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**ENGROSSED SUBSTITUTE HOUSE BILL 1457**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Transportation (originally sponsored by Representatives Wylie, Riccelli, Kloba, Santos, Slatter, Shewmake, Ramel, and Hackney)

AN ACT Relating to facilitating the installation of broadband facilities on limited access highways; amending RCW 47.52.001 and 47.44.010; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that broadband is an increasingly essential service necessary for economic development, reduction of use of roads and highways, delivery of medical services, education, and use of other technologies. The legislature also understands that maximizing the use of rights-of-way during construction or repair of transportation systems offers cost-effective opportunities for extending and improving broadband and high-speed internet connections throughout the state. It is the policy of the state to expedite the installation, improvement, and extension of broadband networks, and to remove barriers to cost-effective and expanded access to broadband networks.

Transportation activities can offer opportunities for these connections and it is a critical goal of the state to use the transportation system to facilitate and accelerate universal access through providing assistance in the development of necessary physical connections, increasing affordability of access, and formation of strategic partnerships. There is a need for both the near-term development of options and opportunities that can be applied within existing plans and mid and longer-term activities that can be undertaken to develop additional options and paths for the removal of barriers and to maximize the impact of actions to facilitate the expansion of broadband networks.

**Sec.**  RCW 47.52.001 and 2004 c 131 s 1 are each amended to read as follows:

(1) Unrestricted access to and from public highways has resulted in congestion and peril for the traveler. It has caused undue slowing of all traffic in many areas. The investment of the public in highway facilities has been impaired and highway facilities costing vast sums of money will have to be relocated and reconstructed.

(2) ((~~Personal wireless service~~)) Broadband, which includes a range of high-speed transmission technologies, including fiber optic lines and personal wireless service facilities, is a critical part of the state's infrastructure. The rapid deployment of ((~~personal wireless service~~)) broadband facilities is critical to ensure public safety, network access, quality of service, and rural economic development.

(3) It is, therefore, the declared policy of this state to limit access to the highway facilities of this state in the interest of highway safety and for the preservation of the investment of the public in such facilities, and to ((~~assure~~)) ensure that the use of rights-of-way of limited access facilities accommodate the deployment of ((~~personal wireless service~~)) broadband facilities consistent with these interests. In furtherance of this policy, the department is directed to adopt and maintain an agency policy that requires the department to proactively provide broadband facility owners with information about planned limited access highway projects to enable collaboration between broadband facility owners and the department to identify opportunities for the installation of broadband facilities during the appropriate phase of these projects when such opportunities exist. Coordination between the department and broadband facility owners under this section must comply with applicable state and federal law including, but not limited to, chapter 47.44 RCW and RCW 47.04.045.

**Sec.**  RCW 47.44.010 and 2001 c 201 s 5 are each amended to read as follows:

(1) The department of transportation may grant franchises to persons, associations, private or municipal corporations, the United States government, or any agency thereof, to use any state highway for the construction and maintenance of water pipes, flume, gas, oil or coal pipes, telephone, telegraph ((~~and~~)), fiber optic, electric light and power lines and conduits, trams or railways, and any structures or facilities that are part of an urban public transportation system owned or operated by a municipal corporation, agency, or department of the state of Washington other than the department of transportation, and any other such facilities. In order to minimize the disruption to traffic and damage to the roadway, the department is encouraged to develop a joint trenching policy with other affected jurisdictions so that all permittees and franchisees requiring access to ground under the roadway may do so at one time.

(2) All applications for the franchise must be made in writing and subscribed by the applicant, and describe the state highway or portion thereof over which franchise is desired and the nature of the franchise. The application must also include the identification of all jurisdictions affected by the franchise and the names of other possible franchisees who should receive notice of the application for a franchise.

(3) The department of transportation shall adopt rules providing for a hearing or an opportunity for a hearing with reasonable public notice thereof with respect to any franchise application involving the construction and maintenance of utilities or other facilities within the highway right-of-way which the department determines may (a) during construction, significantly disrupt the flow of traffic or use of driveways or other facilities within the right-of-way, or (b) during or following construction, cause a significant and adverse effect upon the surrounding environment.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose in the omnibus transportation appropriations act, the joint transportation committee shall oversee a consultant study to recommend:

(a) An effective department of transportation strategy, and specific highway corridors, that could be used to address missing fiber connections and inadequate broadband service in parts of the state unserved and underserved by broadband facilities while also aiding the achievement of the state broadband goals specified in RCW 43.330.536. As part of this recommendation, the following areas must also be addressed:

(i) What the appropriate taxonomy to apply to areas unserved or underserved by broadband is to better prioritize and contextualize the urgency of the need for broadband infrastructure in a given area; and

(ii) When the inclusion of broadband conduit installation in a transportation project is recommended as the most effective means of facilitating broadband access, rather than an alternative broadband facility placement, taking into account potential costs, and subject to any limitations in understanding potential costs of installation as part of a transportation project not yet undertaken;

(b) The role of the Washington state department of transportation in a coordinated approach for broadband development statewide that includes the adaptation of existing programs and activities to further a state initiative to expand and improve access to broadband;

(c) The most promising planning and financing tools that could be used by the department of transportation to provide the state with greater ability to install conduit in anticipation of future broadband fiber occupancy by others;

(d) Opportunities for mutually beneficial partnerships between the department of transportation and broadband service providers that could provide broadband services for transportation purposes such as intelligent transportation systems, cooperative automated transportation/autonomous vehicles, transportation demand management, and highway maintenance activities; and

(e) Strategies for the mitigation of potential safety, operations, and preservation impacts to transportation related to the recommendations made in (a) through (d) of this subsection.

(2) The study must consider the most relevant best practices in other states and their potential application in Washington.

(3) The study must also include an examination of any state and federal laws and regulations that could prevent or limit the implementation of these recommendations, as well as recommendations for modifications to the applicable state laws and regulations and recommended federal actions that could be requested by Washington state legislators.

(4) The joint transportation committee shall consult with the department of transportation, the Washington statewide broadband office, and other state agencies and local jurisdictions, as necessary, during development of the study's recommendations to ensure the relevance and applicability of the recommendations to the state.

(5) The joint transportation committee shall issue a report of its findings and recommendations to the house of representatives and senate transportation committees by January 1, 2022.

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