

HOUSE BILL REPORT

HB 1746

As Reported by House Committee On:

Innovation, Community & Economic Development, & Veterans
Capital Budget

Title: An act relating to a state broadband map.

Brief Description: Concerning a state broadband map.

Sponsors: Representatives Ryu, Berry, Couture, Griffey, Thai, Reed, Gregerson, Sandlin, Tharinger, Walen, Paul, Kloba, Volz, Reeves, Rule and Ormsby.

Brief History:

Committee Activity:

Innovation, Community & Economic Development, & Veterans: 2/8/23, 2/14/23
[DPS];
Capital Budget: 2/20/23, 2/22/23 [DP2S(w/o sub ICEV)].

Brief Summary of Second Substitute Bill

- Requires the Statewide Broadband Office (Office) to develop and maintain a state broadband map.
- Requires "covered entities" to submit data concerning broadband infrastructure deployment to the Office to assist in developing and maintaining the state broadband map.
- Requires broadband service providers to have provided broadband mapping data to the Office in order to object to a proposed Public Works Board (PWB) broadband project.
- Allows the PWB to prioritize applications from broadband service providers who have submitted broadband mapping data to the Office within the previous year.

HOUSE COMMITTEE ON INNOVATION, COMMUNITY & ECONOMIC

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

DEVELOPMENT, & VETERANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Ryu, Chair; Donaghy, Vice Chair; Rule, Vice Chair; Volz, Ranking Minority Member; Barnard, Assistant Ranking Minority Member; Chambers, Christian, Corry, Cortes, Paul, Senn, Shavers, Street, Waters and Ybarra.

Staff: Emily Poole (786-7106).

Background:

Statewide Broadband Office.

The Governor's Statewide Broadband Office (Office), within the Department of Commerce (Department), is the central broadband planning body for the state. The Office is tasked with promoting the deployment of broadband infrastructure, developing a statewide plan to encourage broadband access, and encouraging public-private partnerships to increase deployment of broadband services. The Office may take all appropriate steps to seek and apply for federal funds for which the Office is eligible and must deposit these funds in the Statewide Broadband Account.

Department of Commerce Broadband Mapping Authority.

The Department may oversee implementation of federally funded or mandated broadband programs for the state and adopt rules to administer the programs. The Department is designated as the single eligible entity for purposes of federal broadband mapping activities. Any federal funds received by the Department for broadband mapping activities must be used in accordance with any federal requirements and may be distributed to other entities in the state on a competitive basis. The Department must deposit into the Broadband Mapping Account funds received from legislative appropriation, federal funding, and donated funds from private and public sources. The Department is required to consult with the Office of Financial Management and the Utilities and Transportation Commission in coordinating broadband mapping activities.

The Department may: (1) develop an interactive website to allow residents to self-report where high-speed internet is available; and (2) conduct a survey of high-speed internet infrastructure owned or leased by state agencies and create a geographic information system map of all high-speed internet infrastructure owned or leased by the state. State agencies responding to a survey request must respond in a timely manner and provide certain required information.

The Department is authorized to conduct a competitive bidding process to procure a geographic information system map of high-speed internet infrastructure, service availability, and adoption. The Department may procure this map by purchasing a completed map from a third party or working directly with the Federal Communications Commission (FCC) to accept publicly available data.

Public Works Board.

The Public Works Board (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. Grants and loans may be awarded under the Broadband Program to assist in 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.

An applicant for the Broadband Program must provide specific information to the PWB regarding a proposed project as part of a preapplication and application process. As part of the preapplication process, an applicant is required to provide information regarding the location and description of the proposed project, the number of households passed that will gain access to broadband service as a result of the project, evidence that the applicant contacted all existing broadband service providers near the proposed project area, and other information.

The PWB must publish on its website the proposed geographic broadband service area and the proposed broadband speeds for each proposed project during the preapplication period. Any existing broadband service provider near the proposed project area may submit an objection to a proposed broadband project. In evaluating applications, the PWB may give priority to applications that meet certain criteria, such as applications that demonstrate project readiness to proceed, construct infrastructure that is open access, or serve economically distressed areas.

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.

Summary of Substitute Bill:

Statewide Broadband Office.

The powers and duties of the Office are expanded to include developing and maintaining a state broadband map. The Office is required to develop and maintain a state broadband map indicating the addresses of serviceable locations and capability of broadband service in the state. The Office must provide the initial map by July 1, 2024, and must update the map at least twice per year. The Office may contract with a private entity or third-party consultant to develop the state broadband map.

Covered entities are required to submit updated data concerning broadband infrastructure deployment twice per year to assist the Office in developing and maintaining the state

broadband map. The information that is provided to the Office must include any information that is required to be submitted to the FCC pursuant to the Broadband Deployment Accuracy and Technological Availability Act. The information submitted to the Office must also include detailed end-user location address information for broadband infrastructure deployment in the state. Covered entities that do not provide broadband service to end users in the state must provide updated data regarding the location of infrastructure utilized in support of end-user connections.

To supplement mapping information submitted by covered entities, the Office may conduct a detailed survey of broadband infrastructure owned or leased by state agencies and compile mapping data of broadband infrastructure owned or leased by the state. Fiber, cable, or other infrastructure routes and addresses reported to the Office by state agencies are confidential and not subject to disclosure. The Office may consult other state agencies and incorporate other data sources into the state broadband map as it deems helpful to the process of developing and maintaining the state broadband map.

The Office is required to establish a process to receive and evaluate petitions to correct inaccuracies in the map, which may include developing an interactive website to allow residents to self-report whether broadband is available at their home and at what speed.

The Office is prohibited from administering state grants to a covered entity that has not complied with mapping requirements.

"Covered entity" is defined to mean a broadband service provider or other entity that owns or operates broadband infrastructure in the state or offers their broadband infrastructure for sale or lease in the provision of broadband service.

Public Records.

Trade secrets and financial and commercial information and records supplied by businesses to the Office to assist in developing the state broadband map are exempt from disclosure under the PRA.

Public Works Board.

An applicant for a broadband grant or loan from the PWB is required to provide detailed end-user location address information as part of the preapplication process. In evaluating applications and awarding funds, the PWB may give priority to applications that are submitted by applicants who have submitted broadband mapping data to the Office within the previous year. A broadband service provider is required to have provided broadband mapping data to the Office in order to submit an objection to a proposed PWB broadband project.

Repealed Sections.

Sections pertaining to the Broadband Mapping Account and the authority of the Department to conduct broadband mapping activities are repealed.

Substitute Bill Compared to Original Bill:

The substitute bill removes the requirements that the Office may only use broadband mapping data in accordance with its broadband mapping duties and may only share such data to carry out the duties of the Office and to support the state broadband goals. The substitute bill allows the Office to share broadband mapping data with other state agencies, tribes, or entities of local government that would benefit from its use if such sharing is in accordance with applicable requirements regarding data sharing agreements.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a great step in providing clarity around where broadband service is available in Washington. This bill will address a deficiency in broadband mapping at the federal level. The FCC maps do not provide an accurate depiction of broadband availability and can generate confusion about existing infrastructure, particularly when port districts submit applications for state funding. The broadband map will help reduce the time and money that applicants spend on the application process for state broadband funding. It is not clear whether the Office has the necessary resources to develop and maintain this map.

(Opposed) None.

(Other) A state broadband map can help accurately identify the areas of Washington that do not have adequate broadband service. The FCC has a map that has attempted to do that, but it does not accurately portray connectivity levels for all end users. Washington needs to collect more precise data in order to direct funding where it is needed. The mapping effort will require close coordination and a sustained effort from the Office, providers, and communities. It is a lofty aspiration to have an initial broadband map by July 1, 2024. The bill provides a clear pathway for accountability and a mechanism for residents to petition to challenge the map's accuracy.

Persons Testifying: (In support) Representative Cindy Ryu, prime sponsor; Scott Richards, Washington Public Utility Districts Association; Kara Riebold, Port of Whitman County; and Chris Herman, Washington Public Ports Association.

(Other) Mark Vasconi, Washington State Broadband Office.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Innovation, Community & Economic Development, & Veterans. Signed by 28 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant Ranking Minority Member; Alvarado, Bateman, Cheney, Christian, Couture, Dye, Farivar, Fosse, Kloba, Leavitt, Maycumber, McClintock, McEntire, Morgan, Mosbrucker, Orwall, Peterson, Reed, Rule, Shavers, Stearns and Waters.

Staff: Dawn Eychaner (786-7135).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Innovation, Community & Economic Development, & Veterans:

The Capital Budget Committee recommended the following changes to the prior committee's recommendation:

- require the Office to use the most current version of the national broadband map maintained by the FCC as the basis for the state broadband map;
- require the Office to review the FCC map for deficiencies and inform covered entities of the necessity to submit accurate mapping data to the FCC and the Office;
- permit the Office to consult with stakeholders to determine the availability of broadband infrastructure data that is not included in the FCC map and may be used to populate the state map;
- establish that the Office is only permitted to share data with other state agencies or a contractor under an agreement that adheres to applicable requirements regarding data sharing agreements;
- remove the provision requiring the Office to establish a process to receive and evaluate petitions in order to correct inaccuracies in the FCC map;
- allow the Office to contract with a private entity or third-party consultant to investigate and verify the availability of broadband services and infrastructure in areas of the state where discrepancies have been identified;
- allow the Office to use certain information collected as part of its broadband mapping duties to submit bulk challenges to the FCC map; and
- include satellite broadband service providers as covered entities and require owners and operators of satellite infrastructure supporting end-user connections to report on areas served and speeds available in those areas.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Last year the Legislature made the policy decision to allow public entities to fund broadband services. The COVID-19 pandemic showed how important broadband access and affordability is. The FCC broadband map is incomplete and insufficient for understanding Washington's broadband service. There are amendments needed to perfect the bill, which seeks to address a deficiency in FCC maps which can significantly impact federal funds to the state. The proposed second substitute bill authorizes the Office to contract with a third-party consultant to investigate on the ground deficiencies discovered in the map. As deficiencies are discovered, the proposed second substitute bill allows the Office to provide bulk challenges to the FCC map. Broadband technicians who are building out networks believe this bill can close the divide for unserved areas of the state. The Office should prioritize grantees who will provide quality wages and benefits for their workers and be held accountable for working conditions. There is a once-in-a-generation opportunity to use federal funds to connect workers, families, and communities in the state. Quality training and worker safety is important and low-quality contractors put infrastructure at risk. Ports support this effort because this is a great tool to inform future funding investments as nearly \$900 million in federal funding is coming to the state. A solid challenge process will help these projects move along more effectively.

(Opposed) None.

(Other) An accurate broadband map, which the FCC is trying to establish, is extremely important and this policy helps the Office to focus mapping efforts to build upon the FCC map. The proposed second substitute bill includes important provisions related to data sharing agreements.

Persons Testifying: (In support) Representative Ryu, prime sponsor; Scott Richards, Washington Public Utility Districts Association; Carissa Hahn and Fernando Roman, Communications Workers of America; and Chris Herman, Washington Public Ports Association.

(Other) Mark Vasconi, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.