
HOUSE BILL 1263

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By Representatives Abbarno, Barkis, Dent, McEntire, Mosbrucker, Ybarra, Eslick, Boehnke, and Gilday

Read first time 01/18/21. Referred to Committee on Community & Economic Development.

1 AN ACT Relating to rural infrastructure; and adding a new chapter
2 to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Department" means the department of commerce.

8 (2) "Broadband infrastructure" means networks of deployed
9 telecommunications equipment and technologies necessary to provide
10 high-speed internet access and other advanced telecommunications
11 services to end users.

12 (3) "Local government" means any port district, county, city,
13 town, special purpose district, and any other municipal corporation
14 or quasi-municipal corporation in the state providing for public
15 facilities under this chapter.

16 (4) "Public facilities" means a project of a local government for
17 the planning, acquisition, construction, repair, reconstruction,
18 replacement, rehabilitation, or improvement of domestic and
19 industrial water systems, storm and sanitary sewage systems, solid
20 waste facilities, including recycling facilities, telecommunications

1 and broadband infrastructure, electrical transmission facilities,
2 natural gas facilities, and port facilities.

3 (5) "Rural county" means a county with a population density of
4 fewer than 100 persons per square mile or a county smaller than 225
5 square miles, as determined by the office of financial management and
6 published each year by the department for the period from July 1st to
7 June 30th.

8 NEW SECTION. **Sec. 2.** The rural infrastructure assistance
9 account is created in the state treasury. All receipts from
10 appropriations by the legislature, the proceeds of bond sales when
11 authorized by the legislature, or any other source must be deposited
12 into the account. Moneys in the account may be spent only after
13 appropriation. Expenditures from the account may be used only for
14 grants to local governments located in rural counties for public
15 facilities, including costs incurred by the department to administer
16 the grant program.

17 NEW SECTION. **Sec. 3.** (1) The department shall establish a
18 competitive grant program to award funding to local governments
19 located in rural counties for public facilities.

20 (2) (a) The department shall develop administrative procedures
21 governing the application and award process. The department shall act
22 as fiscal agent for the program and is responsible for receiving and
23 reviewing applications and awarding funds under this section.

24 (b) At least 60 days prior to the first day applications may be
25 submitted each fiscal year, the department must publish on its
26 website the specific criteria and any quantitative weighting scheme
27 or scoring system that the department will use to evaluate or rank
28 applications and award funding.

29 (c) The department may maintain separate accounting in the rural
30 infrastructure account created in section 2 of this act as the
31 department deems necessary to carry out the purposes of this section.

32 (3) The department must develop a process to prioritize
33 applications and funding of grants for public facilities submitted by
34 local governments located in rural counties. The department must
35 consider, at a minimum and in any order, the following factors in
36 prioritizing projects:

37 (a) Whether the project is critical in nature and would affect
38 the health and safety of many people;

1 (b) The extent to which the project leverages other funds;
2 (c) The extent to which the project is ready to proceed to
3 construction;
4 (d) Whether the project is located in a distressed area as
5 defined in RCW 43.168.020;
6 (e) Whether the project promotes the sustainable use of resources
7 and environmental quality, as applicable;
8 (f) Whether the project consolidates or regionalizes systems;
9 (g) Whether the project encourages economic development through
10 mixed-use and mixed-income development consistent with chapter 36.70A
11 RCW;
12 (h) Whether the facility is being well managed in the present and
13 for long-term sustainability;
14 (i) Achieving equitable distribution of funds by geography and
15 population;
16 (j) The extent to which the project meets the following state
17 policy objectives:
18 (i) Efficient use of state resources;
19 (ii) Preservation and enhancement of health and safety;
20 (iii) Abatement of pollution and protection of the environment;
21 (iv) Creation of new, family-wage jobs, and avoidance of shifting
22 existing jobs from one Washington state community to another;
23 (v) Fostering economic development consistent with chapter 36.70A
24 RCW;
25 (vi) Efficiency in delivery of goods and services and
26 transportation; and
27 (vii) Reduction of the overall cost of public infrastructure;
28 (k) Whether the applicant sought or is seeking funding for the
29 project from other sources;
30 (l) Whether the completion of the project will directly or
31 indirectly achieve net negative greenhouse gas emissions; and
32 (m) Whether the project will increase the opportunity for
33 individuals to work from home thereby reducing commute times to work
34 and indirectly achieve net negative greenhouse gas emissions.
35 (4) (a) No funds awarded under this section may fund more than 75
36 percent of the total cost of the project, except the department may
37 fund up to 90 percent of the total cost of the project located in a
38 distressed area as defined in RCW 43.168.020.
39 (b) The maximum amount of total funding that the department may
40 provide for any jurisdiction is \$10,000,000 per biennium.

1 (c) The maximum amount of funding that the department may provide
2 for preconstruction activities to any jurisdiction is \$50,000 per
3 biennium, except there is no maximum amount for:

4 (i) Preconstruction activities located in a distressed area as
5 defined in RCW 43.168.020; or

6 (ii) Preconstruction activities necessary to determine whether
7 the completion of the project will directly or indirectly achieve net
8 negative greenhouse gas emissions.

9 (5) The department may not sign contracts or otherwise
10 financially obligate funds from the rural infrastructure assistance
11 account before the legislature has appropriated funds to the
12 department for the purpose of funding public facilities under this
13 chapter.

14 (6) To ensure a grant under this section primarily serves the
15 public interest and benefits the public, contracts for grants
16 authorized under this section must include provisions that the asset
17 or infrastructure to be developed will be maintained for public use
18 for a period of at least 15 years. If the grantee is found to be out
19 of compliance with provisions of the contract, the grantee shall
20 repay to the state general fund the principal amount of the grant
21 plus interest calculated at the rate of interest on state of
22 Washington general obligation bonds issued most closely to the date
23 of authorization of the grant.

24 (7) For applications requesting funding for broadband
25 infrastructure, the department must implement the following:

26 (a) The department must require the applicant to provide
27 documentation that no later than six weeks before submission of the
28 application, the applicant contacted, in writing, all entities
29 providing broadband service near the proposed project area to ask
30 each broadband service provider's plan to upgrade broadband service
31 in the project area to speeds that meet or exceed the state's
32 definition for broadband service as defined in RCW 43.330.530, within
33 the time frame specified in the proposed grant activities; and if
34 applicable, the broadband service providers' written responses to the
35 inquiry.

36 (b) (i) Within 30 days of the close of the grant application
37 process, the department shall publish on its website the proposed
38 geographic broadband service area and the proposed broadband speeds
39 for each application submitted.

1 (ii) Any existing broadband service provider near the proposed
2 project area may, within 30 days of publication of the information
3 under this subsection (7)(b), submit in writing to the department an
4 objection to an application. Objections submitted to the department
5 must be certified by affidavit and must contain information
6 demonstrating that:

7 (A) The project would result in overbuild, meaning that the
8 objecting provider currently provides, or has begun construction to
9 provide, broadband service to end users in the proposed project area
10 at speeds equal to or greater than the state speed goals contained in
11 RCW 43.330.536; or

12 (B) The objecting provider commits to complete construction of
13 broadband infrastructure and provide broadband service to end users
14 in the proposed project area at speeds equal to or greater than the
15 state speed goals contained in RCW 43.330.536, no later than 24
16 months after the date awards are made under this section for the
17 grant cycle under which the application was submitted.

18 (c) The department must evaluate the information submitted by the
19 objecting provider and must consider it in making a determination on
20 the application objected to. The department may request clarification
21 or additional information. The department may choose to not fund a
22 project if the department determines that the objecting provider's
23 commitment to provide broadband service in the proposed project area
24 is credible. In assessing the commitment, the department may consider
25 whether the objecting provider has or will provide a bond, letter of
26 credit, or other indicia of financial commitment guaranteeing the
27 project's completion.

28 (d) If the department denies funding to an applicant as a result
29 of a broadband service provider's objection made under this section,
30 and the broadband service provider does not fulfill its commitment to
31 provide broadband service in the project area, then for the following
32 two grant cycles, the department is prohibited from denying funding
33 to an applicant on the basis of a challenge by the same broadband
34 service provider, unless the department determines that the broadband
35 service provider's failure to fulfill the provider's commitment was
36 the result of factors beyond the broadband service provider's
37 control. The department is not prohibited from denying funding to an
38 applicant for reasons other than an objection by the same broadband
39 service provider.

1 (e) An applicant or broadband service provider that objected to
2 the application may request a debriefing conference regarding the
3 department's decision on the application. Requests for debriefing
4 must be coordinated by the broadband office and must be submitted in
5 writing in accordance with procedures specified by the broadband
6 office.

7 (f) Confidential business and financial information submitted by
8 an objecting provider under this subsection (7) is exempt from
9 disclosure under chapter 42.56 RCW.

10 (g) The department, in collaboration with the broadband office,
11 may adopt rules for a voluntary nonbinding mediation between
12 incumbent providers and applicants to the grant program created in
13 this section.

14 (h) Prior to awarding funds under this section, the department
15 must consult with the Washington utilities and transportation
16 commission. The commission must provide to the department an
17 assessment of the technical feasibility of a proposed application.
18 The department must consider the commission's assessment as part of
19 its evaluation of a proposed application.

20 (i) For purposes of this section, "broadband office" means the
21 governor's statewide broadband office established in RCW 43.330.532.

22 NEW SECTION. **Sec. 4.** (1) By November 1, 2022, and each year
23 thereafter, the department must develop and submit a report regarding
24 the rural infrastructure grant program to the office of financial
25 management and appropriate fiscal committees of the senate and house
26 of representatives. The report must include:

27 (a) The total number of applications and amount of funding
28 requested for public facilities;

29 (b) A list and description of projects approved in the preceding
30 fiscal year with project scores against the department's
31 prioritization criteria;

32 (c) The total amount of grant disbursements made in the preceding
33 fiscal year;

34 (d) The total amount of funds obligated and timing of when the
35 funds were obligated in the preceding fiscal year; and

36 (e) For projects funded in the prior biennium, the outcomes
37 achieved by the approved projects, including the reduction to net
38 negative greenhouse gas emissions, where applicable.

1 (2) The department may gather data from the local governments
2 awarded the grant funding in order to develop the report.

3 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act
4 constitute a new chapter in Title 43 RCW.

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