
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5916

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Rockefeller, Kauffman, Pridemore, Keiser, Marr, Hatfield, Delvin, Honeyford, Schoesler, and Hewitt)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to broadband adoption and deployment; amending RCW
2 28B.32.010, 28B.32.020, 28B.32.030, and 43.105.350; adding new chapters
3 to Title 43 RCW; creating a new section; recodifying RCW 28B.32.010,
4 28B.32.020, 28B.32.030, 28B.32.900, and 28B.32.901; providing an
5 effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds and declares the
8 following:

9 (1) The deployment and adoption of high-speed internet services and
10 technology advancements enhance economic development and public safety
11 for the state's communities, and offers improved health care, access to
12 consumer and legal services, increased educational and civic
13 participation opportunities, and a better quality of life for the
14 state's residents.

15 (2) Improvements in the deployment and adoption of high-speed
16 internet services and the strategic inclusion of technology
17 advancements and technology education are critical to ensuring that
18 Washington remains competitive and continues to provide a skilled
19 workforce, attract businesses, and stimulate job growth.

1 (3) The state must encourage and 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 for state residents and businesses. This
5 includes ensuring digital inclusion in internet access, computer
6 literacy, and information content, so that all Washingtonians are able
7 to obtain and utilize broadband fully, regardless of location, economic
8 status, literacy level, age, disability, size of business, or business
9 entity structure.

10 (4) In light of the importance of broadband deployment and adoption
11 to the economy, health, safety, and welfare of the people of
12 Washington, it is essential that the legislature authorize a broadband
13 programs management structure and an advisory council capable of
14 developing and ensuring the implementation of statewide broadband
15 strategies.

16 **Sec. 2.** RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read
17 as follows:

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

25 (1) In implementing the community technology opportunity program
26 the administrator must, to the extent funds are appropriated for this
27 purpose:

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

34 (b) Establish a competitive grant program and provide grants to
35 community technology programs to provide training and skill-building
36 opportunities; access to hardware and software; internet connectivity;
37 assistance in the adoption of information and communication

1 technologies in low-income and underserved areas of the state; and
2 development of locally relevant content and delivery of vital services
3 through technology.

4 (2) Grant applicants must:

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

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

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

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

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

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

23 (g) Comply with such other requirements as the administrator
24 establishes.

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

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

31 **Sec. 3.** RCW 28B.32.020 and 2008 c 262 s 7 are each amended to read
32 as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Administrator" means the community technology opportunity
36 program administrator designated by the (~~Washington State University~~
37 ~~extension~~) department.

1 (2) "Community technology programs" means (~~(a program, including a~~
2 ~~digital inclusion program, engaged in diffusing information and~~
3 ~~communications technology in local communities, particularly in~~
4 ~~underserved areas. These programs may include, but are not limited to,~~
5 ~~programs that provide education and skill-building opportunities,~~
6 ~~hardware and software, internet connectivity, and development of~~
7 ~~locally relevant content and delivery of vital services through~~
8 ~~technology~~)) programs that are engaged in diffusing information and
9 communications technology in local communities, particularly in
10 unserved and underserved areas of the state. These programs may
11 include, but are not limited to, programs that provide education and
12 skill-building opportunities, hardware and software, internet
13 connectivity, development of locally relevant content, and delivery of
14 vital services through technology. Community technology programs are
15 usually provided by nonprofit or public agencies in public community
16 settings, including youth and community centers, small business and
17 workforce training centers, mutual assistance associations and
18 settlement houses, low-income housing units, libraries, or schools
19 opened for community programs.

20 (3) "Department" means the department of information services.

21 **Sec. 4.** RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read
22 as follows:

23 The Washington community technology opportunity account is
24 established in the state treasury. Donated funds from private and
25 public sources may be deposited into the account. Expenditures from
26 the account may be used only for the operation of the community
27 technology opportunity program as provided in RCW 28B.32.010 (as
28 recodified by this act). Only the administrator or the administrator's
29 designee may authorize expenditures from the account.

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

32 (1) "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 with a minimum download

1 speed greater than or equal to seven hundred sixty-eight kilobits per
2 second and an upload speed greater than two hundred kilobits per
3 second.

4 (2) "Council" means the advisory council on digital inclusion
5 created in section 7 of this act.

6 (3) "Department" means the department of information services.

7 (4) "High-speed internet" means broadband.

8 (5) "Underserved areas" means: (a) Areas in which high-speed
9 internet download speeds are less than seven hundred sixty-eight
10 kilobits per second and upload speeds are less than two hundred
11 kilobits per second; (b) any census tract that is located in a
12 federally designated empowerment zone, enterprise community, renewal
13 community, or low-income community; (c) an area with a significant
14 population of economically disadvantaged residents; or (d) an area in
15 which a significant population of the residents are not able to adopt
16 broadband because of disability, affordability of computers or
17 software, or a lack of technological literacy.

18 NEW SECTION. **Sec. 6.** (1) The authority for overseeing broadband
19 adoption and deployment efforts in the state is vested in the
20 department of information services.

21 (a) The department is the single eligible entity in the state to
22 receive a grant under the federal broadband data improvement act, P.L.
23 110-385.

24 (b) Funding received by the department under the federal broadband
25 data improvement act, P.L. 110-385, must be used in accordance with the
26 requirements of that act and, subject to those requirements, may be
27 distributed by the department on a competitive basis to other entities
28 in the state to achieve the purposes of that act.

29 (2) The department may apply for and oversee implementation of
30 federally funded or mandated broadband programs and may adopt rules to
31 administer the programs. These programs may include but are not
32 limited to the following:

33 (a) Contracting for and purchasing a completed map of privately
34 controlled or owned broadband infrastructure. The map may include, but
35 is not limited to, adoption information, availability information,
36 types of technology used, the physical location of broadband
37 infrastructure, and available speed tiers for high-speed internet;

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

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

8 (d) Identifying broadband demand opportunities in communities by
9 working cooperatively with local organizations, government agencies,
10 and businesses;

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

18 (f) Administering the community technology opportunity program
19 under chapter 28B.32 RCW (as recodified by this act); and

20 (g) Creating additional programs to spur the development of high-
21 speed internet resources in the state, which may include, but is not
22 limited to:

23 (i) Applying for and receiving funding in the form of grants or
24 donations which may be deposited into the Washington community
25 technology opportunity account created in RCW 28B.32.030 (as recodified
26 by this act);

27 (ii) Establishing technology literacy and digital inclusion
28 programs and establishing low-cost hardware and software purchasing
29 programs;

30 (iii) Developing last-mile technology loan programs targeting small
31 businesses or businesses located in unserved and underserved areas; and

32 (iv) Including community technology organizations in state hardware
33 and software purchasing programs.

34 NEW SECTION. **Sec. 7.** (1) The department shall reconvene the high-
35 speed internet work group previously established by chapter 262, Laws
36 of 2008. The work group is renamed the advisory council on digital
37 inclusion, and is an advisory group to the department. The council

1 must include, but is not limited to, volunteer representatives from
2 community technology organizations, telecommunications providers,
3 higher education institutions, K-12 education institutions, public
4 health institutions, public housing entities, and governmental
5 entities that are engaged in community technology activities.

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

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

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

19 (c) Recommendations on methods for maximizing the state's research
20 and development capacity at universities and in the private sector for
21 developing advanced telecommunications applications;

22 (d) An identification of regulatory barriers that hinder the
23 advancement of technology entrepreneurship in the state and
24 recommendations on incentives to stimulate the demand for and
25 development of these applications and services; and

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

30 **Sec. 8.** RCW 43.105.350 and 2008 c 262 s 3 are each amended to read
31 as follows:

32 (1) For purposes of compliance with section 2, chapter 262, Laws of
33 2008 or any subsequent high-speed internet deployment and adoption
34 initiative, the department (~~(of information services)~~), the department
35 of community, trade, and economic development, the utilities and
36 transportation commission, and any other government agent or agency
37 (~~(shall not)~~) engaged in the high-speed internet mapping, deployment,

1 or adoption activities prescribed in this chapter may gather or request
2 any information related to high-speed internet infrastructure or
3 service from providers of telecommunications or high-speed internet
4 services that is classified by the provider as proprietary or
5 competitively sensitive, as long as the proprietary or competitively
6 sensitive components of such information is maintained in a
7 confidential manner solely by a nongovernmental third-party mapping
8 entity as described in this chapter and as long as the relevant
9 aggregated information is made available to the department or
10 government agent or agency.

11 (2) Nothing in this section may be construed as limiting the
12 authority of a state agency or local government to gather or request
13 information from providers of telecommunications or high-speed internet
14 services for other purposes pursuant to its statutory authority.

15 NEW SECTION. Sec. 9. If any part of this act is found to be in
16 conflict with federal requirements that are a prescribed condition to
17 the allocation of federal funds to the state, the conflicting part of
18 this act is inoperative solely to the extent of the conflict and with
19 respect to the agencies directly affected, and this finding does not
20 affect the operation of the remainder of this act in its application to
21 the agencies concerned. Rules adopted under this act must meet federal
22 requirements that are a necessary condition to the receipt of federal
23 funds by the state.

24 NEW SECTION. Sec. 10. Sections 1, 5, 6, 7, and 9 of this act
25 constitute a new chapter in Title 43 RCW.

26 NEW SECTION. Sec. 11. RCW 28B.32.010, 28B.32.020, 28B.32.030,
27 28B.32.900, and 28B.32.901 are each recodified as a new chapter in
28 Title 43 RCW.

29 NEW SECTION. Sec. 12. If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2009.

5 NEW SECTION. **Sec. 14.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2009, in the omnibus appropriations act, this act
8 is null and void.

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