

SENATE BILL REPORT

2SHB 1746

As Reported by Senate Committee On:
Environment, Energy & Technology, March 24, 2023
Ways & Means, April 3, 2023

Title: An act relating to a state broadband map.

Brief Description: Concerning a state broadband map.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Ryu, Berry, Couture, Griffey, Thai, Reed, Gregerson, Sandlin, Tharinger, Walen, Paul, Kloba, Volz, Reeves, Rule and Ormsby).

Brief History: Passed House: 3/4/23, 95-1.

Committee Activity: Environment, Energy & Technology: 3/17/23, 3/24/23 [DPA-WM].
Ways & Means: 3/31/23, 4/03/23 [DPA].

Brief Summary of Amended Bill

- Authorizes the Governor's Statewide Broadband Office (SBO) to develop and maintain a statewide broadband map.
- Requires SBO to make reasonable efforts to improve federal mapping data.
- Requires covered entities to submit specified information to the Federal Communications Commission (FCC).
- Expands Public Works Board grant or loan preapplication requirements to include detailed end-user location addresses for each passing when submitting the location and description of a proposed project.
- Specifies an existing provider must have submitted mapping data to FCC to object to a proposed project.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member; Boehnke, Lovick, Short, Trudeau and Wellman.

Staff: Angela Kleis (786-7469)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Trevor Press (786-7446)

Background: Federal Communications Commission. The Federal Communications Commission (FCC) regulates interstate and international communication in promotion of several purposes, including competition, innovation, and investment in broadband services and facilities. FCC's new National Broadband Map (national map) provides information about Internet services available to individual locations across the country, along with new maps of mobile coverage. Consumers, state, local and tribal government entities, and other stakeholders can help verify the accuracy of the data shown on the national map by filing challenges.

Statewide Broadband Office. In 2019, the Governor's Statewide Broadband Office (SBO) was established within the Department of Commerce (Commerce) to encourage, foster, develop, and improve affordable, quality broadband within the state. SBO's powers and duties include serving as the central broadband planning body for the state. SBO may take all appropriate steps to seek and apply for eligible federal funds, other grants, and accept donations.

Within SBO, Broadband Action Teams (BATs) are community-drive collaborations that identify the connectivity and accessibility needs for their communities. A BAT can help a community in various ways such as centralizing the broadband conversation and direct engagement to SBO and bringing early awareness of community projects to funding opportunities.

Public Works Board. The Public Works Board (PWB), within Commerce, provides financial and technical assistance to local governments in addressing local infrastructure and public works projects. PWB administers a competitive grant and loan program that awards funding to eligible applicants to promote the expansion of access to broadband

service in unserved areas of the state.

Eligible applicants must submit specified information during the application process. When evaluating applications and awarding funds, PWB must give priority to proposed projects in unserved areas, and give priority to applications that meet specified criteria.

Any existing broadband service provider near a proposed project area may submit an objection to PWB. The objection process requires a review and determination by PWB, specifies requirements for the objecting provider, and outlines a process if an objecting provider does not fulfill its commitment to provide service in the project area.

Public Records Act. Under the Public Records Act (PRA), all state and local agencies must make all public records available for public inspection and copying, unless a specific exemption in the PRA or another statute applies. The PRA must be liberally construed, and its exemptions narrowly construed to promote a general public policy favoring disclosure.

Summary of Amended Bill: Statewide Broadband Office. SBO's authority is expanded to include assisting in developing accurate mapping of broadband infrastructure.

SBO must make reasonable efforts to improve federal mapping data and must also:

- maintain a license from FCC for data that comprises the national broadband map;
- review and analyze mapping information obtained under license with FCC and consumer with stakeholders to identify deficiencies; and
- inform covered entities that they must submit certain data to FCC.

SBO may contract with a private entity or third-party consultant to investigate and verify the availability of broadband infrastructure and services in locations of the state where discrepancies are identified by SBO, a resident, a business, an organization, a unit of local government, a tribe, or a BAT, regarding the status of an area or location as served, unserved, or underserved within the statewide and national maps. SBO may use this information to submit bulk challenges to the national map.

Statewide Broadband Map. Subject to appropriations, SBO may develop and maintain an independent state broadband map indicating the addresses of serviceable locations and capability of broadband service. SBO may contract with a private entity or third-party consultant to develop and maintain the state broadband map.

SBO may exercise discretion in administering any state grants to a covered entity that has not complied with the reporting requirements of this act during the calendar year in which noncompliance was determined, and the following calendar year. However, a covered entity's eligibility for a grant from SBO of solely federal dollars that have been appropriated through the state budget to SBO is not affected by noncompliance.

Subject to appropriations, SBO may also conduct a detailed survey of broadband

infrastructure owned or leased by state agencies and compile mapping data of broadband infrastructure owned or leased by the state.

Public Works Board. Preapplications for a PWB grant or loan must also include detailed end-user location addresses for each passing when submitting the location and description of a proposed project. An existing provider near a proposed project area must have submitted mapping data to FCC within the previous year in order to submit an objection to a proposed project.

When evaluating applications and awarding funds, PWB may also give priority to applicants who have submitted mapping data to FCC within the previous year. These new requirements take effect January 1, 2024.

Disclosure Exemption. Trade secrets and financial and commercial information and records including, but not limited to, fiber, cable, or other infrastructure routes and addresses, supplied by businesses to SBO to assist in developing and maintaining the state broadband map are exempt from disclosure.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Clarifies that the Legislature intends to only incentivize participation in broadband data submission of those entities that are required to submit data collection filings to the FCC.
- Provides discretion to the statewide broadband office in administering grants to entities that have not complied with certain requirements.
- Changes the definition of covered entity to mean a broadband service provider or other entity that is required to submit a biannual broadband data collection filing to the FCC.

EFFECT OF ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE AMENDMENT(S):

- Adds an intent section.
- Specifies any existing provider near a proposed project area may submit an objection to the project if it has submitted specified broadband data to FCC, rather than SBO, within the previous year.
- Authorizes PWB to prioritize applications that have submitted broadband mapping data to FCC, rather than SBO.
- Revises SBO's powers and duties by authorizing it to assist in developing accurate mapping of broadband infrastructure, rather than to develop and maintain a state broadband map and participate in federal broadband mapping.
- Removes the specification that Commerce, including SBO, is the single eligible entity in the state for purposes of the federal broadband mapping activities.
- Removes the requirement for SBO to develop and maintain a state broadband map.

- Requires SBO to make certain efforts to improve federal mapping, including maintaining a license from FCC for broadband deployment data and informing covered entities that they must submit mapping data to FCC.
- Encourages, rather than requires, SBO to use information collected to submit bulk challenges to the national broadband map.
- Removes the requirement for covered entities to submit data concerning broadband deployment to SBO.
- Authorizes SBO, subject to appropriations, to develop and maintain an independent state broadband map indicating the addresses of serviceable locations and capability of broadband service in Washington.
- Removes SBO authority to consult other state agencies and incorporate other data sources into the state broadband map.
- Specifies expenditures in the Statewide Broadband Account may also be used to improve accuracy of the national broadband map and submit challenges to the federal map.
- Provides an effective date of January 1, 2024, for the section amending PWB's competitive grant and loan program.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: Available, accessible, and affordable broadband is necessary for today's modern society. The state needs accurate mapping data to qualify for as much federal funding as possible. We need to more accurately identify broadband services provided across the state to reduce overbuild, ensure funds are being spent in the areas that it would have the greatest impact, and improve services provided to consumers. Contracting for investigations is important because information identifying deficiencies in reporting can lead to bulk challenges to the FCC mapping data. FCC mapping data has historically lacked accuracy and often overstated the availability of broadband—the accuracy of this data can have implications on what funds are awarded.

Persons Testifying (Environment, Energy & Technology): PRO: Representative Cindy Ryu, Prime Sponsor; Mark Vasconi, WA State Broadband Office; Scott Richards, Washington Public Utility Districts Association.

Persons Signed In To Testify But Not Testifying (Environment, Energy &

Technology): No one.

Staff Summary of Public Testimony on Bill as Amended by Environment, Energy & Technology (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We have advocated for high-speed broadband for all. This bill can help accomplish this. It is extremely important to make sure that everyone has access to broadband. Having an accurate FCC broadband map is critical to getting people access to broadband. The map provides incentives to ensure agencies required to submit accurate FCC data do just that. We have some amendments to perfect this bill. The FCC map, defines the amount of funding the state gets and helps show which areas need funding.

Persons Testifying (Ways & Means): PRO: Carissa Hahn, CWA/WashTech; Mark Vasconi, WA State Broadband Office; Chris Herman, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.