morgan, Ryu, Peterson, Shewmake, Davis, Ormsby, Gilday, Stonier, Eslick, Pollet, and Harris-Talley)

READ FIRST TIME 02/08/21.

1            AN ACT Relating to creating and expanding unrestricted authority  
2 for public entities to provide telecommunications services to end  
3 users; amending RCW 54.16.005, 54.16.330, 54.16.425, 53.08.005,  
4 53.08.370, and 43.155.070; adding a new section to chapter 54.16 RCW;  
5 adding a new section to chapter 35.27 RCW; adding a new section to  
6 chapter 35.23 RCW; adding a new section to chapter 36.01 RCW; adding  
7 a new section to chapter 53.08 RCW; creating a new section; and  
8 repealing RCW 54.16.420.

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

10            **Sec. 1.** RCW 54.16.005 and 2000 c 81 s 2 are each amended to read  
11 as follows:

12            The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14            (1) "Broadband infrastructure" means networks of deployed  
15 telecommunications equipment and technologies necessary to provide  
16 high-speed internet access and other advanced telecommunications  
17 services.

18            (2) "Commission" means the Washington utilities and  
19 transportation commission.

20            ((+2)) (3) "District commission" means the governing board of a  
21 public utility district.

1       (4) "Retail telecommunications services" means the sale, lease,  
2 license, or indivisible right of use of telecommunications services  
3 or telecommunications facilities directly to end users.

4       (5) "Telecommunications" has the same meaning as ~~((that~~  
5 ~~contained))~~ defined in RCW 80.04.010.

6       ~~((3))~~ (6) "Telecommunications facilities" means lines,  
7 conduits, ducts, poles, wires, cables, crossarms, receivers,  
8 transmitters, instruments, machines, appliances, instrumentalities  
9 and all devices, real estate, easements, apparatus, property, and  
10 routes used, operated, owned, or controlled by any entity to  
11 facilitate the provision of telecommunications services.

12       ~~((4))~~ (7) "Wholesale telecommunications services" means the  
13 provision of telecommunications services or telecommunications  
14 facilities for resale ~~((by))~~ to an entity ~~((authorized to provide))~~  
15 that provides retail telecommunications services ~~((to the general~~  
16 ~~public and internet service providers))~~.

17       **Sec. 2.** RCW 54.16.330 and 2019 c 365 s 9 are each amended to  
18 read as follows:

19       ~~((a))~~ A public utility district in existence on June 8,  
20 2000, may construct, purchase, acquire, develop, finance, lease,  
21 license, handle, provide, add to, contract for, interconnect, alter,  
22 improve, repair, operate, and maintain any telecommunications  
23 facilities within or without the district's limits for the following  
24 purposes:

25       ~~((i))~~ (a) For the district's internal telecommunications needs;  
26       ~~((ii) For the provision of wholesale telecommunications services~~  
27 ~~within the district and by contract with another public utility~~  
28 ~~district.~~

29       ~~(b) Except as provided in subsection (8) of this section, nothing~~  
30 ~~in this section shall be construed to authorize public utility~~  
31 ~~districts to provide telecommunications services to end users))~~ (b)  
32 For the provision of wholesale telecommunications services as  
33 follows:

34       (i) Within the district and by contract with another public  
35 utility district;

36       (ii) Within an area in an adjoining county that is already  
37 provided electrical services by the district; or

38       (iii) Within an adjoining county that does not have a public  
39 utility district providing electrical or telecommunications services

1 headquartered within the county's boundaries, but only if the  
2 district providing telecommunications services is not authorized to  
3 provide electrical services; or

4 (c) For the provision of retail telecommunications services as  
5 authorized in this section.

6 (2) A public utility district providing wholesale or retail  
7 telecommunications services shall ensure that rates, terms, and  
8 conditions for such services are not unduly or unreasonably  
9 discriminatory or preferential. Rates, terms, and conditions are  
10 discriminatory or preferential when a public utility district  
11 offering rates, terms, and conditions to an entity for wholesale or  
12 retail telecommunications services does not offer substantially  
13 similar rates, terms, and conditions to all other entities seeking  
14 substantially similar services.

15 (3) A public utility district providing wholesale or retail  
16 telecommunications services shall not be required to, but may,  
17 establish a separate utility system or function for such purpose. In  
18 either case, a public utility district providing wholesale or retail  
19 telecommunications services shall separately account for any revenues  
20 and expenditures for those services according to standards  
21 established by the state auditor pursuant to its authority in chapter  
22 43.09 RCW and consistent with the provisions of this title. Any  
23 revenues received from the provision of wholesale or retail  
24 telecommunications services must be dedicated to costs incurred to  
25 build and maintain any telecommunications facilities constructed,  
26 installed, or acquired to provide such services, including payments  
27 on debt issued to finance such services, until such time as any bonds  
28 or other financing instruments executed after June 8, 2000, and used  
29 to finance such telecommunications facilities are discharged or  
30 retired.

31 (4) When a public utility district provides wholesale or retail  
32 telecommunications services, all telecommunications services rendered  
33 to the district for the district's internal telecommunications needs  
34 shall be allocated or charged at its true and full value. A public  
35 utility district may not charge its nontelecommunications operations  
36 rates that are preferential or discriminatory compared to those it  
37 charges entities purchasing wholesale or retail telecommunications  
38 services.

39 (5) If a person or entity receiving retail telecommunications  
40 services from a public utility district under this section has a

1 complaint regarding the reasonableness of the rates, terms,  
2 conditions, or services provided, the person or entity may file a  
3 complaint with the district commission.

4 (6) A public utility district shall not exercise powers of  
5 eminent domain to acquire telecommunications facilities or  
6 contractual rights held by any other person or entity to  
7 telecommunications facilities.

8 (7) Except as otherwise specifically provided, a public utility  
9 district may exercise any of the powers granted to it under this  
10 title and other applicable laws in carrying out the powers authorized  
11 under this section. Nothing in chapter 81, Laws of 2000 limits any  
12 existing authority of a public utility district under this title.

13 ~~((8) (a) If an internet service provider operating on  
14 telecommunications facilities of a public utility district that  
15 provides wholesale telecommunications services but does not provide  
16 retail telecommunications services, ceases to provide access to the  
17 internet to its end-use customers, and no other retail service  
18 providers are willing to provide service, the public utility district  
19 may provide retail telecommunications services to the end-use  
20 customers of the defunct internet service provider in order for end-  
21 use customers to maintain access to the internet until a replacement  
22 internet service provider is, or providers are, in operation.~~

23 ~~(b) Within thirty days of an internet service provider ceasing to  
24 provide access to the internet, the public utility district must  
25 initiate a process to find a replacement internet service provider or  
26 providers to resume providing access to the internet using  
27 telecommunications facilities of a public utility district.~~

28 ~~(c) For a maximum period of five months, following initiation of  
29 the process begun in (b) of this section, or, if earlier than five  
30 months, until a replacement internet service provider is, or  
31 providers are, in operation, the district commission may establish a  
32 rate for providing access to the internet and charge customers to  
33 cover expenses necessary to provide access to the internet.~~

34 ~~(9) The tax treatment of the retail telecommunications services  
35 provided by a public utility district to the end-use customers during  
36 the period specified in subsection (8) of this section must be the  
37 same as if those retail telecommunications services were provided by  
38 the defunct internet service provider.)~~

39 (8) A public utility district may provide retail  
40 telecommunications services or telecommunications facilities within

1 the district's limits or without the district's limits by contract  
2 with another public utility district, any political subdivision of  
3 the state authorized to provide retail telecommunications services in  
4 the state, or with any federally recognized tribe located in the  
5 state of Washington.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 54.16  
7 RCW to read as follows:

8 (1) Before providing retail telecommunications services, a public  
9 utility district must report to its governing body and to the state  
10 broadband office the following about the area to be served by the  
11 public utility district:

12 (a) An assessment of the current availability of broadband  
13 infrastructure and its adequacy to provide high-speed internet access  
14 and other advanced telecommunications services to end users;

15 (b) The location of where retail telecommunications services will  
16 be provided;

17 (c) Evidence relating to the unserved nature of the community in  
18 which retail telecommunications services will be provided;

19 (d) Expected costs of providing retail telecommunications  
20 services to customers to be served by the public utility district;

21 (e) Evidence that proposed telecommunications infrastructure will  
22 be capable of scaling to greater download and upload speeds to meet  
23 state broadband goals under RCW 43.330.536;

24 (f) Sources of funding for the project that will supplement any  
25 grant or loan awards; and

26 (g) A strategic plan to maintain long-term operation of the  
27 infrastructure, and the expected installation charges and monthly  
28 costs for end users.

29 (2) The state broadband office must post a review of the proposed  
30 project on their website.

31 (3) For the purposes of this section, "unserved" means an area of  
32 Washington in which households and businesses lack access to  
33 broadband service at a minimum 100 megabits per second download speed  
34 and at a minimum 20 megabits per second upload speed.

35 **Sec. 4.** RCW 54.16.425 and 2018 c 186 s 3 are each amended to  
36 read as follows:

37 (1) Property owned by a public utility district that is exempt  
38 from property tax under RCW 84.36.010 is subject to an annual payment

1 in lieu of property taxes if the property consists of a broadband  
2 (~~network~~) infrastructure used in providing retail (~~internet~~  
3 ~~service~~) telecommunications services.

4 (2) (a) The amount of the payment must be determined jointly and  
5 in good faith negotiation between the public utility district that  
6 owns the property and the county or counties in which the property is  
7 located.

8 (b) The amount agreed upon may not exceed the property tax amount  
9 that would be owed on the property comprising the broadband  
10 (~~network~~) infrastructure used in providing retail (~~internet~~  
11 ~~service~~) telecommunications services as calculated by the department  
12 of revenue. The public utility district must provide information  
13 necessary for the department of revenue to make the required  
14 valuation under this subsection. The department of revenue must  
15 provide the amount of property tax that would be owed on the property  
16 to the county or counties in which the broadband (~~network~~)  
17 infrastructure is located on an annual basis.

18 (c) If the public utility district and a county cannot agree on  
19 the amount of the payment in lieu of taxes, either party may invoke  
20 binding arbitration by providing written notice to the other party.  
21 In the event that the amount of payment in lieu of taxes is submitted  
22 to binding arbitration, the arbitrators must consider the government  
23 services available to the public utility district's broadband  
24 (~~network~~) infrastructure used in providing retail (~~internet~~  
25 ~~service~~) telecommunications services. The public utility district  
26 and county must each select one arbitrator, the two of whom must pick  
27 a third arbitrator. Costs of the arbitration, including compensation  
28 for the arbitrators' services, must be borne equally by the parties  
29 participating in the arbitration.

30 (3) By April 30th of each year, a public utility district must  
31 remit the annual payment to the county treasurer of each county in  
32 which the public utility district's broadband (~~network~~)  
33 infrastructure used in providing retail (~~internet—service~~)  
34 telecommunications services is located in a form and manner required  
35 by the county treasurer.

36 (4) The county must distribute the amounts received under this  
37 section to all property taxing districts, including the state, in  
38 appropriate tax code areas in the same proportion as it would  
39 distribute property taxes from taxable property.

1 (5) By December 1, 2019, and annually thereafter, the department  
2 of revenue must submit a report to the appropriate legislative  
3 committees detailing the amount of payments made under this section  
4 and the amount of property tax that would be owed on the property  
5 comprising the broadband (~~(network)~~) infrastructure used in providing  
6 retail (~~(internet service)~~) telecommunications services.

7 (~~(6) The definitions in RCW 54.16.420 apply to this section.~~)

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.27  
9 RCW to read as follows:

10 (1) A town may construct, purchase, acquire, develop, finance,  
11 lease, license, provide, contract for, interconnect, alter, improve,  
12 repair, operate, and maintain telecommunications services or  
13 telecommunications facilities for the purpose of furnishing the town  
14 and its inhabitants with telecommunications services. The town has  
15 full authority to regulate and control the use, distribution, and  
16 price of the services.

17 (2)(a) Before providing telecommunications services pursuant to  
18 subsection (1) of this section, a town must examine and report to its  
19 governing body and to the state broadband office the following about  
20 the area to be served by the town:

21 (i) An assessment of the current availability of broadband  
22 infrastructure and its adequacy to provide high-speed internet access  
23 and other advanced telecommunications services to end users;

24 (ii) The location of where retail telecommunications services  
25 will be provided;

26 (iii) Evidence relating to the unserved nature of the community  
27 in which retail telecommunications services will be provided;

28 (iv) Expected costs of providing retail telecommunications  
29 services to customers to be served by the town;

30 (v) Evidence that proposed telecommunications infrastructure will  
31 be capable of scaling to greater download and upload speeds to meet  
32 state broadband goals under RCW 43.330.536;

33 (vi) Sources of funding for the project that will supplement any  
34 grant or loan awards; and

35 (vii) A strategic plan to maintain long-term operation of the  
36 infrastructure, and the expected installation charges and monthly  
37 costs for end users.

38 (b) The state broadband office must post a review of the proposed  
39 project on its website.



1 (3) For purposes of this section:

2 (a) "Telecommunications" has the same meaning as defined in RCW  
3 80.04.010.

4 (b) "Unserved" means an area of Washington in which households  
5 and businesses lack access to broadband service at a minimum 100  
6 megabits per second download speed and at a minimum 20 megabits per  
7 second upload speed.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.23  
9 RCW to read as follows:

10 (1) A second-class city may construct, purchase, acquire,  
11 develop, finance, lease, license, provide, contract for,  
12 interconnect, alter, improve, repair, operate, and maintain  
13 telecommunications services or telecommunications facilities for the  
14 purpose of furnishing the second-class city and its inhabitants with  
15 telecommunications services. The second-class city has full authority  
16 to regulate and control the use, distribution, and price of the  
17 services.

18 (2)(a) Before providing telecommunications services pursuant to  
19 subsection (1) of this section, a second-class city must examine and  
20 report to its governing body and to the state broadband office the  
21 following about the area to be served by the second-class city:

22 (i) An assessment of the current availability of broadband  
23 infrastructure and its adequacy to provide high-speed internet access  
24 and other advanced telecommunications services to end users;

25 (ii) The location of where retail telecommunications services  
26 will be provided;

27 (iii) Evidence relating to the unserved nature of the community  
28 in which retail telecommunications services will be provided;

29 (iv) Expected costs of providing retail telecommunications  
30 services to customers to be served by the second-class city;

31 (v) Evidence that proposed telecommunications infrastructure will  
32 be capable of scaling to greater download and upload speeds to meet  
33 state broadband goals under RCW 43.330.536;

34 (vi) Sources of funding for the project that will supplement any  
35 grant or loan awards; and

36 (vii) A strategic plan to maintain long-term operation of the  
37 infrastructure, and the expected installation charges and monthly  
38 costs for end users.

1 (b) The state broadband office must post a review of the proposed  
2 project on its website.

3 (3) For purposes of this section:

4 (a) "Telecommunications" has the same meaning as defined in RCW  
5 80.04.010.

6 (b) "Unserved" means an area of Washington in which households  
7 and businesses lack access to broadband service at a minimum 100  
8 megabits per second download speed and at a minimum 20 megabits per  
9 second upload speed.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.01  
11 RCW to read as follows:

12 (1) A county may construct, purchase, acquire, develop, finance,  
13 lease, license, provide, contract for, interconnect, alter, improve,  
14 repair, operate, and maintain telecommunications services or  
15 telecommunications facilities for the purpose of furnishing the  
16 county and its inhabitants with telecommunications services. The  
17 county has full authority to regulate and control the use,  
18 distribution, and price of the services.

19 (2)(a) Before providing telecommunications services pursuant to  
20 subsection (1) of this section, a county must examine and report to  
21 its governing body and to the state broadband office the following  
22 about the area to be served by the county:

23 (i) An assessment of the current availability of broadband  
24 infrastructure and its adequacy to provide high-speed internet access  
25 and other advanced telecommunications services to end users;

26 (ii) The location of where retail telecommunications services  
27 will be provided;

28 (iii) Evidence relating to the unserved nature of the community  
29 in which retail telecommunications services will be provided;

30 (iv) Expected costs of providing retail telecommunications  
31 services to customers to be served by the county;

32 (v) Evidence that proposed telecommunications infrastructure will  
33 be capable of scaling to greater download and upload speeds to meet  
34 state broadband goals under RCW 43.330.536;

35 (vi) Sources of funding for the project that will supplement any  
36 grant or loan awards; and

37 (vii) A strategic plan to maintain long-term operation of the  
38 infrastructure, and the expected installation charges and monthly  
39 costs for end users.

1 (b) The state broadband office must post a review of the proposed  
2 project on its website.

3 (3) For purposes of this section:

4 (a) "Telecommunications" has the same meaning as defined in RCW  
5 80.04.010.

6 (b) "Unserved" means an area of Washington in which households  
7 and businesses lack access to broadband service at a minimum 100  
8 megabits per second download speed and at a minimum 20 megabits per  
9 second upload speed.

10 **Sec. 8.** RCW 53.08.005 and 2018 c 169 s 1 are each amended to  
11 read as follows:

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14 (1) "Commission" means the Washington utilities and  
15 transportation commission.

16 (2) "Retail telecommunications services" means the sale, lease,  
17 license, or indivisible right of use of telecommunications services  
18 or telecommunications facilities directly to end users.

19 (3) "Telecommunications" has the same meaning as contained in RCW  
20 80.04.010.

21 ~~((3))~~ (4) "Telecommunications facilities" means lines,  
22 conduits, ducts, poles, wires, cables, crossarms, receivers,  
23 transmitters, instruments, machines, appliances, instrumentalities  
24 and all devices, real estate, easements, apparatus, property, and  
25 routes used, operated, owned, or controlled by any entity to  
26 facilitate the provision of telecommunications services.

27 ~~((4))~~ (5) "Wholesale telecommunications services" means the  
28 provision of telecommunications services or telecommunications  
29 facilities for resale ~~((by))~~ to an entity authorized to provide  
30 telecommunications services ~~((to the general public and internet~~  
31 ~~service providers))~~. Wholesale telecommunications services includes  
32 the provision of unlit or dark optical fiber for resale, but not the  
33 provision of lit optical fiber.

34 **Sec. 9.** RCW 53.08.370 and 2019 c 365 s 10 are each amended to  
35 read as follows:

36 (1) A port district in existence on June 8, 2000, may construct,  
37 purchase, acquire, develop, finance, lease, license, handle, provide,  
38 add to, contract for, interconnect, alter, improve, repair, operate,

1 and maintain any telecommunications facilities within or without the  
2 district's limits for the following purposes:

3 (a) For the district's own use; (~~and~~)

4 (b) For the provision of wholesale telecommunications services  
5 within or without the district's limits(~~(. Nothing in this subsection~~  
6 ~~shall be construed to authorize port districts to provide~~  
7 ~~telecommunications services to end users)); or~~

8 (c) For the provision of retail telecommunications services as  
9 authorized by this section.

10 (2) Except as provided in subsection (~~(+9)~~) (8) of this section,  
11 a port district providing wholesale or retail telecommunications  
12 services under this section shall ensure that rates, terms, and  
13 conditions for such services are not unduly or unreasonably  
14 discriminatory or preferential. Rates, terms, and conditions are  
15 discriminatory or preferential when a port district offering such  
16 rates, terms, and conditions to an entity for wholesale or retail  
17 telecommunications services does not offer substantially similar  
18 rates, terms, and conditions to all other entities seeking  
19 substantially similar services.

20 (3) When a port district establishes a separate utility function  
21 for the provision of wholesale or retail telecommunications services,  
22 it shall account for any and all revenues and expenditures related to  
23 its wholesale or retail telecommunications facilities and services  
24 separately from revenues and expenditures related to its internal  
25 telecommunications operations. Any revenues received from the  
26 provision of wholesale or retail telecommunications services must be  
27 dedicated to the utility function that includes the provision of  
28 wholesale or retail telecommunications services for costs incurred to  
29 build and maintain the telecommunications facilities until such time  
30 as any bonds or other financing instruments executed after June 8,  
31 2000, and used to finance the telecommunications facilities are  
32 discharged or retired.

33 (4) When a port district establishes a separate utility function  
34 for the provision of wholesale or retail telecommunications services,  
35 all telecommunications services rendered by the separate function to  
36 the district for the district's internal telecommunications needs  
37 shall be charged at its true and full value. A port district may not  
38 charge its nontelecommunications operations rates that are  
39 preferential or discriminatory compared to those it charges entities  
40 purchasing wholesale or retail telecommunications services.

1 (5) A port district shall not exercise powers of eminent domain  
2 to acquire telecommunications facilities or contractual rights held  
3 by any other person or entity to telecommunications facilities.

4 (6) Except as otherwise specifically provided, a port district  
5 may exercise any of the powers granted to it under this title and  
6 other applicable laws in carrying out the powers authorized under  
7 this section. Nothing in chapter 81, Laws of 2000 limits any existing  
8 authority of a port district under this title.

9 ~~(7) ((A port district that has not exercised the authorities  
10 provided in this section prior to June 7, 2018, must develop a  
11 business case plan before exercising the authorities provided in this  
12 section. The port district must procure an independent qualified  
13 consultant to review the business case plan, including the use of  
14 public funds in the provision of wholesale telecommunications  
15 services. Any recommendations or adjustments to the business case  
16 plan made during third-party review must be received and either  
17 rejected or accepted by the port commission in an open meeting.~~

18 ~~(8))~~ A port district with telecommunications facilities for use  
19 in the provision of wholesale or retail telecommunications in  
20 accordance with subsection (1) ~~((b))~~ of this section may be subject  
21 to local leasehold excise taxes under RCW 82.29A.040.

22 ~~((9))~~ (8)(a) A port district under this section may select a  
23 telecommunications company to operate all or a portion of the port  
24 district's telecommunications facilities.

25 (b) For the purposes of this section "telecommunications company"  
26 means any for-profit entity owned by investors that sells  
27 telecommunications services to end users.

28 (c) Nothing in this subsection ~~((9))~~ (8) is intended to limit  
29 or otherwise restrict any other authority provided by law.

30 (9) A port district may provide retail telecommunications  
31 services within or without the district's limits.

32 NEW SECTION. Sec. 10. A new section is added to chapter 53.08  
33 RCW to read as follows:

34 (1) Before providing retail telecommunications services, a port  
35 district must report to its governing body and to the state broadband  
36 office the following about the area to be served by the port  
37 district:

1 (a) An assessment of the current availability of broadband  
2 infrastructure and its adequacy to provide high-speed internet access  
3 and other advanced telecommunications services to end users;

4 (b) The location of where retail telecommunications services will  
5 be provided;

6 (c) Evidence relating to the unserved nature of the community in  
7 which retail telecommunications services will be provided;

8 (d) Expected costs of providing retail telecommunications  
9 services to customers to be served by the port district;

10 (e) Evidence that proposed telecommunications infrastructure will  
11 be capable of scaling to greater download and upload speeds to meet  
12 state broadband goals under RCW 43.330.536;

13 (f) Sources of funding for the project that will supplement any  
14 grant or loan awards; and

15 (g) A strategic plan to maintain long-term operation of the  
16 infrastructure, and the expected installation charges and monthly  
17 costs for end users.

18 (2) The state broadband office must post a review of the proposed  
19 project on their website.

20 (3) For the purposes of this section, "unserved" means an area of  
21 Washington in which households and businesses lack access to  
22 broadband service at a minimum 100 megabits per second download speed  
23 and at a minimum 20 megabits per second upload speed.

24 **\*Sec. 11. RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each**  
25 **amended to read as follows:**

26 **(1) To qualify for financial assistance under this chapter the**  
27 **board must determine that a local government meets all of the**  
28 **following conditions:**

29 **(a) The city or county must be imposing a tax under chapter 82.46**  
30 **RCW at a rate of at least one-quarter of one percent;**

31 **(b) The local government must have developed a capital facility**  
32 **plan; and**

33 **(c) The local government must be using all local revenue sources**  
34 **which are reasonably available for funding public works, taking into**  
35 **consideration local employment and economic factors.**

36 **(2) Except where necessary to address a public health need or**  
37 **substantial environmental degradation, or increase access to**  
38 **broadband, a county, city, or town planning under RCW 36.70A.040 may**  
39 **not receive financial assistance under this chapter unless it has**

1 adopted a comprehensive plan, including a capital facilities plan  
2 element, and development regulations as required by RCW 36.70A.040.  
3 This subsection does not require any county, city, or town planning  
4 under RCW 36.70A.040 to adopt a comprehensive plan or development  
5 regulations before requesting or receiving financial assistance under  
6 this chapter if such request is made before the expiration of the  
7 time periods specified in RCW 36.70A.040. A county, city, or town  
8 planning under RCW 36.70A.040 that has not adopted a comprehensive  
9 plan and development regulations within the time periods specified in  
10 RCW 36.70A.040 may apply for and receive financial assistance under  
11 this chapter if the comprehensive plan and development regulations  
12 are adopted as required by RCW 36.70A.040 before executing a  
13 contractual agreement for financial assistance with the board.

14 (3) In considering awarding financial assistance for public  
15 facilities to special districts requesting funding for a proposed  
16 facility located in a county, city, or town planning under RCW  
17 36.70A.040, the board must consider whether the county, city, or town  
18 planning under RCW 36.70A.040 in whose planning jurisdiction the  
19 proposed facility is located has adopted a comprehensive plan and  
20 development regulations as required by RCW 36.70A.040.

21 (4) (a) The board must develop a process to prioritize  
22 applications and funding of loans and grants for public works  
23 projects submitted by local governments. The board must consider, at  
24 a minimum and in any order, the following factors in prioritizing  
25 projects:

26 (i) Whether the project is critical in nature and would affect  
27 the health and safety of many people;

28 (ii) The extent to which the project leverages other funds;

29 (iii) The extent to which the project is ready to proceed to  
30 construction;

31 (iv) Whether the project is located in an area of high  
32 unemployment, compared to the average state unemployment;

33 (v) Whether the project promotes the sustainable use of resources  
34 and environmental quality, as applicable;

35 (vi) Whether the project consolidates or regionalizes systems;

36 (vii) Whether the project encourages economic development through  
37 mixed-use and mixed income development consistent with chapter 36.70A  
38 RCW;

39 (viii) Whether the system is being well-managed in the present  
40 and for long-term sustainability;

1           (ix) Achieving equitable distribution of funds by geography and  
2 population;

3           (x) The extent to which the project meets the following state  
4 policy objectives:

5           (A) Efficient use of state resources;

6           (B) Preservation and enhancement of health and safety;

7           (C) Abatement of pollution and protection of the environment;

8           (D) Creation of new, family-wage jobs, and avoidance of shifting  
9 existing jobs from one Washington state community to another;

10           (E) Fostering economic development consistent with chapter 36.70A  
11 RCW;

12           (F) Efficiency in delivery of goods and services and  
13 transportation; and

14           (G) Reduction of the overall cost of public infrastructure;

15           (xi) Whether the applicant sought or is seeking funding for the  
16 project from other sources; and

17           (xii) Other criteria that the board considers necessary to  
18 achieve the purposes of this chapter.

19           (b) Before September 1, 2018, and each year thereafter, the board  
20 must develop and submit a report regarding the construction loans and  
21 grants to the office of financial management and appropriate fiscal  
22 committees of the senate and house of representatives. The report  
23 must include:

24           (i) The total number of applications and amount of funding  
25 requested for public works projects;

26           (ii) A list and description of projects approved in the preceding  
27 fiscal year with project scores against the board's prioritization  
28 criteria;

29           (iii) The total amount of loan and grants disbursements made from  
30 the public works assistance account in the preceding fiscal year;

31           (iv) The total amount of loan repayments in the preceding fiscal  
32 year for outstanding loans from the public works assistance account;

33           (v) The total amount of loan repayments due for outstanding loans  
34 for each fiscal year over the following ten-year period; and

35           (vi) The total amount of funds obligated and timing of when the  
36 funds were obligated in the preceding fiscal year.

37           (c) The maximum amount of funding that the board may provide for  
38 any jurisdiction is ten million dollars per biennium.

39           (5) Existing debt or financial obligations of local governments  
40 may not be refinanced under this chapter. Each local government



1 applicant must provide documentation of attempts to secure additional  
2 local or other sources of funding for each public works project for  
3 which financial assistance is sought under this chapter.

4 (6) Before September 1st of each year, the board must develop and  
5 submit to the appropriate fiscal committees of the senate and house  
6 of representatives a description of the loans and grants made under  
7 RCW 43.155.065 and 43.155.068.

8 (7) The board may not sign contracts or otherwise financially  
9 obligate funds from the public works assistance account before the  
10 legislature has appropriated funds to the board for the purpose of  
11 funding public works projects under this chapter.

12 (8) To qualify for loans, grants, or pledges for solid waste or  
13 recycling facilities under this chapter, a city or county must  
14 demonstrate that the solid waste or recycling facility is consistent  
15 with and necessary to implement the comprehensive solid waste  
16 management plan adopted by the city or county under chapter ((70.95))  
17 70A.205 RCW.

18 (9) After January 1, 2010, any project designed to address the  
19 effects of stormwater or wastewater on Puget Sound may be funded  
20 under this section only if the project is not in conflict with the  
21 action agenda developed by the Puget Sound partnership under RCW  
22 90.71.310.

23 (10) For projects involving repair, replacement, or improvement  
24 of a wastewater treatment plant or other public works facility for  
25 which an investment grade efficiency audit is reasonably obtainable,  
26 the public works board must require as a contract condition that the  
27 project sponsor undertake an investment grade efficiency audit. The  
28 project sponsor may finance the costs of the audit as part of its  
29 public works assistance account program loan or grant.

30 (11) The board must implement policies and procedures designed to  
31 maximize local government consideration of other funds to finance  
32 local infrastructure.

33 (12) The relevant sections of the Washington Administrative Code  
34 must be amended by January 1, 2022, in accordance with the provisions  
35 of this section.

\*Sec. 11 was vetoed. See message at end of chapter.

36 NEW SECTION. Sec. 12. This act may be known and cited as the  
37 public broadband act.

1        NEW SECTION.    **Sec. 13.**    RCW 54.16.420 (Retail internet service—  
2    Definitions—Authority—Requirements) and 2018 c 186 s 1 are each  
3    repealed.

      Passed by the House April 23, 2021.

      Passed by the Senate April 11, 2021.

      Approved by the Governor May 13, 2021, with the exception of  
certain items that were vetoed.

      Filed in Office of Secretary of State May 13, 2021.

      Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 11,  
Engrossed Substitute House Bill No. 1336 entitled:

"AN ACT Relating to creating and expanding unrestricted  
authority for public entities to provide telecommunications services  
to end users."

Section 11 of this bill would allow local governments that are out of  
compliance with the Growth Management Act (GMA) to access funding  
distributed by the Public Works Board (Board) for broadband  
infrastructure. This language is almost identical to section 4 of  
2SSB 5368 (encouraging rural economic development), but the language  
in this bill also requires an update to the Washington Administrative  
Code. Current law prohibits any funding distributed by the Board to  
go to a GMA noncompliant jurisdiction unless that funding is  
necessary to address a public health need or substantial  
environmental degradation. The new exception in Section 11 does not  
rise to the same level of urgency established in current law. In  
addition, an underpinning of the GMA has been that noncompliant  
jurisdictions are unable to access various forms of infrastructure  
funding. Broadband is critical infrastructure comparable to roads,  
bridges, and water systems, and should be treated the same before the  
Board.

For these reasons I have vetoed Section 11 of Engrossed Substitute  
House Bill No. 1336.

With the exception of Section 11, Engrossed Substitute House Bill No.  
1336 is approved."

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