

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1701

61st Legislature
2009 Regular Session

Passed by the House April 25, 2009
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 16, 2009
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1701** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1701

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By House Ways & Means (originally sponsored by Representatives Hudgins, McCoy, and Hasegawa)

READ FIRST TIME 03/03/09.

1 AN ACT Relating to authorizing the department of information
2 services to engage in high-speed internet activities; amending RCW
3 28B.32.010, 43.105.020, and 28B.32.030; adding new sections to chapter
4 43.105 RCW; creating new sections; recodifying RCW 28B.32.010,
5 28B.32.030, 28B.32.900, and 28B.32.901; repealing RCW 28B.32.020 and
6 43.105.350; providing an effective date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
9 deployment and adoption of high-speed internet services and technology
10 advancements enhance economic development and public safety for the
11 state's communities. Such deployment also offers improved health care,
12 access to consumer and legal services, increased educational and civic
13 participation opportunities, and a better quality of life for the
14 state's residents. The legislature further finds that improvements in
15 the deployment and adoption of high-speed internet services and the
16 strategic inclusion of technology advancements and technology education
17 are critical to ensuring that Washington remains competitive and
18 continues to provide a skilled workforce, attract businesses, and
19 stimulate job growth.

1 (2) The legislature intends to support strategic partnerships of
2 public, private, nonprofit, and community-based sectors in the
3 continued growth and development of high-speed internet services and
4 information technology. The legislature further intends to ensure that
5 all Washington citizens, businesses, schools, and organizations are
6 able to obtain and utilize broadband fully, regardless of location,
7 economic status, literacy level, age, disability, structure, or size.
8 In addition, the legislature intends that a statewide assessment of the
9 availability, location, service levels, and other characteristics of
10 high-speed internet services and other advanced telecommunications
11 services in the state be conducted.

12 (3) In recognition of the importance of broadband deployment and
13 adoption to the economy, health, safety, and welfare of the people of
14 Washington, it is the purpose of this act to make high-speed internet
15 service more readily available throughout the state, especially in
16 areas and for populations with a low utilization rate.

17 NEW SECTION. **Sec. 2.** (1) The broadband mapping account is
18 established in the custody of the state treasurer. The department
19 shall deposit into the account such funds received from legislative
20 appropriation, federal grants authorized under the federal broadband
21 data improvement act, P.L. 110-385, Title I, and donated funds from
22 private and public sources. Expenditures from the account may be used
23 only for the purposes of sections 3 through 5 of this act. Only the
24 director of the department or the director's designee may authorize
25 expenditures from the account. The account is subject to the allotment
26 procedures under chapter 43.88 RCW, but an appropriation is not
27 required for expenditures.

28 (2) The department of information services is the single eligible
29 entity in the state for purposes of the federal broadband data
30 improvement act, P.L. 110-385, Title I.

31 (3) Funding received by the department under the federal broadband
32 data improvement act, P.L. 110-385, Title I, must be used in accordance
33 with the requirements of that act and, subject to those requirements,
34 may be distributed by the department on a competitive basis to other
35 entities in the state to achieve the purposes of that act.

36 (4) The department of information services shall consult with the
37 department of community, trade, and economic development or its

1 successor agency, the office of financial management, and the utilities
2 and transportation commission in coordinating broadband mapping
3 activities. In carrying out any broadband mapping activities, the
4 provisions of P.L. 110-385, Title I, regarding trade secrets,
5 commercial or financial information, and privileged or confidential
6 information submitted by the federal communications commission or a
7 broadband provider are deemed to encompass the consulted agencies.

8 NEW SECTION. **Sec. 3.** (1) Subject to the availability of federal
9 or state funding, the department may:

10 (a) Develop an interactive web site to allow residents to self-
11 report whether high-speed internet is available at their home or
12 residence and at what speed; and

13 (b) Conduct a detailed survey of all high-speed internet
14 infrastructure owned or leased by state agencies and creating a
15 geographic information system map of all high-speed internet
16 infrastructure owned or leased by the state.

17 (2) State agencies responding to a survey request from the
18 department under subsection (1)(b) of this section shall respond in a
19 reasonable and timely manner, not to exceed one hundred twenty days.
20 The department shall request of state agencies, at a minimum:

21 (a) The total bandwidth of high-speed internet infrastructure owned
22 or leased;

23 (b) The cost of maintaining that high-speed internet
24 infrastructure, if owned, or the price paid for the high-speed internet
25 infrastructure, if leased; and

26 (c) The leasing entity, if applicable.

27 (3) The department may adopt rules as necessary to carry out the
28 provisions of this section.

29 (4) For purposes of this section, "state agency" includes every
30 state office, department, division, bureau, board, commission, or other
31 state agency.

32 NEW SECTION. **Sec. 4.** (1) The department is authorized, through a
33 competitive bidding process, to procure on behalf of the state a
34 geographic information system map detailing high-speed internet
35 infrastructure, service availability, and adoption. This geographic
36 information system map may include adoption information, availability

1 information, type of high-speed internet deployment technology, and
2 available speed tiers for high-speed internet based on any publicly
3 available data.

4 (2) The department may procure this map either by:

5 (a) Contracting for and purchasing a completed map from a third
6 party; or

7 (b) Working directly with the federal communications commission to
8 accept publicly available data.

9 (3) The department shall establish an accountability and oversight
10 structure to ensure that there is transparency in the bidding and
11 contracting process and full financial and technical accountability for
12 any information or actions taken by a third-party contractor creating
13 this map.

14 (4) In contracting for purchase of the map in subsection (2)(a) of
15 this section, the department may take no action, nor impose any
16 condition on the third party, that causes any record submitted by a
17 public or private broadband service provider to the third party to meet
18 the standard of a public record as defined in RCW 42.56.010. This
19 prohibition does not apply to any records delivered to the department
20 by the third party as a component of the completed map. For the
21 purpose of RCW 42.56.010(2), the purchase by the department of a
22 completed map may not be deemed use or ownership by the department of
23 the underlying information used by the third party to complete the map.

24 (5) Data or information that is publicly available as of the
25 effective date of this section will not cease to be publicly available
26 due to any provision of this act.

27 NEW SECTION. **Sec. 5.** (1) The department, in coordination with the
28 department of community, trade, and economic development and the
29 utilities and transportation commission, and such advisors as the
30 department chooses, may prepare regular reports that identify the
31 following:

32 (a) The geographic areas of greatest priority for the deployment of
33 advanced telecommunications infrastructure in the state;

34 (b) A detailed explanation of how any amount of funding received
35 from the federal government for the purposes of broadband mapping,
36 deployment, and adoption will be or have been used; and

1 (c) A determination of how nonfederal sources may be utilized to
2 achieve the purposes of broadband mapping, deployment, and adoption
3 activities in the state.

4 (2) To the greatest extent possible, the initial report should be
5 based upon the information identified in the geographic system maps
6 developed under the requirements of this chapter.

7 (3) The initial report should be delivered to the appropriate
8 committees of the legislature as soon as feasible, but no later than
9 January 18, 2010.

10 (4) Future reports based upon the requirements of subsection (1) of
11 this section should be delivered to the appropriate committees of the
12 legislature by January 15th of each year.

13 **Sec. 6.** RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read
14 as follows:

15 The community technology opportunity program is created to support
16 the efforts of community technology programs throughout the state. The
17 community technology opportunity program must be administered by the
18 (~~Washington State University extension, in consultation with the~~)
19 department of information services. The (~~Washington State University~~
20 ~~extension~~) department may contract for services in order to carry out
21 the (~~extension's~~) department's obligations under this section.

22 (1) In implementing the community technology opportunity program
23 the administrator must, to the extent funds are appropriated for this
24 purpose:

25 (a) Provide organizational and capacity building support to
26 community technology programs throughout the state, and identify and
27 facilitate the availability of other public and private sources of
28 funds to enhance the purposes of the program and the work of community
29 technology programs. No more than fifteen percent of funds received by
30 the administrator for the program may be expended on these functions;

31 (b) Establish a competitive grant program and provide grants to
32 community technology programs to provide training and skill-building
33 opportunities; access to hardware and software; internet connectivity;
34 digital media literacy; assistance in the adoption of information and
35 communication technologies in low-income and underserved areas of the
36 state; and development of locally relevant content and delivery of
37 vital services through technology.

1 (2) Grant applicants must:

2 (a) Provide evidence that the applicant is a nonprofit entity or a
3 public entity that is working in partnership with a nonprofit entity;

4 (b) Define the geographic area or population to be served;

5 (c) Include in the application the results of a needs assessment
6 addressing, in the geographic area or among the population to be
7 served: The impact of inadequacies in technology access or knowledge,
8 barriers faced, and services needed;

9 (d) Explain in detail the strategy for addressing the needs
10 identified and an implementation plan including objectives, tasks, and
11 benchmarks for the applicant and the role that other organizations will
12 play in assisting the applicant's efforts;

13 (e) Provide evidence of matching funds and resources, which are
14 equivalent to at least one-quarter of the grant amount committed to the
15 applicant's strategy;

16 (f) Provide evidence that funds applied for, if received, will be
17 used to provide effective delivery of community technology services in
18 alignment with the goals of this program and to increase the
19 applicant's level of effort beyond the current level; and

20 (g) Comply with such other requirements as the administrator
21 establishes.

22 (3) The administrator may use no more than ten percent of funds
23 received for the community technology opportunity program to cover
24 administrative expenses.

25 (4) The administrator must establish expected program outcomes for
26 each grant recipient and must require grant recipients to provide an
27 annual accounting of program outcomes.

28 **Sec. 7.** RCW 43.105.020 and 2003 c 18 s 2 are each amended to read
29 as follows:

30 (~~As used in this chapter, unless the context indicates otherwise,~~
31 ~~the following definitions shall apply:~~) The definitions in this
32 section apply throughout this chapter unless the context clearly
33 required otherwise.

34 (1) "Department" means the department of information services;

35 (2) "Board" means the information services board;

36 (3) "Committee" means the state interoperability executive
37 committee;

1 (4) "Local governments" includes all municipal and quasi municipal
2 corporations and political subdivisions, and all agencies of such
3 corporations and subdivisions authorized to contract separately;

4 (5) "Director" means the director of the department;

5 (6) "Purchased services" means services provided by a vendor to
6 accomplish routine, continuing, and necessary functions. This term
7 includes, but is not limited to, services acquired for equipment
8 maintenance and repair, operation of a physical plant, security,
9 computer hardware and software installation and maintenance,
10 telecommunications installation and maintenance, data entry, keypunch
11 services, programming services, and computer time-sharing;

12 (7) "Backbone network" means the shared high-density portions of
13 the state's telecommunications transmission facilities. It includes
14 specially conditioned high-speed communications carrier lines,
15 multiplexors, switches associated with such communications lines, and
16 any equipment and software components necessary for management and
17 control of the backbone network;

18 (8) "Telecommunications" means the transmission of information by
19 wire, radio, optical cable, electromagnetic, or other means;

20 (9) "Information" includes, but is not limited to, data, text,
21 voice, and video;

22 (10) "Information processing" means the electronic capture,
23 collection, storage, manipulation, transmission, retrieval, and
24 presentation of information in the form of data, text, voice, or image
25 and includes telecommunications and office automation functions;

26 (11) "Information services" means data processing,
27 telecommunications, office automation, and computerized information
28 systems;

29 (12) "Equipment" means the machines, devices, and transmission
30 facilities used in information processing, such as computers, word
31 processors, terminals, telephones, wireless communications system
32 facilities, cables, and any physical facility necessary for the
33 operation of such equipment;

34 (13) "Information technology portfolio" or "portfolio" means a
35 strategic management process documenting relationships between agency
36 missions and information technology and telecommunications investments;

37 (14) "Oversight" means a process of comprehensive risk analysis and

1 management designed to ensure optimum use of information technology
2 resources and telecommunications;

3 (15) "Proprietary software" means that software offered for sale or
4 license;

5 (16) "Video telecommunications" means the electronic
6 interconnection of two or more sites for the purpose of transmitting
7 and/or receiving visual and associated audio information. Video
8 telecommunications shall not include existing public television
9 broadcast stations as currently designated by the department of
10 community, trade, and economic development under chapter 43.330 RCW;

11 (17) "K-20 educational network board" or "K-20 board" means the K-
12 20 educational network board created in RCW 43.105.800;

13 (18) "K-20 network technical steering committee" or "committee"
14 means the K-20 network technical steering committee created in RCW
15 43.105.810;

16 (19) "K-20 network" means the network established in RCW
17 43.105.820;

18 (20) "Educational sectors" means those institutions of higher
19 education, school districts, and educational service districts that use
20 the network for distance education, data transmission, and other uses
21 permitted by the K-20 board;

22 (21) "Administrator" means the community technology opportunity
23 program administrator designated by the department;

24 (22) "Community technology programs" means programs that are
25 engaged in diffusing information and communications technology in local
26 communities, particularly in unserved and underserved areas of the
27 state. These programs may include, but are not limited to, programs
28 that provide education and skill-building opportunities, hardware and
29 software, internet connectivity, digital media literacy, development of
30 locally relevant content, and delivery of vital services through
31 technology;

32 (23) "Broadband" means a high-speed, high capacity transmission
33 medium, using land-based, satellite, wireless, or any other mechanism,
34 that can carry either signals or transmit data, or both, over long
35 distances by using a wide range of frequencies;

36 (24) "Council" means the advisory council on digital inclusion
37 created in section 10 of this act;

38 (25) "High-speed internet" means broadband.

1 **Sec. 8.** RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read
2 as follows:

3 The Washington community technology opportunity account is
4 established in the state treasury. The governor or the governor's
5 designee and the director or the director's designee shall deposit into
6 the account federal grants to the state authorized under Division B,
7 Title VI of the American recovery and reinvestment act of 2009,
8 legislative appropriations, and donated funds from private and public
9 sources for purposes related to broadband deployment and adoption,
10 including matching funds required by the act. Donated funds from
11 private and public sources may be deposited into the account.
12 Expenditures from the account may be used only (~~for~~) as matching
13 funds for federal and other grants to fund the operation of the
14 community technology opportunity program (~~as provided in RCW~~
15 ~~28B.32.010~~) under this chapter and to fund other activities authorized
16 in this act. Only the (~~administrator~~) director or the
17 (~~administrator's~~) director's designee may authorize expenditures from
18 the account.

19 NEW SECTION. **Sec. 9.** (1) The governor may take all appropriate
20 steps to carry out the purposes of Division B, Title VI of the American
21 recovery and reinvestment act of 2009, P.L. 111-5, and maximize
22 investment in broadband deployment and adoption in the state of
23 Washington consistent with this act. Such steps may include the
24 designation of a broadband deployment and adoption coordinator; review
25 and prioritization of grant applications by public and private entities
26 as directed by the national telecommunications and information
27 administration, the rural utility services, and the federal
28 communications commission; disbursement of block grant funding; and
29 direction to state agencies to provide staffing as necessary to carry
30 out this section. The authority for overseeing broadband adoption and
31 deployment efforts on behalf of the state is vested in the department.

32 (2) The department may apply for federal funds and other grants or
33 donations, may deposit such funds in the Washington community
34 technology opportunity account created in RCW 28B.32.030 (as recodified
35 by this act), may oversee implementation of federally funded or
36 mandated broadband programs for the state and may adopt rules to

1 administer the programs. These programs may include but are not
2 limited to the following:

3 (a) Engaging in periodic statewide surveys of residents,
4 businesses, and nonprofit organizations concerning their use and
5 adoption of high-speed internet, computer, and related information
6 technology for the purpose of identifying barriers to adoption;

7 (b) Working with communities to identify barriers to the adoption
8 of broadband service and related information technology services by
9 individuals, nonprofit organizations, and businesses;

10 (c) Identifying broadband demand opportunities in communities by
11 working cooperatively with local organizations, government agencies,
12 and businesses;

13 (d) Creating, implementing, and administering programs to improve
14 computer ownership, technology literacy, digital media literacy, and
15 high-speed internet access for populations not currently served or
16 underserved in the state. This may include programs to provide low-
17 income families, community-based nonprofit organizations, nonprofit
18 entities, and public entities that work in partnership with nonprofit
19 entities to provide increased access to computers and broadband, with
20 reduced cost internet access;

21 (e) Administering the community technology opportunity program
22 under chapter 28B.32 RCW (as recodified by this act);

23 (f) Creating additional programs to spur the development of high-
24 speed internet resources in the state;

25 (g) Establishing technology literacy and digital inclusion programs
26 and establishing low-cost hardware, software, and internet purchasing
27 programs that may include allowing participation by community
28 technology programs in state purchasing programs; and

29 (h) Developing technology loan programs targeting small businesses
30 or businesses located in unserved and underserved areas.

31 NEW SECTION. **Sec. 10.** (1) Subject to the availability of federal
32 or state funding, the department may reconvene the high-speed internet
33 work group previously established by chapter 262, Laws of 2008. The
34 work group is renamed the advisory council on digital inclusion, and is
35 an advisory group to the department. The council must include, but is
36 not limited to, volunteer representatives from community technology
37 organizations, telecommunications providers, higher education

1 institutions, K-12 education institutions, public health institutions,
2 public housing entities, and local government and other governmental
3 entities that are engaged in community technology activities.

4 (2) The council shall prepare a report by January 15th of each year
5 and submit it to the department, the governor, and the appropriate
6 committees of the legislature. The report must contain:

7 (a) An analysis of how support from public and private sector
8 partnerships, the philanthropic community, and other not-for-profit
9 organizations in the community, along with strong relationships with
10 the state board for community and technical colleges, the higher
11 education coordinating board, and higher education institutions, could
12 establish a variety of high-speed internet access alternatives for
13 citizens;

14 (b) Proposed strategies for continued broadband deployment and
15 adoption efforts, as well as further development of advanced
16 telecommunications applications;

17 (c) Recommendations on methods for maximizing the state's research
18 and development capacity at universities and in the private sector for
19 developing advanced telecommunications applications and services, and
20 recommendations on incentives to stimulate the demand for and
21 development of these applications and services;

22 (d) An identification of barriers that hinder the advancement of
23 technology entrepreneurship in the state; and

24 (e) An evaluation of programs designed to advance digital literacy
25 and computer access that are made available by the federal government,
26 local agencies, telecommunications providers, and business and
27 charitable entities.

28 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
29 conflict with federal requirements that are a prescribed condition to
30 the allocation of federal funds to the state, the conflicting part of
31 this act is inoperative solely to the extent of the conflict and with
32 respect to the agencies directly affected, and this finding does not
33 affect the operation of the remainder of this act in its application to
34 the agencies concerned. Rules adopted under this act must meet federal
35 requirements that are a necessary condition to the receipt of federal
36 funds by the state.

1 NEW SECTION. **Sec. 12.** Sections 2 through 5, 9, and 10 of this act
2 are each added to chapter 43.105 RCW.

3 NEW SECTION. **Sec. 13.** RCW 28B.32.010, 28B.32.030, 28B.32.900, and
4 28B.32.901 are each recodified as sections in chapter 43.105 RCW.

5 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
6 each repealed:

- 7 (1) RCW 28B.32.020 (Definitions) and 2008 c 262 s 7; and
8 (2) RCW 43.105.350 (Request for information from providers--
9 Limitation) and 2008 c 262 s 3.

10 NEW SECTION. **Sec. 15.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 2009.

18 NEW SECTION. **Sec. 17.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2009, in the omnibus appropriations act, this act
21 is null and void.

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