
SUBSTITUTE SENATE BILL 5439

State of Washington

67th Legislature

2021 Regular Session

By Senate Transportation (originally sponsored by Senators Saldaña, Kuderer, Lovelett, and Nguyen)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to facilitating the coordinated installation of
2 broadband along state highways; amending RCW 43.330.532, 43.330.534,
3 43.330.538, and 47.52.001; adding a new section to chapter 47.44 RCW;
4 and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Increasing broadband access to unserved areas of the state
8 provides a public benefit to the citizens of Washington by allowing
9 full participation in society and the modern economy, and enabling
10 access to health care, education, and essential services, including
11 public safety;

12 (b) Achieving affordable and quality broadband access for all
13 Washingtonians will require sustained investment, research, local and
14 community participation, and partnerships between private, public,
15 and nonprofit entities;

16 (c) Providing for additional coordination across sectors to
17 increase broadband access in unserved areas is in the best interest
18 of the state; and

19 (d) Expanding broadband access, especially broadband conduit
20 along roadways, provides commensurate benefits to the transportation
21 system and motor vehicle users in terms of reducing congestion by

1 allowing for more telework, and laying the foundation for a
2 transportation system increasingly more reliant on autonomous
3 vehicles.

4 (2) Therefore, the legislature intends to expand broadband access
5 to unserved areas throughout the state by increasing broadband
6 infrastructure coordination opportunities, including collaboration
7 between the statewide broadband office and the department of
8 transportation, proactively facilitating installation of
9 infrastructure during state road construction projects and studying
10 recommendations related to the department of transportation's role in
11 broadband service expansion efforts.

12 **Sec. 2.** RCW 43.330.532 and 2019 c 365 s 3 are each amended to
13 read as follows:

14 (1) The governor's statewide broadband office is established. The
15 director of the office must be appointed by the governor. The office
16 may employ staff necessary to carry out the office's duties as
17 prescribed by chapter 365, Laws of 2019, subject to the availability
18 of amounts appropriated for this specific purpose.

19 (2) The purpose of the office is to encourage, foster, develop,
20 and improve affordable, quality broadband within the state in order
21 to:

22 (a) Drive job creation, promote innovation, improve economic
23 vitality, and expand markets for Washington businesses;

24 (b) Serve the ongoing and growing needs of Washington's education
25 systems, health care systems, public safety systems, transportation
26 systems, industries and business, governmental operations, and
27 citizens; and

28 (c) Improve broadband accessibility for unserved communities and
29 populations.

30 **Sec. 3.** RCW 43.330.534 and 2019 c 365 s 4 are each amended to
31 read as follows:

32 (1) The office has the power and duty to:

33 (a) Serve as the central broadband planning body for the state of
34 Washington;

35 (b) Coordinate with local governments, tribes, public and private
36 entities, nonprofit organizations, and consumer-owned and investor-
37 owned utilities to develop strategies and plans promoting deployment

1 of broadband infrastructure and greater broadband access, while
2 protecting proprietary information;

3 (c) Review existing broadband initiatives, policies, and public
4 and private investments;

5 (d) Develop, recommend, and implement a statewide plan to
6 encourage cost-effective broadband access and to make recommendations
7 for increased usage, particularly in rural and other unserved areas;

8 (e) Update the state's broadband goals and definitions for
9 broadband service in unserved areas as technology advances, except
10 that the state's definition for broadband service may not be actual
11 speeds less than twenty-five megabits per second download and three
12 megabits per second upload; and

13 (f) Encourage public-private partnerships to increase deployment
14 and adoption of broadband services and applications.

15 (2) When developing plans or strategies for broadband deployment,
16 the office must consider:

17 (a) Partnerships between communities, tribes, nonprofit
18 organizations, local governments, consumer-owned and investor-owned
19 utilities, and public and private entities;

20 (b) Funding opportunities that provide for the coordination of
21 public, private, state, and federal funds for the purposes of making
22 broadband infrastructure or broadband services available to rural and
23 unserved areas of the state;

24 (c) Barriers to the deployment, adoption, and utilization of
25 broadband service, including affordability of service and project
26 coordination logistics; and

27 (d) Requiring minimum broadband service of twenty-five megabits
28 per second download and three megabits per second upload speed, that
29 is scalable to faster service.

30 (3) The office may assist applicants for the grant and loan
31 program created in RCW 43.155.160 with seeking federal funding or
32 matching grants and other grant opportunities for deploying broadband
33 services.

34 (4) The office may take all appropriate steps to seek and apply
35 for federal funds for which the office is eligible, and other grants,
36 and accept donations, and must deposit these funds in the statewide
37 broadband account created in RCW 43.155.165.

38 (5) In carrying out its purpose, the office may collaborate with
39 the utilities and transportation commission, the office of the chief
40 information officer, the department of commerce, the community

1 economic revitalization board, the department of transportation, the
2 public works board, the state librarian, and all other relevant state
3 agencies.

4 **Sec. 4.** RCW 43.330.538 and 2019 c 365 s 6 are each amended to
5 read as follows:

6 (1) Beginning January 1, 2021, and biennially thereafter, the
7 office shall report to the legislative committees with jurisdiction
8 over broadband policy and finance on the office's activities during
9 the previous two years.

10 (2) The report must, at a minimum, contain:

11 (a) An analysis of the current availability and use of broadband,
12 including average broadband speeds, within the state;

13 (b) Information gathered from schools, libraries, hospitals, and
14 public safety facilities across the state, determining the actual
15 speed and capacity of broadband currently in use and the need, if
16 any, for increases in speed and capacity to meet current or
17 anticipated needs;

18 (c) An overview of incumbent broadband infrastructure within the
19 state;

20 (d) A summary of the office's activities in coordinating
21 broadband infrastructure development with the department of
22 transportation and the public works board, including a summary of
23 funds awarded under RCW 43.155.160;

24 (e) Suggested policies, incentives, and legislation designed to
25 accelerate the achievement of the goals under RCW 43.330.536; and

26 (f) Any proposed legislative and policy initiatives.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 47.44
28 RCW to read as follows:

29 (1) Prior to construction of any road construction project that
30 breaks ground or pavement, the department shall attempt to provide
31 notice to broadband facility owners in the relevant geographic area
32 so that the department and facility owners can proactively
33 collaborate on the installation of broadband infrastructure during
34 road construction projects, especially in rural and unserved areas.
35 This focus on communication and coordination will align
36 infrastructure needs, and help more Washingtonians achieve affordable
37 and quality telecommunications and broadband access.

1 (2) If notice is given to relevant facility owners and no owners
2 are ready or able to participate in coordination of the installation
3 of broadband infrastructure during road construction projects, the
4 department may enlist its contractors to install broadband conduit as
5 part of road construction projects in order to directly benefit the
6 transportation system and motor vehicle users by:

7 (a) Reducing future traffic impacts to the traveling public on
8 the roadway;

9 (b) Supporting the vehicle miles traveled reduction and
10 congestion management goals of the state by allowing for more
11 telework; and

12 (c) Proactively preparing the transportation system for the
13 widespread development and use of autonomous vehicles.

14 (3) As used in this section:

15 (a) "Broadband conduit" means a conduit used to support broadband
16 infrastructure, including fiber optic cables.

17 (b) "Broadband infrastructure" has the same meaning as in RCW
18 43.330.530.

19 (c) "Rural area" means a county with a population density of
20 fewer than 100 persons per square mile or a county smaller than 225
21 square miles, as determined by the office of financial management and
22 published each year by the department for the period July 1st to June
23 30th.

24 (d) "Unserved areas" has the same meaning as in RCW 43.330.530.

25 **Sec. 6.** RCW 47.52.001 and 2004 c 131 s 1 are each amended to
26 read as follows:

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

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

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

18 NEW SECTION. Sec. 7. (1) Subject to the availability of amounts
19 appropriated for this specific purpose in the omnibus transportation
20 appropriations act, the joint transportation committee shall oversee
21 a consultant study to recommend:

22 (a) An effective department of transportation strategy, and
23 specific limited access highway corridors, that could be used to
24 address missing fiber connections and inadequate broadband service in
25 parts of the state underserved by broadband facilities;

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

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

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

1 (2) The study must also include an examination of any state and
2 federal laws and regulations that could prevent or limit the
3 implementation of these recommendations, as well as recommendations
4 for modifications to the applicable state laws and regulations.

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

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