
SENATE BILL 5085

State of Washington

66th Legislature

2019 Regular Session

By Senators McCoy, Conway, Hasegawa, Palumbo, Hunt, Kuderer, Takko, and Van De Wege

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1 AN ACT Relating to providing access to broadband internet
2 services; amending RCW 35.43.042; adding a new section to chapter
3 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new
4 section to chapter 35A.21 RCW; adding a new section to chapter 54.16
5 RCW; adding a new section to chapter 53.08 RCW; adding a new section
6 to chapter 87.03 RCW; adding a new section to chapter 57.08 RCW;
7 adding a new section to chapter 52.30 RCW; adding a new chapter to
8 Title 80 RCW; and creating a new section.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that many rural
11 areas of Washington state are either completely without broadband
12 internet access service or the services that are available are wholly
13 inadequate when compared to speeds and quality of service available
14 in higher density urban and suburban areas of the state. The
15 legislature further finds that while improvements in technology and
16 state, federal, and telecommunications industry funding offer the
17 prospect in the future of providing adequate service to more areas of
18 the state, there will remain for many areas little prospect of
19 service being offered by private telecommunications companies.

20 Therefore, it is the intent of this act to provide authority to
21 units of local government to obtain authority from the state to

1 provide retail broadband access services when no other provider is
2 willing and able to provide that service and when the unit of local
3 government demonstrates that a business case plan supports the
4 capacity to finance the construction and operation of the service
5 infrastructure without requiring use of revenues obtained from the
6 rates and charges for other utility services provided by the unit of
7 local government.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 otherwise.

11 (1) "Broadband" means high-speed internet access and other
12 advanced telecommunications services.

13 (2) "Retail internet service" means the provision of broadband to
14 end users.

15 NEW SECTION. **Sec. 3.** (1) Any unit of local government or other
16 subdivision of the state may provide broadband services when approved
17 by the commission pursuant to the requirements of this section.

18 (2) The commission may approve an application to provide
19 broadband services when it determines that:

20 (a) The retail internet service available within the area sought
21 to be served is either nonexistent or is inadequate because it falls
22 below either the federal communications speed benchmark of twenty-
23 five megapixels per second for download and three megapixels per
24 second for upload or a higher standard as the commission may adopt by
25 order;

26 (b) There is no other provider willing and able to provide the
27 service in the area proposed for service by the unit of local
28 government;

29 (c) The business case plan for deploying the service
30 infrastructure and for operating the services demonstrates that that
31 funding will be sufficient and is not likely to require funding from
32 rates collected for other services provided by the unit of local
33 government;

34 (d) The governing body has held at least two public hearings
35 within the area to be served at which information is provided on the
36 proposed services and rates and charges anticipated to be imposed for
37 receipt of the services; and

1 (e) The rates to be charged for the retail services will be just
2 and nondiscriminatory and that any tiered rates will be based upon
3 the service demands of the user, including commercial and residential
4 rates.

5 (3) The commission may order a unit of local government seeking
6 broadband service authority under this section to pay for all or a
7 share of the commission's costs incurred in processing the
8 application.

9 (4) A unit of local government obtaining authority under this
10 section must not condition the availability or cost of other services
11 upon the purchase or use of broadband services.

12 NEW SECTION. **Sec. 4.** Except as provided in section 3 of this
13 act, nothing in this chapter, RCW 35.43.040(4), or sections 6 through
14 13 of this act may be construed or is intended to confer upon the
15 commission any authority to exercise jurisdiction over locally
16 regulated utilities or other services provided by a unit of local
17 government.

18 NEW SECTION. **Sec. 5.** Except as expressly provided in this
19 chapter, nothing in this chapter, RCW 35.43.040(4), or sections 6
20 through 13 of this act supersede or modify authority granted under
21 other laws for units of local government or other subdivisions of the
22 state to provide broadband services.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.01
24 RCW to read as follows:

25 A county may exercise such powers as are granted pursuant to the
26 provisions of section 3 of this act.

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.21
28 RCW to read as follows:

29 A city may exercise such powers as are granted pursuant to the
30 provisions of section 3 of this act.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 35A.21
32 RCW to read as follows:

33 A town may exercise such powers as are granted pursuant to the
34 provisions of section 3 of this act.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 54.16
2 RCW to read as follows:

3 A district may exercise such powers as are granted pursuant to
4 the provisions of section 3 of this act.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 53.08
6 RCW to read as follows:

7 A district may exercise such powers as are granted pursuant to
8 the provisions of section 3 of this act.

9 NEW SECTION. **Sec. 11.** A new section is added to chapter 87.03
10 RCW to read as follows:

11 A district may exercise such powers as are granted pursuant to
12 the provisions of section 3 of this act.

13 NEW SECTION. **Sec. 12.** A new section is added to chapter 57.08
14 RCW to read as follows:

15 A district may exercise such powers as are granted pursuant to
16 the provisions of section 3 of this act.

17 NEW SECTION. **Sec. 13.** A new section is added to chapter 52.30
18 RCW to read as follows:

19 A district may exercise such powers as are granted pursuant to
20 the provisions of section 3 of this act.

21 **Sec. 14.** RCW 35.43.042 and 1969 ex.s. c 258 s 2 are each amended
22 to read as follows:

23 Whenever the legislative authority of any city or town has
24 provided pursuant to law for the acquisition, construction,
25 reconstruction, purchase, condemnation and purchase, addition to,
26 repair, or renewal of the whole or any portion of a:

27 (1) System for providing the city or town and the inhabitants
28 thereof with water, which system includes as a whole or as a part
29 thereof water mains, hydrants or appurtenances which are authorized
30 subjects for local improvements under RCW 35.43.040(13) or other law;
31 or a

32 (2) System for providing the city or town with sewerage and storm
33 or surface water disposal, which system includes as a whole or as a
34 part thereof drains, sewers or sewer appurtenances which are

1 authorized subjects for local improvements under RCW 35.43.040(7) or
2 other law; (~~or~~)

3 (3) Off-street parking facilities; or

4 (4) System for providing broadband services through the exercise
5 of the powers granted pursuant to section 3 of this act; and

6 Has further provided in accordance with any applicable provisions
7 of the Constitution or statutory authority for the issuance and sale
8 of revenue bonds to pay the cost of all or a portion of any such
9 system, such legislative authority shall have the authority to
10 establish utility local improvement districts, and to levy special
11 assessments on all property specially benefited by any such local
12 improvement to pay in whole or in part the damages or costs of any
13 local improvements so provided for.

14 The initiation and formation of such utility local improvement
15 districts and the levying, collection and enforcement of assessments
16 shall be in the manner and subject to the same procedures and
17 limitations as are now or hereafter provided by law for the
18 initiation and formation of local improvement districts in cities and
19 towns and the levying, collection and enforcement of assessments
20 pursuant thereto.

21 It must be specified in any petition or resolution initiating the
22 formation of such a utility local improvement district in a city or
23 town and in the ordinance ordered pursuant thereto, that the
24 assessments shall be for the sole purpose of payment into such
25 revenue bond fund as may be specified by the legislative authority
26 for the payment of revenue bonds issued to defray the cost of such
27 system or facilities or any portion thereof as provided for in this
28 section.

29 Assessments in any such utility local improvement district may be
30 made on the basis of special benefits up to but not in excess of the
31 total cost of the local improvements portion of any system or
32 facilities payable by issuance of revenue bonds. No warrants or bonds
33 shall be issued in any such utility local improvement district, but
34 the collection of interest and principal on all assessments in such
35 utility local improvement district, when collected, shall be paid
36 into any such revenue bond fund.

37 When in the petition or resolution for establishment of a local
38 improvement district and in the ordinance ordered pursuant thereto,
39 it is specified or provided that the assessments shall be for the
40 sole purpose of payment into a revenue bond fund for the payment of

1 revenue bonds, then the local improvement district shall be
2 designated a "utility local improvement district".

3 The provisions of chapters 35.45, 35.47 and 35.48 RCW shall have
4 no application to utility local improvement districts created under
5 authority of this section.

6 NEW SECTION. **Sec. 15.** Sections 2 through 5 of this act
7 constitute a new chapter in Title 80 RCW.

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