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SENATE BILL 5483

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State of Washington

65th Legislature

2017 Regular Session

By Senators McCoy, Chase, and Saldaña

Read first time 01/26/17. Referred to Committee on Energy,  
Environment & Telecommunications.

1 AN ACT Relating to ensuring economic development through the  
2 provision of telecommunications services to underserved and unserved  
3 customers; amending RCW 54.16.005, 54.16.330, 53.08.005, 80.36.530,  
4 80.36.510, 43.330.406, 43.330.418, and 43.330.421; adding a new  
5 section to chapter 54.16 RCW; and adding a new section to chapter  
6 80.36 RCW.

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

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

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12 (1) "Commission" means the Washington utilities and  
13 transportation commission.

14 (2) "District commission" means the governing board of a public  
15 utility district.

16 (3) "Dominant internet service provider" means an internet  
17 service provider that provides retail internet access to at least  
18 fifty-one percent of the total end-use customers connected to  
19 telecommunications facilities owned or leased by a public utility  
20 district.

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

4       (5) "Telecommunications" has the same meaning as that contained  
5 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 or telecommunications facilities for  
14 resale by an entity authorized to provide telecommunications services  
15 to the general public and internet service providers.

16       **Sec. 2.** RCW 54.16.330 and 2004 c 158 s 1 are each amended to  
17 read as follows:

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

24       (a) For the district's internal telecommunications needs; ~~((and))~~

25       (b) For the provision of wholesale telecommunications services  
26 within the district and by contract with another public utility  
27 district~~((-~~

28       ~~Nothing in this subsection shall be construed to authorize public~~  
29 ~~utility districts to provide telecommunications services to end~~  
30 ~~users));~~

31       (c) For the provision of retail telecommunications services and  
32 telecommunications facilities within the district; or

33       (d) For the provision of retail telecommunications services or  
34 telecommunications facilities outside of the district by contract  
35 with another public utility district or any other political  
36 subdivision of the state authorized to provide retail  
37 telecommunications services in the state.

38       (2) A public utility district providing wholesale or retail  
39 telecommunications services shall ensure that rates, terms, and

1 conditions for such services are not unduly or unreasonably  
2 discriminatory or preferential. Rates, terms, and conditions are  
3 discriminatory or preferential when a public utility district  
4 offering rates, terms, and conditions to an entity for wholesale or  
5 retail telecommunications services does not offer substantially  
6 similar rates, terms, and conditions to all other entities seeking  
7 substantially similar services.

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

24 (4) When a public utility district provides wholesale or retail  
25 telecommunications services, all telecommunications services rendered  
26 to the district for the district's internal telecommunications needs  
27 shall be allocated or charged at its true and full value. A public  
28 utility district may not charge its nontelecommunications operations  
29 rates that are preferential or discriminatory compared to those it  
30 charges entities purchasing wholesale or retail telecommunications  
31 services.

32 (5) If a person or entity receiving retail telecommunications  
33 services from a public utility district under this chapter has a  
34 complaint regarding the reasonableness of the rates, terms,  
35 conditions, or service provided, the person or entity may file a  
36 complaint with the district commission.

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

1        ~~((6))~~ (7) Except as otherwise specifically provided, a public  
2 utility district may exercise any of the powers granted to it under  
3 this title and other applicable laws in carrying out the powers  
4 authorized under this section. Nothing in chapter 81, Laws of 2000  
5 limits any existing authority of a public utility district under this  
6 title.

7        (8) If a dominant internet service provider, using  
8 telecommunications facilities of a public utility district that  
9 provides wholesale telecommunications services but does not provide  
10 retail telecommunications services, ceases to provide access to the  
11 internet to its end-use customers, the public utility district may  
12 provide access to the internet to the end-use customers of the  
13 dominant internet service provider in order for end-use customers to  
14 maintain access to the internet until a replacement internet service  
15 provider is, or providers are, in operation. Within thirty days of a  
16 dominant internet service provider ceasing to provide access to the  
17 internet, the public utility district must initiate a process to find  
18 a replacement internet service provider or providers to resume  
19 providing access to the internet using telecommunication facilities  
20 of a public utility district. Until a replacement internet service  
21 provider is, or providers are, in operation, the district commission  
22 may establish a rate for providing access to the internet and charge  
23 customers to cover expenses necessary to provide access to the  
24 internet.

25        NEW SECTION. Sec. 3. A new section is added to chapter 54.16  
26 RCW to read as follows:

27        (1) A public utility district may provide any retail  
28 telecommunications service or services in either of the following  
29 ways:

30        (a) By a majority vote of the district commission on a  
31 resolution; or

32        (b) On petition to the district commission signed by registered  
33 voters equal to no less than ten percent of the qualified electors of  
34 the county based on the total vote cast in the last general county  
35 election held in an even-numbered year, the district commission must  
36 conduct a hearing to consider whether the district must undertake the  
37 provision of broadband services to end users and customers. If the  
38 district commission determines that the district will undertake the  
39 provision of broadband services to end users and customers, then the

1 provision of broadband services must be approved by a majority vote  
2 of the district commission on a resolution.

3 (2) Prior to constructing, purchasing, acquiring, developing,  
4 financing, leasing, licensing, handling, providing, adding to,  
5 contracting for, interconnecting, altering, improving, repairing,  
6 operating, or maintaining telecommunications facilities for the  
7 provision of retail telecommunications services, a public utility  
8 district must develop a written implementation plan describing how  
9 the district intends to provide retail telecommunications services  
10 under RCW 54.16.330.

11 **Sec. 4.** RCW 53.08.005 and 2000 c 81 s 6 are each amended to read  
12 as follows:

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

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

17 (2) "Rural port district" means a port district formed under  
18 chapter 53.04 RCW and located in a county with ~~((an average))~~ a total  
19 population ((density of fewer than one hundred persons per square  
20 mile)) of less than six hundred thousand.

21 (3) "Telecommunications" has the same meaning as contained in RCW  
22 80.04.010.

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

29 (5) "Wholesale telecommunications services" means the provision  
30 of telecommunications services or facilities for resale by an entity  
31 authorized to provide telecommunications services to the general  
32 public and internet service providers.

33 **Sec. 5.** RCW 80.36.530 and 1990 c 247 s 4 are each amended to  
34 read as follows:

35 In addition to the penalties provided in this title, a violation  
36 of RCW 80.36.510, 80.36.520, ~~((or))~~ 80.36.524, or section 7 of this  
37 act constitutes an unfair or deceptive act in trade or commerce in  
38 violation of chapter 19.86 RCW, the consumer protection act. Acts in

1 violation of RCW 80.36.510, 80.36.520, (~~(or)~~) 80.36.524, or section 7  
2 of this act are not reasonable in relation to the development and  
3 preservation of business, and constitute matters vitally affecting  
4 the public interest for the purpose of applying the consumer  
5 protection act, chapter 19.86 RCW. It shall be presumed that damages  
6 to the consumer are equal to the cost of the service provided plus  
7 two hundred dollars. Additional damages must be proved.

8 **Sec. 6.** RCW 80.36.510 and 1988 c 91 s 1 are each amended to read  
9 as follows:

10 The legislature finds that a growing number of companies provide,  
11 in a nonresidential setting, telecommunications services necessary to  
12 long distance service without disclosing the services provided or the  
13 rate, charge, or fee. Additionally, the legislature finds that  
14 residential consumers of telecommunications services are not being  
15 provided information regarding telecommunications service speed  
16 limitations, availability, or limitations of service within the local  
17 area, data usage, and charges or fees above the customer's contracted  
18 service. The legislature further finds that provision of these  
19 services without disclosure to consumers is a deceptive trade  
20 practice.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 80.36  
22 RCW to read as follows:

23 (1) The utilities and transportation commission must by rule  
24 require, at a minimum, any telecommunications services company  
25 providing access to the internet to clearly disclose in writing on  
26 the consumer billing statement:

27 (a) Average internet speeds available to the consumer;

28 (b) Availability of telecommunications services, including when  
29 the availability of telecommunications services within the local area  
30 is ten percent or less, near exhaustion, or no longer accessible or  
31 available within the local area; and

32 (c) Data usage, when the telecommunications company imposes an  
33 additional charge to the consumer for data usage. The data used by  
34 the consumer must be graphically represented on each billing  
35 statement.

36 (2) The utilities and transportation commission must provide a  
37 biennial report beginning December 1, 2018, to the appropriate

1 committees of the legislature regarding services provided, speeds  
2 delivered, data usage, and charges or fees.

3 **Sec. 8.** RCW 43.330.406 and 2011 1st sp.s. c 43 s 605 are each  
4 amended to read as follows:

5 (1) The department is authorized(~~(, through a competitive bidding~~  
6 ~~process,))~~ to procure, as authorized under chapter 39.26 RCW, on  
7 behalf of the state a geographic information system map detailing  
8 high-speed internet infrastructure, service availability, and  
9 adoption. This geographic information system map may include adoption  
10 information, availability information, type of high-speed internet  
11 deployment technology, and available speed tiers for high-speed  
12 internet based on any publicly available or licensed data.

13 (2) The department may procure this map either by:

14 (a) Contracting for and purchasing a completed map or updates to  
15 a map from a third party; or

16 (b) Working directly with (~~(the federal communications~~  
17 ~~commission))~~ public sector entities, including state agencies, or  
18 other states, federal, local, or tribal governments to accept  
19 publicly available or licensed data.

20 (3) The department shall establish an accountability and  
21 oversight structure to ensure that there is transparency in the  
22 bidding and contracting process and full financial and technical  
23 accountability for any information or actions taken by a third-party  
24 contractor creating this map.

25 (4) In contracting for purchase of the map or updates to a map in  
26 subsection (2)(a) of this section, the department (~~(may take no~~  
27 ~~action, nor impose any condition on the third party, that causes~~  
28 ~~any))~~ must take reasonable measure to ensure that no record submitted  
29 by a public or private broadband service provider to the third party  
30 (~~(to))~~ will meet the standard of a public record as defined in RCW  
31 42.56.010. This prohibition does not apply to any records delivered  
32 to the department by the third party as a component of the map. For  
33 the purpose of RCW 42.56.010(3), the purchase by the department of a  
34 completed map or updates to a map may not be deemed use or ownership  
35 by the department of the underlying information used by the third  
36 party to complete the map.

37 (5) Data or information that is publicly available as of July 1,  
38 2009, will not cease to be publicly available due to any provision of  
39 (~~(chapter 509, Laws of 2009))~~ this section.

1       **Sec. 9.** RCW 43.330.418 and 2011 1st sp.s. c 43 s 609 are each  
2 amended to read as follows:

3       ~~(1) ((The governor may take all appropriate steps to seek federal~~  
4 ~~funding in order to maximize investment in broadband deployment and~~  
5 ~~adoption in the state of Washington. Such steps may include the~~  
6 ~~designation of a broadband deployment and adoption coordinator;~~  
7 ~~review and prioritization of grant applications by public and private~~  
8 ~~entities as directed by the national telecommunications and~~  
9 ~~information administration, the rural utility services, and the~~  
10 ~~federal communications commission; disbursement of block grant~~  
11 ~~funding; and direction to state agencies to provide staffing as~~  
12 ~~necessary to carry out this section. The authority for overseeing~~  
13 ~~broadband adoption and deployment efforts on behalf of the state is~~  
14 ~~vested in the department))~~ (a) The broadband office is created within  
15 the department and is responsible for matters regarding the adoption  
16 and deployment of broadband throughout the state, including  
17 coordinating activities required under subsection (2) of this  
18 section.

19       (b) The director of the broadband office is a member of the  
20 broadband advisory group and must be approved by the broadband  
21 advisory group, as required under RCW 43.330.421.

22       (c) By December 1, 2020, the broadband office must submit a  
23 report to the appropriate committees of the legislature. The report  
24 must be coordinated with the requirements of RCW 43.105.369(7) and  
25 must also include, at a minimum: A progress report on the deployment  
26 of broadband in underserved and unserved areas of the state; and  
27 activities conducted under RCW 43.330.412 and 43.330.415.

28       (2) The department may apply for federal funds and other grants  
29 or donations, ~~((may))~~ must deposit such funds in the Washington  
30 community technology opportunity account created in RCW 43.330.415,  
31 may oversee implementation of federally funded or mandated broadband  
32 programs for the state, and may adopt rules as necessary to  
33 administer the programs. These programs may include but are not  
34 limited to the following:

35       (a) Engaging in periodic statewide surveys of residents,  
36 businesses, and nonprofit organizations concerning their use and  
37 adoption of high-speed internet, computer, and related information  
38 technology for the purpose of identifying barriers to adoption;



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

4 (c) Identifying broadband demand opportunities in communities by  
5 working cooperatively with local organizations, government agencies,  
6 and businesses;

7 (d) Creating, implementing, and administering programs to improve  
8 computer ownership, technology literacy, digital media literacy, and  
9 high-speed internet access for populations not currently served or  
10 underserved in the state. This may include programs to provide low-  
11 income families, community-based nonprofit organizations, nonprofit  
12 entities, and public entities that work in partnership with nonprofit  
13 entities to provide increased access to computers and broadband, with  
14 reduced cost internet access;

15 (e) Administering the community technology opportunity program  
16 under RCW 43.330.412 and 43.330.415;

17 (f) Creating additional programs to spur the development of high-  
18 speed internet resources in underserved and unserved areas of the  
19 state;

20 (g) Establishing technology literacy and digital inclusion  
21 programs and establishing low-cost hardware, software, and internet  
22 purchasing programs that may include allowing participation by  
23 community technology programs in state purchasing programs; and

24 (h) Developing technology loan programs targeting small  
25 businesses or businesses located in unserved and underserved areas.

26 **Sec. 10.** RCW 43.330.421 and 2011 1st sp.s. c 43 s 610 are each  
27 amended to read as follows:

28 ~~((Subject to the availability of federal or state funding,))~~ (1)  
29 The department ((may)) **must** convene an advisory group on ((digital  
30 inclusion and technology planning)) broadband deployment and adoption  
31 to focus on underserved and unserved areas of the state. The advisory  
32 group ((may)) **must** include, but is not limited to, volunteer  
33 representatives from community technology organizations,  
34 telecommunications providers, higher education institutions, K-12  
35 education institutions, public health institutions, public housing  
36 entities, and local government and other governmental entities that  
37 are engaged in community technology activities.

38 (2) The advisory group created in subsection (1) of this section  
39 **must**:

- 1       (a) Approve the director of the broadband office as required  
2 under RCW 43.330.418;  
3       (b) Review the broadband office coordination of grant and loan  
4 applications; and  
5       (c) Meet quarterly with appropriate stakeholders to review  
6 progress on deployment of broadband services.

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