

FINAL BILL REPORT

ESHB 1673

C 201 L 22
Synopsis as Enacted

Brief Description: Concerning broadband infrastructure loans and grants made by the public works board.

Sponsors: House Committee on Community & Economic Development (originally sponsored by Representatives Ryu, Donaghy, Leavitt, Boehnke, Eslick, Rule, Kloba, Wylie, Ortiz-Self, Dolan, Taylor and Frame; by request of Public Works Board).

House Committee on Community & Economic Development
House Committee on Capital Budget
Senate Committee on Environment, Energy & Technology

Background:

Public Works Board.

The Public Works Board (PWB) administers the Public Works Assistance Account and provides financial and technical assistance to local governments in addressing local infrastructure and public works projects by making loans, grants, financing guarantees, and technical assistance available for these projects.

Emergency Loan Program.

The PWB may make low-interest or interest-free loans or grants to local governments for emergency public works projects. Emergency public works projects are public works projects made necessary by a natural disaster or an immediate and emergent threat to the public health and safety due to unforeseen or unavoidable circumstances. The loans or grants may be used to help fund all or part of an emergency public works project less any reimbursement from certain specified sources such as federal disaster or emergency funds.

Broadband Program.

The PWB administers a competitive grant and loan program (Broadband Program) to award funding to eligible applicants to promote the expansion of access to broadband service in unserved areas. Grants and loans may be awarded under the Broadband Program to assist in

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funding acquisition, installation, and construction of middle mile and last mile infrastructure that supports broadband services and to assist in funding strategic planning for deploying broadband service in unserved areas. Eligible applicants include local governments, tribes, nonprofit organizations, cooperative associations, multiparty entities comprised of public entities, limited liability corporations organized for the purpose of expanding broadband access, and incorporated businesses or partnerships.

An applicant for the Broadband Program must provide specific information to the PWB. For instance, an applicant is required to provide evidence that no later than six weeks before submission of the application, the applicant contacted all entities providing broadband service near the proposed project area to ask for each broadband service provider's plan to upgrade broadband service in the project area. Applicants must also provide the broadband service provider's response. Within 30 days of the close of the application process, the PWB must publish on its website the proposed geographic broadband service area and the proposed broadband speeds for each application submitted. An existing broadband service provider may object to an application within 30 days of the publication of the proposed geographic service area. An objection must contain information demonstrating that the provider currently provides, or has begun construction and commits to providing, broadband service to end users in the proposed project area at speeds equal to or greater than the statutory state speed goals (ranging from 25 megabits per second [mbps] download and 3 mbps upload by 2024 to 150 mbps download and upload by 2028).

Prior to awarding funds under the Broadband Program, the PWB must consult with the Utilities and Transportation Commission (UTC). The UTC must provide to the PWB a technical feasibility assessment for a proposed application. The PWB must consider the UTC's assessment as part of its evaluation of a proposed application.

Public Records.

The Public Records Act (PRA) requires state and local agencies to make all public records available for public inspection and copying unless a record falls within an exemption in the PRA or another statute that exempts or prohibits disclosure of specific information or records. There is an exemption under the PRA for certain financial, commercial, and proprietary information. For example, financial and commercial information and records supplied by businesses or individuals during application for certain loans or program services are exempt from disclosure.

Summary:

A pre-application process is created for the Broadband Program. An applicant is required to provide the following information on a pre-application:

- the location and description of the project;
- evidence regarding the unserved nature of the community in which the project is to be located;
- evidence that proposed infrastructure will be capable of scaling to greater download

- and upload speeds;
- the number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;
- evidence that before submission of the application, the applicant contacted, in writing, all existing broadband service providers near the proposed project area to ask each provider's plan to upgrade broadband service in the project area and any responses from the providers;
- the proposed geographic broadband service area and the proposed broadband speeds;
- evidence of community support for the project; and
- any additional information requested by the PWB.

The requirement that an applicant to the Broadband Program contact existing broadband service providers is modified to remove the requirement that the contact occur no later than six weeks before submission of the application. Instead, evidence of the contact must be provided on the pre-application. An application must include documentation describing the existing broadband service providers' responses to the inquiry regarding their plans to upgrade broadband service.

The PWB must publish on its website for at least 30 days the proposed geographic broadband service area and the proposed speeds for each proposed project during the pre-application period, instead of publishing the information within 30 days of the close of the grant and loan application process. The PWB must publish pre-applications on its website within three business days of the close of the pre-application cycle and set an objection period for at least 30 days. The requirement that an existing broadband service provider submit an objection within 30 days of publication of an application is removed. An existing provider objecting to an application must demonstrate that it provides, or has begun construction and commits to providing, broadband service in the project area at speeds equal to or greater than 25 mbps download and 3 mbps upload instead of speeds equal to or greater than the statutory state speed goals.

The following provisions related to the UTC are eliminated:

- the requirement that the PWB consult with the UTC prior to awarding funds; and
- the requirement that the UTC provide the PWB a technical feasibility assessment of proposed applications.

The PWB may make low-interest or interest-free loans or grants to eligible applicants for emergency public works broadband projects. The PWB must consider prioritizing broadband infrastructure projects that replace existing infrastructure impacted by an emergency. Emergency public works broadband projects include construction, repair, reconstruction, replacement, rehabilitation, or improvement to critical broadband infrastructure that has been damaged by a natural disaster or unforeseen events. The PWB must grant priority to emergency public works projects that replace existing infrastructure of the provider whose facilities were damaged by the unforeseen event and may not provide funds to a new provider to overbuild the existing provider. The loans or grants may be used

to help fund all or part of an emergency public works broadband infrastructure project less any reimbursement from certain specified sources such as federal disaster or emergency funds.

Financial and commercial information and records supplied by businesses or individuals during the application for loans or program services provided by the Broadband Program are exempt from disclosure under the PRA.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	96	2	(House concurred)

Effective: June 9, 2022