

ESHB 1336 - S COMM AMD

By Committee on Environment, Energy & Technology

ADOPTED AND ENGROSSED 04/11/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 54.16.005 and 2000 c 81 s 2 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Broadband infrastructure" means networks of deployed
8 telecommunications equipment and technologies necessary to provide
9 high-speed internet access and other advanced telecommunications
10 services.

11 (2) "Commission" means the Washington utilities and
12 transportation commission.

13 ~~((2))~~ (3) "District commission" means the governing board of a
14 public utility district.

15 (4) "Retail telecommunications services" means the sale, lease,
16 license, or indivisible right of use of telecommunications services
17 or telecommunications facilities directly to end users.

18 (5) "Telecommunications" has the same meaning as ~~((that~~
19 ~~contained))~~ defined in RCW 80.04.010.

20 ~~((3))~~ (6) "Telecommunications facilities" means lines,
21 conduits, ducts, poles, wires, cables, crossarms, receivers,
22 transmitters, instruments, machines, appliances, instrumentalities
23 and all devices, real estate, easements, apparatus, property, and
24 routes used, operated, owned, or controlled by any entity to
25 facilitate the provision of telecommunications services.

26 ~~((4))~~ (7) "Wholesale telecommunications services" means the
27 provision of telecommunications services or telecommunications
28 facilities for resale ((by)) to an entity ((authorized to provide))
29 that provides retail telecommunications services ((to the general
30 public and internet service providers)).

1 **Sec. 2.** RCW 54.16.330 and 2019 c 365 s 9 are each amended to
2 read as follows:

3 (1) ~~((a))~~ A public utility district in existence on June 8,
4 2000, may construct, purchase, acquire, develop, finance, lease,
5 license, handle, provide, add to, contract for, interconnect, alter,
6 improve, repair, operate, and maintain any telecommunications
7 facilities within or without the district's limits for the following
8 purposes:

9 ~~((i))~~ (a) For the district's internal telecommunications needs;

10 ~~((ii) For the provision of wholesale telecommunications services~~
11 ~~within the district and by contract with another public utility~~
12 ~~district.~~

13 ~~(b) Except as provided in subsection (8) of this section, nothing~~
14 ~~in this section shall be construed to authorize public utility~~
15 ~~districts to provide telecommunications services to end users))~~ (b)
16 For the provision of wholesale telecommunications services as
17 follows:

18 (i) Within the district and by contract with another public
19 utility district;

20 (ii) Within an area in an adjoining county that is already
21 provided electrical services by the district; or

22 (iii) Within an adjoining county that does not have a public
23 utility district providing electrical or telecommunications services
24 headquartered within the county's boundaries, but only if the
25 district providing telecommunications services is not authorized to
26 provide electrical services; or

27 (c) For the provision of retail telecommunications services as
28 authorized in this section.

29 (2) A public utility district providing wholesale or retail
30 telecommunications services shall ensure that rates, terms, and
31 conditions for such services are not unduly or unreasonably
32 discriminatory or preferential. Rates, terms, and conditions are
33 discriminatory or preferential when a public utility district
34 offering rates, terms, and conditions to an entity for wholesale or
35 retail telecommunications services does not offer substantially
36 similar rates, terms, and conditions to all other entities seeking
37 substantially similar services.

38 (3) A public utility district providing wholesale or retail
39 telecommunications services shall not be required to, but may,
40 establish a separate utility system or function for such purpose. In

1 either case, a public utility district providing wholesale or retail
2 telecommunications services shall separately account for any revenues
3 and expenditures for those services according to standards
4 established by the state auditor pursuant to its authority in chapter
5 43.09 RCW and consistent with the provisions of this title. Any
6 revenues received from the provision of wholesale or retail
7 telecommunications services must be dedicated to costs incurred to
8 build and maintain any telecommunications facilities constructed,
9 installed, or acquired to provide such services, including payments
10 on debt issued to finance such services, until such time as any bonds
11 or other financing instruments executed after June 8, 2000, and used
12 to finance such telecommunications facilities are discharged or
13 retired.

14 (4) When a public utility district provides wholesale or retail
15 telecommunications services, all telecommunications services rendered
16 to the district for the district's internal telecommunications needs
17 shall be allocated or charged at its true and full value. A public
18 utility district may not charge its nontelecommunications operations
19 rates that are preferential or discriminatory compared to those it
20 charges entities purchasing wholesale or retail telecommunications
21 services.

22 (5) If a person or entity receiving retail telecommunications
23 services from a public utility district under this section has a
24 complaint regarding the reasonableness of the rates, terms,
25 conditions, or services provided, the person or entity may file a
26 complaint with the district commission.

27 (6) A public utility district shall not exercise powers of
28 eminent domain to acquire telecommunications facilities or
29 contractual rights held by any other person or entity to
30 telecommunications facilities.

31 (7) Except as otherwise specifically provided, a public utility
32 district may exercise any of the powers granted to it under this
33 title and other applicable laws in carrying out the powers authorized
34 under this section. Nothing in chapter 81, Laws of 2000 limits any
35 existing authority of a public utility district under this title.

36 ~~((8) (a) If an internet service provider operating on
37 telecommunications facilities of a public utility district that
38 provides wholesale telecommunications services but does not provide
39 retail telecommunications services, ceases to provide access to the
40 internet to its end-use customers, and no other retail service~~

1 providers are willing to provide service, the public utility district
2 may provide retail telecommunications services to the end-use
3 customers of the defunct internet service provider in order for end-
4 use customers to maintain access to the internet until a replacement
5 internet service provider is, or providers are, in operation.

6 (b) Within thirty days of an internet service provider ceasing to
7 provide access to the internet, the public utility district must
8 initiate a process to find a replacement internet service provider or
9 providers to resume providing access to the internet using
10 telecommunications facilities of a public utility district.

11 (c) For a maximum period of five months, following initiation of
12 the process begun in (b) of this section, or, if earlier than five
13 months, until a replacement internet service provider is, or
14 providers are, in operation, the district commission may establish a
15 rate for providing access to the internet and charge customers to
16 cover expenses necessary to provide access to the internet.

17 (9) The tax treatment of the retail telecommunications services
18 provided by a public utility district to the end-use customers during
19 the period specified in subsection (8) of this section must be the
20 same as if those retail telecommunications services were provided by
21 the defunct internet service provider.)

22 (8) A public utility district may provide retail
23 telecommunications services or telecommunications facilities within
24 the district's limits or without the district's limits by contract
25 with another public utility district, any political subdivision of
26 the state authorized to provide retail telecommunications services in
27 the state, or with any federally recognized tribe located in the
28 state of Washington.

29 NEW SECTION. Sec. 3. A new section is added to chapter 54.16
30 RCW to read as follows:

31 (1) Before providing retail telecommunications services, a public
32 utility district must report to its governing body and to the state
33 broadband office the following about the area to be served by the
34 public utility district:

35 (a) An assessment of the current availability of broadband
36 infrastructure and its adequacy to provide high-speed internet access
37 and other advanced telecommunications services to end users;

38 (b) The location of where retail telecommunications services will
39 be provided;

1 (c) Evidence relating to the unserved nature of the community in
2 which retail telecommunications services will be provided;

3 (d) Expected costs of providing retail telecommunications
4 services to customers to be served by the public utility district;

5 (e) Evidence that proposed telecommunications infrastructure will
6 be capable of scaling to greater download and upload speeds to meet
7 state broadband goals under RCW 43.330.536;

8 (f) Sources of funding for the project that will supplement any
9 grant or loan awards; and

10 (g) A strategic plan to maintain long-term operation of the
11 infrastructure, and the expected installation charges and monthly
12 costs for end users.

13 (2) The state broadband office must post a review of the proposed
14 project on their website.

15 (3) For the purposes of this section, "unserved" means an area of
16 Washington in which households and businesses lack access to
17 broadband service at a minimum 100 megabits per second download speed
18 and at a minimum 20 megabits per second upload speed.

19 **Sec. 4.** RCW 54.16.425 and 2018 c 186 s 3 are each amended to
20 read as follows:

21 (1) Property owned by a public utility district that is exempt
22 from property tax under RCW 84.36.010 is subject to an annual payment
23 in lieu of property taxes if the property consists of a broadband
24 (~~network~~) infrastructure used in providing retail (~~internet~~
25 ~~service~~) telecommunications services.

26 (2)(a) The amount of the payment must be determined jointly and
27 in good faith negotiation between the public utility district that
28 owns the property and the county or counties in which the property is
29 located.

30 (b) The amount agreed upon may not exceed the property tax amount
31 that would be owed on the property comprising the broadband
32 (~~network~~) infrastructure used in providing retail (~~internet~~
33 ~~service~~) telecommunications services as calculated by the department
34 of revenue. The public utility district must provide information
35 necessary for the department of revenue to make the required
36 valuation under this subsection. The department of revenue must
37 provide the amount of property tax that would be owed on the property
38 to the county or counties in which the broadband (~~network~~)
39 infrastructure is located on an annual basis.

1 (c) If the public utility district and a county cannot agree on
2 the amount of the payment in lieu of taxes, either party may invoke
3 binding arbitration by providing written notice to the other party.
4 In the event that the amount of payment in lieu of taxes is submitted
5 to binding arbitration, the arbitrators must consider the government
6 services available to the public utility district's broadband
7 (~~network~~) infrastructure used in providing retail (~~internet~~
8 ~~service~~) telecommunications services. The public utility district
9 and county must each select one arbitrator, the two of whom must pick
10 a third arbitrator. Costs of the arbitration, including compensation
11 for the arbitrators' services, must be borne equally by the parties
12 participating in the arbitration.

13 (3) By April 30th of each year, a public utility district must
14 remit the annual payment to the county treasurer of each county in
15 which the public utility district's broadband (~~network~~)
16 infrastructure used in providing retail (~~internet—service~~)
17 telecommunications services is located in a form and manner required
18 by the county treasurer.

19 (4) The county must distribute the amounts received under this
20 section to all property taxing districts, including the state, in
21 appropriate tax code areas in the same proportion as it would
22 distribute property taxes from taxable property.

23 (5) By December 1, 2019, and annually thereafter, the department
24 of revenue must submit a report to the appropriate legislative
25 committees detailing the amount of payments made under this section
26 and the amount of property tax that would be owed on the property
27 comprising the broadband (~~network~~) infrastructure used in providing
28 retail (~~internet—service~~) telecommunications services.

29 (~~(6) The definitions in RCW 54.16.420 apply to this section.~~)

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.27
31 RCW to read as follows:

32 (1) A town may construct, purchase, acquire, develop, finance,
33 lease, license, provide, contract for, interconnect, alter, improve,
34 repair, operate, and maintain telecommunications services or
35 telecommunications facilities for the purpose of furnishing the town
36 and its inhabitants with telecommunications services. The town has
37 full authority to regulate and control the use, distribution, and
38 price of the services.

1 (2) (a) Before providing telecommunications services pursuant to
2 subsection (1) of this section, a town must examine and report to its
3 governing body and to the state broadband office the following about
4 the area to be served by the town:

5 (i) An assessment of the current availability of broadband
6 infrastructure and its adequacy to provide high-speed internet access
7 and other advanced telecommunications services to end users;

8 (ii) The location of where retail telecommunications services
9 will be provided;

10 (iii) Evidence relating to the unserved nature of the community
11 in which retail telecommunications services will be provided;

12 (iv) Expected costs of providing retail telecommunications
13 services to customers to be served by the town;

14 (v) Evidence that proposed telecommunications infrastructure will
15 be capable of scaling to greater download and upload speeds to meet
16 state broadband goals under RCW 43.330.536;

17 (vi) Sources of funding for the project that will supplement any
18 grant or loan awards; and

19 (vii) A strategic plan to maintain long-term operation of the
20 infrastructure, and the expected installation charges and monthly
21 costs for end users.

22 (b) The state broadband office must post a review of the proposed
23 project on its website.

24 (3) For purposes of this section:

25 (a) "Telecommunications" has the same meaning as defined in RCW
26 80.04.010.

27 (b) "Unserved" means an area of Washington in which households
28 and businesses lack access to broadband service at a minimum 100
29 megabits per second download speed and at a minimum 20 megabits per
30 second upload speed.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.23
32 RCW to read as follows:

33 (1) A second-class city may construct, purchase, acquire,
34 develop, finance, lease, license, provide, contract for,
35 interconnect, alter, improve, repair, operate, and maintain
36 telecommunications services or telecommunications facilities for the
37 purpose of furnishing the second-class city and its inhabitants with
38 telecommunications services. The second-class city has full authority

1 to regulate and control the use, distribution, and price of the
2 services.

3 (2) (a) Before providing telecommunications services pursuant to
4 subsection (1) of this section, a second-class city must examine and
5 report to its governing body and to the state broadband office the
6 following about the area to be served by the second-class city:

7 (i) An assessment of the current availability of broadband
8 infrastructure and its adequacy to provide high-speed internet access
9 and other advanced telecommunications services to end users;

10 (ii) The location of where retail telecommunications services
11 will be provided;

12 (iii) Evidence relating to the unserved nature of the community
13 in which retail telecommunications services will be provided;

14 (iv) Expected costs of providing retail telecommunications
15 services to customers to be served by the second-class city;

16 (v) Evidence that proposed telecommunications infrastructure will
17 be capable of scaling to greater download and upload speeds to meet
18 state broadband goals under RCW 43.330.536;

19 (vi) Sources of funding for the project that will supplement any
20 grant or loan awards; and

21 (vii) A strategic plan to maintain long-term operation of the
22 infrastructure, and the expected installation charges and monthly
23 costs for end users.

24 (b) The state broadband office must post a review of the proposed
25 project on its website.

26 (3) For purposes of this section:

27 (a) "Telecommunications" has the same meaning as defined in RCW
28 80.04.010.

29 (b) "Unserved" means an area of Washington in which households
30 and businesses lack access to broadband service at a minimum 100
31 megabits per second download speed and at a minimum 20 megabits per
32 second upload speed.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.01
34 RCW to read as follows:

35 (1) A county may construct, purchase, acquire, develop, finance,
36 lease, license, provide, contract for, interconnect, alter, improve,
37 repair, operate, and maintain telecommunications services or
38 telecommunications facilities for the purpose of furnishing the
39 county and its inhabitants with telecommunications services. The

1 county has full authority to regulate and control the use,
2 distribution, and price of the services.

3 (2) (a) Before providing telecommunications services pursuant to
4 subsection (1) of this section, a county must examine and report to
5 its governing body and to the state broadband office the following
6 about the area to be served by the county:

7 (i) An assessment of the current availability of broadband
8 infrastructure and its adequacy to provide high-speed internet access
9 and other advanced telecommunications services to end users;

10 (ii) The location of where retail telecommunications services
11 will be provided;

12 (iii) Evidence relating to the unserved nature of the community
13 in which retail telecommunications services will be provided;

14 (iv) Expected costs of providing retail telecommunications
15 services to customers to be served by the county;

16 (v) Evidence that proposed telecommunications infrastructure will
17 be capable of scaling to greater download and upload speeds to meet
18 state broadband goals under RCW 43.330.536;

19 (vi) Sources of funding for the project that will supplement any
20 grant or loan awards; and

21 (vii) A strategic plan to maintain long-term operation of the
22 infrastructure, and the expected installation charges and monthly
23 costs for end users.

24 (b) The state broadband office must post a review of the proposed
25 project on its website.

26 (3) For purposes of this section:

27 (a) "Telecommunications" has the same meaning as defined in RCW
28 80.04.010.

29 (b) "Unserved" means an area of Washington in which households
30 and businesses lack access to broadband service at a minimum 100
31 megabits per second download speed and at a minimum 20 megabits per
32 second upload speed.

33 **Sec. 8.** RCW 53.08.005 and 2018 c 169 s 1 are each amended to
34 read as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

37 (1) "Commission" means the Washington utilities and
38 transportation commission.

1 (2) "Retail telecommunications services" means the sale, lease,
2 license, or indivisible right of use of telecommunications services
3 or telecommunications facilities directly to end users.

4 (3) "Telecommunications" has the same meaning as contained in RCW
5 80.04.010.

6 ~~((3))~~ (4) "Telecommunications facilities" means lines,
7 conduits, ducts, poles, wires, cables, crossarms, receivers,
8 transmitters, instruments, machines, appliances, instrumentalities
9 and all devices, real estate, easements, apparatus, property, and
10 routes used, operated, owned, or controlled by any entity to
11 facilitate the provision of telecommunications services.

12 ~~((4))~~ (5) "Wholesale telecommunications services" means the
13 provision of telecommunications services or telecommunications
14 facilities for resale ~~((by))~~ to an entity authorized to provide
15 telecommunications services ~~((to the general public and internet~~
16 ~~service providers))~~. Wholesale telecommunications services includes
17 the provision of unlit or dark optical fiber for resale, but not the
18 provision of lit optical fiber.

19 **Sec. 9.** RCW 53.08.370 and 2019 c 365 s 10 are each amended to
20 read as follows:

21 (1) A port district in existence on June 8, 2000, may construct,
22 purchase, acquire, develop, finance, lease, license, handle, provide,
23 add to, contract for, interconnect, alter, improve, repair, operate,
24 and maintain any telecommunications facilities within or without the
25 district's limits for the following purposes:

26 (a) For the district's own use; ~~((and))~~

27 (b) For the provision of wholesale telecommunications services
28 within or without the district's limits ~~((Nothing in this subsection~~
29 ~~shall be construed to authorize port districts to provide~~
30 ~~telecommunications services to end users))~~; or

31 (c) For the provision of retail telecommunications services as
32 authorized by this section.

33 (2) Except as provided in subsection ~~((9))~~ (8) of this section,
34 a port district providing wholesale or retail telecommunications
35 services under this section shall ensure that rates, terms, and
36 conditions for such services are not unduly or unreasonably
37 discriminatory or preferential. Rates, terms, and conditions are
38 discriminatory or preferential when a port district offering such
39 rates, terms, and conditions to an entity for wholesale or retail

1 telecommunications services does not offer substantially similar
2 rates, terms, and conditions to all other entities seeking
3 substantially similar services.

4 (3) When a port district establishes a separate utility function
5 for the provision of wholesale or retail telecommunications services,
6 it shall account for any and all revenues and expenditures related to
7 its wholesale or retail telecommunications facilities and services
8 separately from revenues and expenditures related to its internal
9 telecommunications operations. Any revenues received from the
10 provision of wholesale or retail telecommunications services must be
11 dedicated to the utility function that includes the provision of
12 wholesale or retail telecommunications services for costs incurred to
13 build and maintain the telecommunications facilities until such time
14 as any bonds or other financing instruments executed after June 8,
15 2000, and used to finance the telecommunications facilities are
16 discharged or retired.

17 (4) When a port district establishes a separate utility function
18 for the provision of wholesale or retail telecommunications services,
19 all telecommunications services rendered by the separate function to
20 the district for the district's internal telecommunications needs
21 shall be charged at its true and full value. A port district may not
22 charge its nontelecommunications operations rates that are
23 preferential or discriminatory compared to those it charges entities
24 purchasing wholesale or retail telecommunications services.

25 (5) A port district shall not exercise powers of eminent domain
26 to acquire telecommunications facilities or contractual rights held
27 by any other person or entity to telecommunications facilities.

28 (6) Except as otherwise specifically provided, a port district
29 may exercise any of the powers granted to it under this title and
30 other applicable laws in carrying out the powers authorized under
31 this section. Nothing in chapter 81, Laws of 2000 limits any existing
32 authority of a port district under this title.

33 (7) ~~((A port district that has not exercised the authorities
34 provided in this section prior to June 7, 2018, must develop a
35 business case plan before exercising the authorities provided in this
36 section. The port district must procure an independent qualified
37 consultant to review the business case plan, including the use of
38 public funds in the provision of wholesale telecommunications
39 services. Any recommendations or adjustments to the business case~~

1 ~~plan made during third-party review must be received and either~~
2 ~~rejected or accepted by the port commission in an open meeting.~~

3 ~~(8))~~) A port district with telecommunications facilities for use
4 in the provision of wholesale or retail telecommunications in
5 accordance with subsection (1) ~~((b))~~) of this section may be subject
6 to local leasehold excise taxes under RCW 82.29A.040.

7 ~~((9))~~) (8)(a) A port district under this section may select a
8 telecommunications company to operate all or a portion of the port
9 district's telecommunications facilities.

10 (b) For the purposes of this section "telecommunications company"
11 means any for-profit entity owned by investors that sells
12 telecommunications services to end users.

13 (c) Nothing in this subsection ~~((9))~~) (8) is intended to limit
14 or otherwise restrict any other authority provided by law.

15 (9) A port district may provide retail telecommunications
16 services within or without the district's limits.

17 NEW SECTION. Sec. 10. A new section is added to chapter 53.08
18 RCW to read as follows:

19 (1) Before providing retail telecommunications services, a port
20 district must report to its governing body and to the state broadband
21 office the following about the area to be served by the port
22 district:

23 (a) An assessment of the current availability of broadband
24 infrastructure and its adequacy to provide high-speed internet access
25 and other advanced telecommunications services to end users;

26 (b) The location of where retail telecommunications services will
27 be provided;

28 (c) Evidence relating to the unserved nature of the community in
29 which retail telecommunications services will be provided;

30 (d) Expected costs of providing retail telecommunications
31 services to customers to be served by the port district;

32 (e) Evidence that proposed telecommunications infrastructure will
33 be capable of scaling to greater download and upload speeds to meet
34 state broadband goals under RCW 43.330.536;

35 (f) Sources of funding for the project that will supplement any
36 grant or loan awards; and

37 (g) A strategic plan to maintain long-term operation of the
38 infrastructure, and the expected installation charges and monthly
39 costs for end users.

1 (2) The state broadband office must post a review of the proposed
2 project on their website.

3 (3) For the purposes of this section, "unserved" means an area of
4 Washington in which households and businesses lack access to
5 broadband service at a minimum 100 megabits per second download speed
6 and at a minimum 20 megabits per second upload speed.

7 **Sec. 11.** RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each
8 amended to read as follows:

9 (1) To qualify for financial assistance under this chapter the
10 board must determine that a local government meets all of the
11 following conditions:

12 (a) The city or county must be imposing a tax under chapter 82.46
13 RCW at a rate of at least one-quarter of one percent;

14 (b) The local government must have developed a capital facility
15 plan; and

16 (c) The local government must be using all local revenue sources
17 which are reasonably available for funding public works, taking into
18 consideration local employment and economic factors.

19 (2) Except where necessary to address a public health need or
20 substantial environmental degradation, or increase access to
21 broadband, a county, city, or town planning under RCW 36.70A.040 may
22 not receive financial assistance under this chapter unless it has
23 adopted a comprehensive plan, including a capital facilities plan
24 element, and development regulations as required by RCW 36.70A.040.
25 This subsection does not require any county, city, or town planning
26 under RCW 36.70A.040 to adopt a comprehensive plan or development
27 regulations before requesting or receiving financial assistance under
28 this chapter if such request is made before the expiration of the
29 time periods specified in RCW 36.70A.040. A county, city, or town
30 planning under RCW 36.70A.040 that has not adopted a comprehensive
31 plan and development regulations within the time periods specified in
32 RCW 36.70A.040 may apply for and receive financial assistance under
33 this chapter if the comprehensive plan and development regulations
34 are adopted as required by RCW 36.70A.040 before executing a
35 contractual agreement for financial assistance with the board.

36 (3) In considering awarding financial assistance for public
37 facilities to special districts requesting funding for a proposed
38 facility located in a county, city, or town planning under RCW
39 36.70A.040, the board must consider whether the county, city, or town

1 planning under RCW 36.70A.040 in whose planning jurisdiction the
2 proposed facility is located has adopted a comprehensive plan and
3 development regulations as required by RCW 36.70A.040.

4 (4) (a) The board must develop a process to prioritize
5 applications and funding of loans and grants for public works
6 projects submitted by local governments. The board must consider, at
7 a minimum and in any order, the following factors in prioritizing
8 projects:

9 (i) Whether the project is critical in nature and would affect
10 the health and safety of many people;

11 (ii) The extent to which the project leverages other funds;

12 (iii) The extent to which the project is ready to proceed to
13 construction;

14 (iv) Whether the project is located in an area of high
15 unemployment, compared to the average state unemployment;

16 (v) Whether the project promotes the sustainable use of resources
17 and environmental quality, as applicable;

18 (vi) Whether the project consolidates or regionalizes systems;

19 (vii) Whether the project encourages economic development through
20 mixed-use and mixed income development consistent with chapter 36.70A
21 RCW;

22 (viii) Whether the system is being well-managed in the present
23 and for long-term sustainability;

24 (ix) Achieving equitable distribution of funds by geography and
25 population;

26 (x) The extent to which the project meets the following state
27 policy objectives:

28 (A) Efficient use of state resources;

29 (B) Preservation and enhancement of health and safety;

30 (C) Abatement of pollution and protection of the environment;

31 (D) Creation of new, family-wage jobs, and avoidance of shifting
32 existing jobs from one Washington state community to another;

33 (E) Fostering economic development consistent with chapter 36.70A
34 RCW;

35 (F) Efficiency in delivery of goods and services and
36 transportation; and

37 (G) Reduction of the overall cost of public infrastructure;

38 (xi) Whether the applicant sought or is seeking funding for the
39 project from other sources; and

1 (xii) Other criteria that the board considers necessary to
2 achieve the purposes of this chapter.

3 (b) Before September 1, 2018, and each year thereafter, the board
4 must develop and submit a report regarding the construction loans and
5 grants to the office of financial management and appropriate fiscal
6 committees of the senate and house of representatives. The report
7 must include:

8 (i) The total number of applications and amount of funding
9 requested for public works projects;

10 (ii) A list and description of projects approved in the preceding
11 fiscal year with project scores against the board's prioritization
12 criteria;

13 (iii) The total amount of loan and grants disbursements made from
14 the public works assistance account in the preceding fiscal year;

15 (iv) The total amount of loan repayments in the preceding fiscal
16 year for outstanding loans from the public works assistance account;

17 (v) The total amount of loan repayments due for outstanding loans
18 for each fiscal year over the following ten-year period; and

19 (vi) The total amount of funds obligated and timing of when the
20 funds were obligated in the preceding fiscal year.

21 (c) The maximum amount of funding that the board may provide for
22 any jurisdiction is ten million dollars per biennium.

23 (5) Existing debt or financial obligations of local governments
24 may not be refinanced under this chapter. Each local government
25 applicant must provide documentation of attempts to secure additional
26 local or other sources of funding for each public works project for
27 which financial assistance is sought under this chapter.

28 (6) Before September 1st of each year, the board must develop and
29 submit to the appropriate fiscal committees of the senate and house
30 of representatives a description of the loans and grants made under
31 RCW 43.155.065 and 43.155.068.

32 (7) The board may not sign contracts or otherwise financially
33 obligate funds from the public works assistance account before the
34 legislature has appropriated funds to the board for the purpose of
35 funding public works projects under this chapter.

36 (8) To qualify for loans, grants, or pledges for solid waste or
37 recycling facilities under this chapter, a city or county must
38 demonstrate that the solid waste or recycling facility is consistent
39 with and necessary to implement the comprehensive solid waste

1 management plan adopted by the city or county under chapter ((70.95))
2 70A.205 RCW.

3 (9) After January 1, 2010, any project designed to address the
4 effects of stormwater or wastewater on Puget Sound may be funded
5 under this section only if the project is not in conflict with the
6 action agenda developed by the Puget Sound partnership under RCW
7 90.71.310.

8 (10) For projects involving repair, replacement, or improvement
9 of a wastewater treatment plant or other public works facility for
10 which an investment grade efficiency audit is reasonably obtainable,
11 the public works board must require as a contract condition that the
12 project sponsor undertake an investment grade efficiency audit. The
13 project sponsor may finance the costs of the audit as part of its
14 public works assistance account program loan or grant.

15 (11) The board must implement policies and procedures designed to
16 maximize local government consideration of other funds to finance
17 local infrastructure.

18 (12) The relevant sections of the Washington Administrative Code
19 must be amended by January 1, 2022, in accordance with the provisions
20 of this section.

21 NEW SECTION. Sec. 12. This act may be known and cited as the
22 public broadband act.

23 NEW SECTION. Sec. 13. RCW 54.16.420 (Retail internet service—
24 Definitions—Authority—Requirements) and 2018 c 186 s 1 are each
25 repealed."

ESHB 1336 - S COMM AMD

By Committee on Environment, Energy & Technology

ADOPTED 04/11/2021

26 On page 1, line 3 of the title, after "users;" strike the
27 remainder of the title and insert "amending RCW 54.16.005, 54.16.330,
28 54.16.425, 53.08.005, 53.08.370, and 43.155.070; adding a new section
29 to chapter 54.16 RCW; adding a new section to chapter 35.27 RCW;
30 adding a new section to chapter 35.23 RCW; adding a new section to

1 chapter 36.01 RCW; adding a new section to chapter 53.08 RCW;
2 creating a new section; and repealing RCW 54.16.420."

--- **END** ---