
SUBSTITUTE SENATE BILL 5916

State of Washington

61st Legislature

2009 Regular Session

By Senate Economic Development, Trade & Innovation (originally sponsored by Senators Kohl-Welles, Rockefeller, Kauffman, Pridemore, Keiser, Marr, Hatfield, Delvin, Honeyford, Schoesler, and Hewitt)

READ FIRST TIME 02/19/09.

1 AN ACT Relating to broadband adoption and deployment; amending RCW
2 28B.32.010, 28B.32.020, and 28B.32.030; adding a new section to chapter
3 82.04 RCW; adding a new section to chapter 82.29A RCW; adding new
4 chapters to Title 43 RCW; recodifying RCW 28B.32.010, 28B.32.020,
5 28B.32.030, 28B.32.900, and 28B.32.901; providing an effective date;
6 and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds and declares the
9 following:

10 (1) The deployment and adoption of high-speed internet services and
11 technology advancements enhance economic development and public safety
12 for the state's communities, and offers improved health care, access to
13 consumer and legal services, increased educational and civic
14 participation opportunities, and a better quality of life for the
15 state's residents.

16 (2) Improvements in the deployment and adoption of high-speed
17 internet services and the strategic inclusion of technology
18 advancements and technology education are critical to ensuring that

1 Washington remains competitive and continues to provide a skilled
2 workforce, attract businesses, and stimulate job growth.

3 (3) The state must encourage and support strategic partnerships of
4 public, private, nonprofit, and community-based sectors in the
5 continued growth and development of high-speed internet services and
6 information technology for state residents and businesses. This
7 includes ensuring digital inclusion in internet access, computer
8 literacy, and information content, so that all Washingtonians are able
9 to obtain and utilize broadband fully, regardless of location, economic
10 status, literacy level, age, disability, size of business, or business
11 entity structure.

12 (4) In light of the importance of broadband deployment and adoption
13 to the economy, health, safety, and welfare of the people of
14 Washington, it is essential that the legislature authorize a broadband
15 programs management structure and an advisory council capable of
16 developing and ensuring the implementation of statewide broadband
17 strategies.

18 **Sec. 2.** RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read
19 as follows:

20 The community technology opportunity program is created to support
21 the efforts of community technology programs throughout the state. The
22 community technology opportunity program must be administered by the
23 (~~Washington State University extension, in consultation with the~~)
24 department of information services. The (~~Washington State University~~
25 ~~extension~~) department may contract for services in order to carry out
26 the (~~extension's~~) department's obligations under this section.

27 (1) In implementing the community technology opportunity program
28 the administrator must, to the extent funds are appropriated for this
29 purpose:

30 (a) Provide organizational and capacity building support to
31 community technology programs throughout the state, and identify and
32 facilitate the availability of other public and private sources of
33 funds to enhance the purposes of the program and the work of community
34 technology programs. No more than fifteen percent of funds received by
35 the administrator for the program may be expended on these functions;

36 (b) Establish a competitive grant program and provide grants to
37 community technology programs to provide training and skill-building

1 opportunities; access to hardware and software; internet connectivity;
2 assistance in the adoption of information and communication
3 technologies in low-income and underserved areas of the state; and
4 development of locally relevant content and delivery of vital services
5 through technology.

6 (2) Grant applicants must:

7 (a) Provide evidence that the applicant is a nonprofit entity or a
8 public entity that is working in partnership with a nonprofit entity;

9 (b) Define the geographic area or population to be served;

10 (c) Include in the application the results of a needs assessment
11 addressing, in the geographic area or among the population to be
12 served: The impact of inadequacies in technology access or knowledge,
13 barriers faced, and services needed;

14 (d) Explain in detail the strategy for addressing the needs
15 identified and an implementation plan including objectives, tasks, and
16 benchmarks for the applicant and the role that other organizations will
17 play in assisting the applicant's efforts;

18 (e) Provide evidence of matching funds and resources, which are
19 equivalent to at least one-quarter of the grant amount committed to the
20 applicant's strategy;

21 (f) Provide evidence that funds applied for, if received, will be
22 used to provide effective delivery of community technology services in
23 alignment with the goals of this program and to increase the
24 applicant's level of effort beyond the current level; and

25 (g) Comply with such other requirements as the administrator
26 establishes.

27 (3) The administrator may use no more than ten percent of funds
28 received for the community technology opportunity program to cover
29 administrative expenses.

30 (4) The administrator must establish expected program outcomes for
31 each grant recipient and must require grant recipients to provide an
32 annual accounting of program outcomes.

33 **Sec. 3.** RCW 28B.32.020 and 2008 c 262 s 7 are each amended to read
34 as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

1 (1) "Administrator" means the community technology opportunity
2 program administrator designated by the (~~Washington State University~~
3 ~~extension~~) department.

4 (2) "Community technology programs" means (~~a program, including a~~
5 ~~digital inclusion program, engaged in diffusing information and~~
6 ~~communications technology in local communities, particularly in~~
7 ~~underserved areas. These programs may include, but are not limited to,~~
8 ~~programs that provide education and skill building opportunities,~~
9 ~~hardware and software, internet connectivity, and development of~~
10 ~~locally relevant content and delivery of vital services through~~
11 ~~technology~~) programs that are engaged in diffusing information and
12 communications technology in local communities, particularly in
13 unserved and underserved areas of the state. These programs may
14 include, but are not limited to, programs that provide education and
15 skill-building opportunities, hardware and software, internet
16 connectivity, development of locally relevant content, and delivery of
17 vital services through technology. Community technology programs are
18 usually provided by nonprofit or public agencies in public community
19 settings, including youth and community centers, small business and
20 workforce training centers, mutual assistance associations and
21 settlement houses, low-income housing units, libraries, or schools
22 opened for community programs.

23 (3) "Department" means the department of information services.

24 **Sec. 4.** RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read
25 as follows:

26 The Washington community technology opportunity account is
27 established in the state treasury. Donated funds from private and
28 public sources may be deposited into the account. Expenditures from
29 the account may be used only for the operation of the community
30 technology opportunity program as provided in RCW 28B.32.010 (as
31 recodified by this act). Only the administrator or the administrator's
32 designee may authorize expenditures from the account.

33 NEW SECTION. **Sec. 5.** The definitions in this section apply
34 throughout this chapter unless the context clearly requires otherwise.

35 (1) "Broadband" means a high-speed, high capacity transmission
36 medium, using land-based, satellite, wireless, or any other mechanism,

1 that can carry either signals or transmit data, or both, over long
2 distances by using a wide range of frequencies with a minimum download
3 speed greater than or equal to seven hundred sixty-eight kilobits per
4 second and an upload speed greater than two hundred kilobits per
5 second.

6 (2) "Council" means the advisory council on digital inclusion
7 created in section 9 of this act.

8 (3) "Department" means the department of information services.

9 (4) "High-speed internet" means broadband.

10 (5) "Underserved areas" means areas in which high-speed internet
11 download speeds are less than seven hundred sixty-eight kilobits per
12 second and upload speeds are less than two hundred kilobits per second.

13 NEW SECTION. **Sec. 6.** The authority for overseeing broadband
14 adoption and deployment efforts in the state is vested in the
15 department of information services. The department may apply for and
16 oversee implementation of federally funded or mandated broadband
17 programs and may adopt rules to administer the programs. These
18 programs may include but are not limited to the following:

19 (1) Contracting for and purchasing a completed map of privately
20 controlled, leased, or owned broadband infrastructure. The map may
21 include, but is not limited to, adoption information, availability
22 information, types of technology used, the physical location of
23 broadband infrastructure, and available speed tiers for high-speed
24 internet;

25 (2) Tracking residential, nonprofit organization and business
26 adoption of computers, high-speed internet, and related information
27 technology;

28 (3) Working with communities to identify barriers to the adoption
29 of broadband service and related information technology services by
30 individuals, nonprofit organizations, and businesses;

31 (4) Identifying broadband demand opportunities in communities by
32 working cooperatively with local organizations, government agencies,
33 and businesses;

34 (5) Creating, implementing, and administering programs to improve
35 computer ownership, technology literacy, and high-speed internet access
36 for populations not currently served or underserved in the state. This
37 may include programs to provide low-income families, community-based

1 nonprofit organizations, nonprofit entities, and public entities that
2 work in partnership with nonprofit entities to provide increased access
3 to computers and broadband, with reduced cost internet access;

4 (6) Administering the community technology opportunity program
5 under chapter 28B.32 RCW (as recodified by this act); and

6 (7) Creating additional programs to spur the development of high-
7 speed internet resources in the state, which may include, but is not
8 limited to:

9 (a) Applying for and receiving funding in the form of grants or
10 donations which may be deposited into the Washington community
11 technology opportunity account created in RCW 28B.32.030 (as recodified
12 by this act);

13 (b) Establishing technology literacy and digital inclusion programs
14 and establishing low-cost hardware and software purchasing programs;

15 (c) Developing last-mile technology loan programs targeting small
16 businesses or businesses located in unserved and underserved areas; and

17 (d) Including community technology organizations in state hardware
18 and software purchasing programs.

19 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04 RCW
20 to read as follows:

21 (1) For the purposes of this section, "telecommunications company"
22 has the same meaning as defined in RCW 80.04.010.

23 (2) A telecommunications company shall be allowed a credit against
24 taxes due under this chapter in an amount equal to fifty percent of
25 contributions made in any fiscal year directly to the Washington
26 community technology opportunity account created in RCW 28B.32.030 (as
27 recodified by this act). The credit shall be taken in a form and
28 manner as required by the department. The telecommunications company
29 must make the contribution before claiming a credit authorized under
30 this section. The credit under this section shall not exceed two
31 hundred thousand dollars per fiscal year per telecommunications
32 company. The credit may not exceed the tax that would otherwise be due
33 under this chapter. Refunds shall not be granted in the place of
34 credits.

35 (3) Except as provided under subsection (4) of this section, a tax
36 credit claimed under this section may not be carried over to another
37 year.

1 (4) Any amount of tax credit otherwise allowable under this section
2 not claimed by a telecommunications company in any calendar year may be
3 carried over and claimed against the tax liability for the next
4 succeeding calendar year. Any credit remaining unused in the next
5 succeeding calendar year may be carried forward and claimed against the
6 tax liability for the second succeeding calendar year; and any credit
7 not used in that second succeeding calendar year may be carried over
8 and claimed against the tax liability for the third succeeding calendar
9 year, but may not be carried over for any calendar year thereafter.

10 (5) Credits are available on a first in-time basis. The department
11 shall disallow any credits, or portion thereof, that would cause the
12 total amount of credits claimed under this section during any calendar
13 year to exceed five hundred thousand dollars. The department shall
14 provide written notice to any telecommunications company that has
15 claimed tax credits in excess of the five hundred thousand dollar
16 limitation in this subsection. The notice must indicate the amount of
17 tax due and provide that the tax be paid within thirty days from the
18 date of such a notice. The department shall not assess penalties and
19 interest as provided in chapter 82.32 RCW on the amount due in the
20 initial notice if the amount due is paid by the due date specified in
21 the notice, or any extension thereof.

22 (6) To claim a credit under this section, a telecommunications
23 company must electronically file with the department all returns,
24 forms, and any other information required by the department, in an
25 electronic format as provided or approved by the department. Any
26 return, form, or information required to be filed in an electronic
27 format under this section is not filed until received by the department
28 in an electronic format. As used in this subsection, "returns" has the
29 same meaning as "return" in RCW 82.32.050.

30 (7) No application is necessary for the tax credit. The
31 telecommunications company must keep records necessary for the
32 department to verify eligibility under this section.

33 (8) The department may not allow any credit under this section
34 before July 1, 2009.

35 (9) The right to earn tax credits under this section expires June
36 30, 2018.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.29A RCW
2 to read as follows:

3 Taxes collected under RCW 82.29A.030 from a telecommunications
4 company, as defined in RCW 80.04.010, as a result of the company's
5 leasehold interest in publicly owned property must be deposited in the
6 Washington community technology opportunity account established in RCW
7 28B.32.030 (as recodified by this act) and used to fund the community
8 technology opportunity program under chapter 28B.32 RCW (as recodified
9 by this act).

10 NEW SECTION. **Sec. 9.** (1) The department shall reconvene the high-
11 speed internet work group previously established by chapter 262, Laws
12 of 2008. The work group is renamed the advisory council on digital
13 inclusion, and is an advisory group to the department. The council
14 must include, but is not limited to, volunteer representatives from
15 community technology organizations, telecommunications providers,
16 higher education institutions, K-12 education institutions, public
17 health institutions, public housing entities, and governmental
18 entities that are engaged in community technology activities.

19 (2) The council shall prepare a report by January 15th of each year
20 and submit it to the department, the governor, and the appropriate
21 committees of the legislature. The report must contain:

22 (a) An analysis of how support from public and private sector
23 partnerships, the philanthropic community, and other not-for-profit
24 organizations in the community, along with strong relationships with
25 the state board for community and technical colleges, the higher
26 education coordinating board, and higher education institutions, could
27 establish a variety of high-speed internet access alternatives for
28 citizens;

29 (b) Proposed strategies for continued broadband deployment and
30 adoption efforts, as well as further development of advanced
31 telecommunications applications;

32 (c) Recommendations on methods for maximizing the state's research
33 and development capacity at universities and in the private sector for
34 developing advanced telecommunications applications;

35 (d) An identification of regulatory barriers that hinder the
36 advancement of technology entrepreneurship in the state and

1 recommendations on incentives to stimulate the demand for and
2 development of these applications and services; and

3 (e) An evaluation of programs designed to advance digital literacy
4 and computer access that are made available by the federal government,
5 local agencies, telecommunications providers, and business and
6 charitable entities.

7 NEW SECTION. **Sec. 10.** If any part of this act is found to be in
8 conflict with federal requirements that are a prescribed condition to
9 the allocation of federal funds to the state, the conflicting part of
10 this act is inoperative solely to the extent of the conflict and with
11 respect to the agencies directly affected, and this finding does not
12 affect the operation of the remainder of this act in its application to
13 the agencies concerned. Rules adopted under this act must meet federal
14 requirements that are a necessary condition to the receipt of federal
15 funds by the state.

16 NEW SECTION. **Sec. 11.** Sections 1, 5, 6, 9, and 10 of this act
17 constitute a new chapter in Title 43 RCW.

18 NEW SECTION. **Sec. 12.** RCW 28B.32.010, 28B.32.020, 28B.32.030,
19 28B.32.900, and 28B.32.901 are reach recodified as a new chapter in
20 Title 43 RCW.

21 NEW SECTION. **Sec. 13.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 July 1, 2009.

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