
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.** The authority for overseeing broadband
19 adoption and deployment efforts in the state is vested in the
20 department of information services. The department may apply for and
21 oversee implementation of federally funded or mandated broadband
22 programs and may adopt rules to administer the programs. These
23 programs may include but are not limited to the following:

24 (1) Contracting for and purchasing a completed map of privately
25 controlled, leased, or owned broadband infrastructure. The map may
26 include, but is not limited to, adoption information, availability
27 information, types of technology used, the physical location of
28 broadband infrastructure, and available speed tiers for high-speed
29 internet;

30 (2) Tracking residential, nonprofit organization and business
31 adoption of computers, high-speed internet, and related information
32 technology;

33 (3) Working with communities to identify barriers to the adoption
34 of broadband service and related information technology services by
35 individuals, nonprofit organizations, and businesses;

36 (4) Identifying broadband demand opportunities in communities by

1 working cooperatively with local organizations, government agencies,
2 and businesses;

3 (5) Creating, implementing, and administering programs to improve
4 computer ownership, technology literacy, and high-speed internet access
5 for populations not currently served or underserved in the state. This
6 may include programs to provide low-income families, community-based
7 nonprofit organizations, nonprofit entities, and public entities that
8 work in partnership with nonprofit entities to provide increased access
9 to computers and broadband, with reduced cost internet access;

10 (6) Administering the community technology opportunity program
11 under chapter 28B.32 RCW (as recodified by this act); and

12 (7) Creating additional programs to spur the development of high-
13 speed internet resources in the state, which may include, but is not
14 limited to:

15 (a) Applying for and receiving funding in the form of grants or
16 donations which may be deposited into the Washington community
17 technology opportunity account created in RCW 28B.32.030 (as recodified
18 by this act);

19 (b) Establishing technology literacy and digital inclusion programs
20 and establishing low-cost hardware and software purchasing programs;

21 (c) Developing last-mile technology loan programs targeting small
22 businesses or businesses located in unserved and underserved areas; and

23 (d) Including community technology organizations in state hardware
24 and software purchasing programs.

25 NEW SECTION. **Sec. 7.** (1) The department shall reconvene the high-
26 speed internet work group previously established by chapter 262, Laws
27 of 2008. The work group is renamed the advisory council on digital
28 inclusion, and is an advisory group to the department. The council
29 must include, but is not limited to, volunteer representatives from
30 community technology organizations, telecommunications providers,
31 higher education institutions, K-12 education institutions, public
32 health institutions, public housing entities, and governmental
33 entities that are engaged in community technology activities.

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

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

8 (b) Proposed strategies for continued broadband deployment and
9 adoption efforts, as well as further development of advanced
10 telecommunications applications;

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

14 (d) An identification of regulatory barriers that hinder the
15 advancement of technology entrepreneurship in the state and
16 recommendations on incentives to stimulate the demand for and
17 development of these applications and services; and

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

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

24 (1) For purposes of compliance with section 2, chapter 262, Laws of
25 2008 or any subsequent high-speed internet deployment and adoption
26 initiative, the department (~~(of information services)~~), the department
27 of community, trade, and economic development, the utilities and
28 transportation commission, and any other government agent or agency
29 (~~(shall not)~~) engaged in the high-speed internet mapping, deployment,
30 or adoption activities prescribed in this chapter may gather or request
31 any information related to high-speed internet infrastructure or
32 service from providers of telecommunications or high-speed internet
33 services that is classified by the provider as proprietary or
34 competitively sensitive, as long as the proprietary or competitively
35 sensitive components of such information is maintained in a
36 confidential manner solely by a nongovernmental third-party mapping

1 entity as described in this chapter and as long as the relevant
2 aggregated information is made available to the department or
3 government agent or agency.

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

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

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

19 NEW SECTION. Sec. 11. RCW 28B.32.010, 28B.32.020, 28B.32.030,
20 28B.32.900, and 28B.32.901 are each recodified as a new chapter in
21 Title 43 RCW.

22 NEW SECTION. Sec. 12. If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

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

30 NEW SECTION. Sec. 14. If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2009, in the omnibus appropriations act, this act
2 is null and void.

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