
HOUSE BILL 1722

State of Washington

67th Legislature

2022 Regular Session

By Representatives Boehnke, Paul, Leavitt, Dye, Taylor, Chase, McCaslin, Klicker, Goehner, Rule, Sutherland, Chambers, Eslick, Gilday, Wylie, and Bergquist

Prefiled 12/30/21. Read first time 01/10/22. Referred to Committee on Local Government.

1 AN ACT Relating to the acceleration of broadband deployment;
2 amending RCW 35.99.010; adding a new section to chapter 35.99 RCW;
3 adding a new chapter to Title 36 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) Washingtonians need improved access to high-speed internet
7 now more than ever to meet a variety of demands including, but not
8 limited to, remote work, distance learning, telehealth, emergency
9 response and public safety, agriculture, innovation, and commerce;

10 (2) High-speed internet is delivered to Washingtonians through
11 wireline and wireless broadband infrastructure that is installed
12 either aerially or underground. Wireless broadband service relies on
13 wireline facilities, especially fiber backhaul lines;

14 (3) Deployment of fiber is critical to connect more
15 Washingtonians to broadband;

16 (4) Quick and cost-effective ways to install fiber include
17 trenching, boring, and microtrenching; and

18 (5) By expediting fiber deployment, cities, towns, and counties
19 will help expedite the availability of broadband access across
20 Washington.

1 **Sec. 2.** RCW 35.99.010 and 2000 c 83 s 1 are each amended to read
2 as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Cable television service" means the one-way transmission to
6 subscribers of video programming and other programming service and
7 subscriber interaction, if any, that is required for the selection or
8 use of the video programming or other programming service.

9 (2) "Facilities" means all of the plant, equipment, fixtures,
10 appurtenances, antennas, and other facilities necessary to furnish
11 and deliver telecommunications services and cable television
12 services, including but not limited to poles with crossarms, poles
13 without crossarms, wires, lines, conduits, cables, communication and
14 signal lines and equipment, braces, guys, anchors, vaults, and all
15 attachments, appurtenances, and appliances necessary or incidental to
16 the distribution and use of telecommunications services and cable
17 television services.

18 (3) "Fiber" means fiber optic cables, hand holes, vaults, and
19 terminals.

20 (4) "Master permit" means the agreement in whatever form whereby
21 a city or town may grant general permission to a service provider to
22 enter, use, and occupy the right-of-way for the purpose of locating
23 facilities. This definition is not intended to limit, alter, or
24 change the extent of the existing authority of a city or town to
25 require a franchise nor does it change the status of a service
26 provider asserting an existing statewide grant based on a predecessor
27 telephone or telegraph company's existence at the time of the
28 adoption of the Washington state Constitution to occupy the
29 right-of-way. For the purposes of this subsection, a franchise,
30 except for a cable television franchise, is a master permit. A master
31 permit does not include cable television franchises.

32 ~~((4))~~ (5) "Microtrench" means a narrow open excavation trench
33 that is less than or equal to four inches in width and not less than
34 12 inches in depth and not more than 26 inches in depth and that is
35 created for the purpose of installing a subsurface pipe or conduit.

36 (6) "Microtrenching" means excavation of a microtrench.

37 (7) "Personal wireless services" means commercial mobile
38 services, unlicensed wireless services, and common carrier wireless
39 exchange access services, as defined by federal laws and regulations.

1 (~~(5)~~) (8) "Right-of-way" means land acquired or dedicated for
2 public roads and streets, but does not include:

3 (a) State highways;

4 (b) Land dedicated for roads, streets, and highways not opened
5 and not improved for motor vehicle use by the public;

6 (c) Structures, including poles and conduits, located within the
7 right-of-way;

8 (d) Federally granted trust lands or forest board trust lands;

9 (e) Lands owned or managed by the state parks and recreation
10 commission; or

11 (f) Federally granted railroad rights-of-way acquired under 43
12 U.S.C. Sec. 912 and related provisions of federal law that are not
13 open for motor vehicle use.

14 (~~(6)~~) (9) "Service provider" means every corporation, company,
15 association, joint stock association, firm, partnership, person,
16 city, or town owning, operating, or managing any facilities used to
17 provide and providing telecommunications or cable television service
18 for hire, sale, or resale to the general public. Service provider
19 includes the legal successor to any such corporation, company,
20 association, joint stock association, firm, partnership, person,
21 city, or town.

22 (~~(7)~~) (10) "Telecommunications service" means the transmission
23 of information by wire, radio, optical cable, electromagnetic, or
24 other similar means for hire, sale, or resale to the general public.
25 For the purpose of this subsection, "information" means knowledge or
26 intelligence represented by any form of writing, signs, signals,
27 pictures, sounds, or any other symbols. For the purpose of this
28 chapter, telecommunications service excludes the over-the-air
29 transmission of broadcast television or broadcast radio signals.

30 (~~(8)~~) (11) "Use permit" means the authorization in whatever
31 form whereby a city or town may grant permission to a service
32 provider to enter and use the specified right-of-way for the purpose
33 of installing, maintaining, repairing, or removing identified
34 facilities.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.99
36 RCW to read as follows:

37 (1) A city or town shall, consistent with this chapter, allow
38 microtrenching for the installation of underground fiber if the
39 installation in the microtrench is limited to fiber, unless the city

1 or town makes a written finding that allowing microtrenching for a
2 fiber installation would inconvenience the public use of the right-
3 of-way or adversely affect the public health, safety, and welfare.

4 (2) Upon mutual agreement, a microtrench may be placed shallower
5 than 12 inches in depth.

6 (3) To the extent necessary to comply with this section, a city
7 or town shall adopt or amend existing policies, ordinances, codes, or
8 construction rules to allow for microtrenching.

9 (4) Nothing in this section shall supersede, nullify, or
10 otherwise alter the requirements to comply with local safety
11 standards.

12 (5) Restoration requirements for microtrenching must be
13 commensurate with the impact to the local right-of-way.

14 (6) A city or town may impose a fee on an application for a
15 permit to install fiber. The reasonable costs of providing the
16 service for which the fee is charged must be limited to the
17 reasonable costs of the city or town to process and issue the permit
18 and inspect the installation that is the subject of the permit,
19 including any costs incurred if the applicant elects to expedite
20 processing and review.

21 NEW SECTION. **Sec. 4.** The definitions in this section apply
22 throughout this chapter unless the context clearly requires
23 otherwise.

24 (1) "Fiber" means fiber optic cables, hand holes, vaults, and
25 terminals.

26 (2) "Microtrench" means a narrow open excavation trench that is
27 less than or equal to four inches in width and not less than 12
28 inches in depth and not more than 26 inches in depth and that is
29 created for the purpose of installing a subsurface pipe or conduit.

30 (3) "Microtrenching" means excavation of a microtrench.

31 NEW SECTION. **Sec. 5.** (1) A county shall allow microtrenching
32 for the installation of underground fiber if the installation in the
33 microtrench is limited to fiber, unless the county makes a written
34 finding that allowing microtrenching for a fiber installation would
35 inconvenience the public use of the right-of-way or adversely affect
36 the public health, safety, and welfare.

37 (2) Upon mutual agreement, a microtrench may be placed shallower
38 than 12 inches in depth.

1 (3) To the extent necessary to comply with this chapter, a county
2 shall adopt or amend existing policies, ordinances, codes, or
3 construction rules to allow for microtrenching.

4 (4) Nothing in this chapter shall supersede, nullify, or
5 otherwise alter the requirements to comply with local safety
6 standards.

7 (5) Restoration requirements for microtrenching must be
8 commensurate with the impact to the local right-of-way.

9 (6) A county may impose a fee on an application for a permit to
10 install fiber. The reasonable costs of providing the service for
11 which the fee is charged must be limited to the reasonable costs of
12 the county to process and issue the permit and inspect the
13 installation that is the subject of the permit, including any costs
14 incurred if the applicant elects to expedite processing and review.

15 NEW SECTION. **Sec. 6.** Sections 4 and 5 of this act constitute a
16 new chapter in Title 36 RCW.

--- END ---