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HOUSE BILL 1441

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State of Washington

69th Legislature

2025 Regular Session

By Representatives Ryu, Donaghy, and Reed

Read first time 01/21/25. Referred to Committee on Capital Budget.

1 AN ACT Relating to repair and replace public works broadband  
2 projects; and amending RCW 43.155.160.

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

4 **Sec. 1.** RCW 43.155.160 and 2022 c 201 s 1 are each amended to  
5 read as follows:

6 (1) The board, in collaboration with the office, shall establish  
7 a competitive grant and loan program to award funding to eligible  
8 applicants in order to promote ((the expansion of)) access to  
9 broadband service in unserved areas of the state.

10 (2)(a) Grants and loans may be awarded under this section to  
11 assist in funding acquisition, installation, ((and)) construction of,  
12 and repairs to middle mile and last mile infrastructure that supports  
13 broadband services and to assist in funding strategic planning for  
14 deploying broadband service in unserved areas.

15 (b) The board may choose to fund all or part of an application  
16 for funding for a proposed broadband project, provided that the  
17 application meets the requirements of subsection (11) of this  
18 section.

19 (3) Eligible applicants for grants and loans awarded under this  
20 section include:

21 (a) Local governments;

- 1 (b) Tribes;
- 2 (c) Nonprofit organizations;
- 3 (d) Cooperative associations;
- 4 (e) Multiparty entities comprised of public entity members;
- 5 (f) Limited liability corporations organized for the purpose of
- 6 expanding broadband access; and
- 7 (g) Incorporated businesses or partnerships.

8 (4) (a) The board shall develop administrative procedures  
9 governing the preapplication and award process for proposed broadband  
10 projects. The preapplication, application, notice, objection, and  
11 award processes described in subsections (5) through (9) of this  
12 section do not apply to repair and replace public works broadband  
13 projects, as described in subsection (14) of this section. The board  
14 shall act as fiscal agent for the program and is responsible for  
15 receiving and reviewing applications and awarding funds for proposed  
16 broadband projects under this section.

17 (b) At least (~~sixty~~) 60 days prior to the first day  
18 preapplications may be submitted each fiscal year, the board must  
19 publish on its website the specific criteria and any quantitative  
20 weighting scheme or scoring system that the board will use to  
21 evaluate or rank applications and award funding for proposed  
22 broadband projects.

23 (c) The board may maintain separate accounting in the statewide  
24 broadband account created in RCW 43.155.165 as the board deems  
25 necessary to carry out the purposes of this section.

26 (d) The board must provide a method for the allocation of loans,  
27 grants, provision of technical assistance, and interest rates under  
28 this section.

29 (5) An applicant for a grant or loan for a proposed broadband  
30 project under this section must provide the following information on  
31 the preapplication:

32 (a) The location and description of the project;

33 (b) Evidence regarding the unserved nature of the community in  
34 which the project is to be located;

35 (c) Evidence that proposed infrastructure will be capable of  
36 scaling to greater download and upload speeds;

37 (d) The number of households passed that will gain access to  
38 broadband service as a result of the project or whose broadband  
39 service will be upgraded as a result of the project;

1 (e) Evidence that before submission of the application, the  
2 applicant contacted, in writing, all entities providing broadband  
3 service near the proposed project area to ask each broadband service  
4 provider's plan to upgrade broadband service in the project area to  
5 speeds that meet or exceed the state's definition for broadband  
6 service as defined in RCW 43.330.530, within the time frame specified  
7 in the proposed grant or loan activities;

8 (f) If applicable, the broadband service providers' written  
9 responses to the inquiry made under (e) of this subsection;

10 (g) The proposed geographic broadband service area and the  
11 proposed broadband speeds in the form and manner prescribed by the  
12 board;

13 (h) Evidence of community support for the project; and

14 (i) Any additional information requested by the board.

15 (6) An applicant for a grant or loan for a proposed broadband  
16 project under this section must provide the following information on  
17 the application:

18 (a) The final location and description of the project;

19 (b) Evidence that the proposed infrastructure will be capable of  
20 scaling to greater download and upload speeds;

21 (c) The number of households passed that will gain access to  
22 broadband service as a result of the project or whose broadband  
23 service will be upgraded as a result of the project;

24 (d) The estimated cost of retail services to end users  
25 facilitated by a project;

26 (e) The proposed actual download and upload speeds experienced by  
27 end users;

28 (f) Evidence of significant community institutions that will  
29 benefit from the proposed project;

30 (g) Anticipated economic, educational, health care, or public  
31 safety benefits created by the project;

32 (h) If available, a description of the applicant's user adoption  
33 assistance program and efforts to promote the use of newly available  
34 broadband services created by the project;

35 (i) The estimated total cost of the project;

36 (j) Other sources of funding for the project that will supplement  
37 any grant or loan award;

38 (k) A demonstration of the project's long-term sustainability,  
39 including the applicant's financial soundness, organizational  
40 capacity, and technical expertise;

1 (l) A strategic plan to maintain long-term operation of the  
2 infrastructure;

3 (m) If applicable, documentation describing the outcome of the  
4 broadband service providers' written responses to the inquiry made  
5 prior to or during the preapplication phase; and

6 (n) Any additional information requested by the board.

7 (7)(a) The board shall publish on its website for at least 30  
8 days the proposed geographic broadband service area and the proposed  
9 broadband speeds for each proposed broadband project submitted in the  
10 preapplication period.

11 (b) The board shall, within three business days following the  
12 close of the preapplication cycle, publish on its website  
13 preapplications as described in subsection (5) of this section.

14 (c) The board shall set an objection period of at least 30 days  
15 for proposed broadband projects.

16 (8)(a) Any existing broadband service provider near the proposed  
17 project area may submit in writing to the board an objection to a  
18 proposed broadband project. An objection must contain information  
19 demonstrating that:

20 (i) The project would result in overbuild, meaning that the  
21 objecting provider currently provides, or has begun construction to  
22 provide, broadband service to end users in the proposed project area  
23 at speeds equal to or greater than the speeds contained in the  
24 definition of broadband in RCW 43.330.530(~~((+2))~~) (4); or

25 (ii) The objecting provider commits to complete construction of  
26 broadband infrastructure and provide broadband service to end users  
27 in the proposed project area at speeds equal to or greater than the  
28 speeds contained in the definition of broadband in RCW  
29 43.330.530(~~((+2))~~) (4), no later than (~~(twenty-four)~~) 24 months after  
30 the date awards are made under this section for the grant and loan  
31 cycle under which the preapplication was submitted.

32 (b) Objections submitted to the board under this subsection must  
33 be certified by affidavit.

34 (c) The board may evaluate the information submitted under this  
35 section by the objecting provider and must consider it in making a  
36 determination on the proposed broadband project objected to. The  
37 board may request clarification or additional information. The board  
38 may choose to not fund a proposed broadband project if the board  
39 determines that the objecting provider's commitment to provide  
40 broadband service that meets the requirements of (a) of this

1 subsection in the proposed project area is credible. In assessing the  
2 commitment, the board may consider whether the objecting provider has  
3 or will provide a bond, letter of credit, or other indicia of  
4 financial commitment guaranteeing the project's completion.

5 (d) If the board denies funding to an applicant for a proposed  
6 broadband project as a result of a broadband service provider's  
7 objection made under this section, and the broadband service provider  
8 does not fulfill its commitment to provide broadband service in the  
9 project area, then for the following two grant and loan cycles, the  
10 board is prohibited from denying funding to an applicant for a  
11 proposed broadband project on the basis of a challenge by the same  
12 broadband service provider, unless the board determines that the  
13 broadband service provider's failure to fulfill the provider's  
14 commitment was the result of factors beyond the broadband service  
15 provider's control. The board is not prohibited from denying funding  
16 to an applicant for a proposed broadband project for reasons other  
17 than an objection by the same broadband service provider.

18 (e) An applicant or broadband service provider that objected to  
19 the application for a proposed broadband project may request a  
20 debriefing conference regarding the board's decision on the  
21 application. Requests for debriefing must be coordinated by the  
22 office and must be submitted in writing in accordance with procedures  
23 specified by the office.

24 (f) Confidential business and financial information submitted by  
25 an objecting provider under this subsection is exempt from disclosure  
26 under chapter 42.56 RCW.

27 (9) (a) In evaluating applications and awarding funds for proposed  
28 broadband projects, the board shall give priority to applications  
29 that are constructed in areas identified as unserved.

30 (b) In evaluating applications and awarding funds for proposed  
31 broadband projects, the board may give priority to applications that:

32 (i) Provide assistance to public-private partnerships deploying  
33 broadband infrastructure from areas currently served with broadband  
34 service to areas currently lacking access to broadband services;

35 (ii) Demonstrate project readiness to proceed;

36 (iii) Construct infrastructure that is open access, meaning that  
37 during the useful life of the infrastructure, service providers may  
38 use network services and facilities at rates, terms, and conditions  
39 that are not discriminatory or preferential between providers, and

1 employing accountable interconnection arrangements published and  
2 available publicly;

3 (iv) Are submitted by tribal governments whose reservations are  
4 in rural and remote areas where reliable and efficient broadband  
5 services are unavailable to many or most residents;

6 (v) Bring broadband service to tribal lands, particularly to  
7 rural and remote tribal lands or areas servicing rural and remote  
8 tribal entities;

9 (vi) Are submitted by tribal governments in rural and remote  
10 areas that have spent significant amounts of tribal funds to address  
11 the problem but cannot provide necessary broadband services without  
12 either additional state support, additional federal support, or both;

13 (vii) Serve economically distressed areas of the state as the  
14 term "distressed area" is defined in RCW 43.168.020;

15 (viii) Offer new or substantially upgraded broadband service to  
16 important community anchor institutions including, but not limited  
17 to, libraries, educational institutions, public safety facilities,  
18 and health care facilities;

19 (ix) Facilitate the use of telemedicine and electronic health  
20 records, especially in deliverance of behavioral health services and  
21 services to veterans;

22 (x) Provide technical support and train residents, businesses,  
23 and institutions in the community served by the project to utilize  
24 broadband service;

25 (xi) Include a component to actively promote the adoption of  
26 newly available broadband services in the community;

27 (xii) Provide evidence of strong support for the project from  
28 citizens, government, businesses, and community institutions;

29 (xiii) Provide access to broadband service to a greater number of  
30 unserved households and businesses, including farms;

31 (xiv) Utilize equipment and technology demonstrating greater  
32 longevity of service;

33 (xv) Seek the lowest amount of state investment per new location  
34 served and leverage greater amounts of funding for the project from  
35 other private and public sources;

36 (xvi) Include evidence of a customer service plan;

37 (xvii) Consider leveraging existing broadband infrastructure and  
38 other unique solutions;

39 (xviii) Benefit public safety and fire preparedness; or

1 (xix) Demonstrate other priorities as the board, in collaboration  
2 with the office, may prescribe by rule.

3 (c) The board shall endeavor to award funds under this section to  
4 qualified applicants in all regions of the state.

5 (d) The board shall consider affordability and quality of service  
6 to end users in making a determination on any application.

7 (e) The board, in collaboration with the office, may develop  
8 additional rules for eligibility, project preapplications, project  
9 applications, the associated objection process, and funding priority,  
10 as provided under this subsection and subsections (3), (5), (6), (7),  
11 and (8) of this section.

12 (f) The board, in collaboration with the office, may adopt rules  
13 for a voluntary nonbinding mediation between incumbent providers and  
14 applicants to the grant and loan program for proposed broadband  
15 projects created in this section.

16 (10) To ensure a grant or loan to a private entity under this  
17 section primarily serves the public interest and benefits the public,  
18 any such grant or loan must be conditioned on a guarantee that the  
19 asset or infrastructure to be developed will be maintained for public  
20 use for a period of at least (~~(fifteen))~~ 15 years.

21 (11)(a) No funds awarded under this section may fund more than  
22 (~~(fifty))~~ 50 percent of the total cost of the project, except as  
23 provided in (b) of this subsection.

24 (b) The board may choose to fund up to (~~(ninety))~~ 90 percent of  
25 the total cost of a project in financially distressed areas as the  
26 term "distressed area" is defined in RCW 43.168.020, and in areas  
27 identified as Indian country as the term "Indian country" is defined  
28 in WAC 458-20-192.

29 (c) Funds awarded to a single project under this section must not  
30 exceed (~~(two million dollars))~~ \$2,000,000, except that the board may  
31 choose to fund projects qualifying for the exception in (b) of this  
32 subsection up to, but not to exceed, (~~(five million dollars))~~  
33 \$5,000,000.

34 (12) The board shall have such rights of recovery in the event of  
35 default in payment or other breach of financing agreement as may be  
36 provided in the agreement or otherwise by law.

37 (13) The community economic revitalization board shall facilitate  
38 the timely transmission of information and documents from its  
39 broadband program to the board in order to effectuate an orderly  
40 transition.

1 (14) (a) Subject to rules promulgated by the board, the board may  
2 make low-interest or interest-free loans or grants to eligible  
3 applicants for ~~((emergency))~~ repair and replace public works  
4 broadband projects. ~~((While developing rules, the board shall  
5 consider prioritizing broadband infrastructure projects that replace  
6 existing infrastructure impacted by an emergency, as described in (b)  
7 of this subsection.))~~

8 (b) ~~((Emergency))~~ Repair and replace public works broadband  
9 projects include ~~((construction,))~~ repair, reconstruction,  
10 replacement, rehabilitation, or improvement to critical broadband  
11 infrastructure that has been made necessary ~~((by a natural disaster  
12 or damaged))~~ by unforeseen events. ~~((To ensure limited resources are  
13 provided as efficiently as possible, the board shall grant priority  
14 to emergency public works projects that replace existing  
15 infrastructure of the provider whose facilities were damaged by the  
16 unforeseen event and shall))~~ The board may not provide funds under  
17 this subsection (14) to a new provider to overbuild the existing  
18 provider. The loans or grants may be used to help fund all or part of  
19 ~~((an emergency))~~ a repair and replace public works broadband  
20 infrastructure project less any reimbursement from any of the  
21 following sources: (i) Federal disaster or emergency funds, including  
22 funds from the federal emergency management agency; (ii) state  
23 disaster or emergency funds; (iii) insurance settlements; and (iv)  
24 litigation.

25 (c) Eligible applicants for grants and loans awarded under this  
26 subsection (14) are the same as those described in subsection (3) of  
27 this section.

28 (15) The definitions in RCW 43.330.530 apply throughout this  
29 section unless the context clearly requires otherwise.

30 (16) For purposes of this section, a "proposed broadband project"  
31 means a project that has been submitted as a preapplication to the  
32 public works board. A "proposed broadband project" does not include  
33 repair and replace public works broadband projects, as described in  
34 subsection (14) of this section.

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