

SSB 5439 - S AMD 147
By Senator Saldaña

ADOPTED 02/26/2021

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

4 (a) Increasing broadband access to unserved areas of the state
5 provides a public benefit to the citizens of Washington by allowing
6 full participation in society and the modern economy, and enabling
7 access to health care, education, and essential services, including
8 public safety;

9 (b) Achieving affordable and quality broadband access for all
10 Washingtonians will require sustained investment, research, local and
11 community participation, and partnerships between private, public,
12 and nonprofit entities;

13 (c) Providing for additional coordination across sectors to
14 increase broadband access in unserved areas is in the best interest
15 of the state; and

16 (d) Expanding broadband access, especially broadband conduit
17 along roadways, provides commensurate benefits to the transportation
18 system and motor vehicle users in terms of reducing congestion by
19 allowing for more telework, and laying the foundation for a
20 transportation system increasingly more reliant on autonomous
21 vehicles.

22 (2) Therefore, the legislature intends to expand broadband access
23 to unserved areas throughout the state by increasing broadband
24 infrastructure coordination opportunities, including collaboration
25 between the statewide broadband office and the department of
26 transportation, proactively facilitating installation of
27 infrastructure during state road construction projects and studying
28 recommendations related to the department of transportation's role in
29 broadband service expansion efforts.

30 **Sec. 2.** RCW 43.330.532 and 2019 c 365 s 3 are each amended to
31 read as follows:

1 (1) The governor's statewide broadband office is established. The
2 director of the office must be appointed by the governor. The office
3 may employ staff necessary to carry out the office's duties as
4 prescribed by chapter 365, Laws of 2019, subject to the availability
5 of amounts appropriated for this specific purpose.

6 (2) The purpose of the office is to encourage, foster, develop,
7 and improve affordable, quality broadband within the state in order
8 to:

9 (a) Drive job creation, promote innovation, improve economic
10 vitality, and expand markets for Washington businesses;

11 (b) Serve the ongoing and growing needs of Washington's education
12 systems, health care systems, public safety systems, transportation
13 systems, industries and business, governmental operations, and
14 citizens; and

15 (c) Improve broadband accessibility for unserved communities and
16 populations.

17 **Sec. 3.** RCW 43.330.534 and 2019 c 365 s 4 are each amended to
18 read as follows:

19 (1) The office has the power and duty to:

20 (a) Serve as the central broadband planning body for the state of
21 Washington;

22 (b) Coordinate with local governments, tribes, public and private
23 entities, nonprofit organizations, and consumer-owned and investor-
24 owned utilities to develop strategies and plans promoting deployment
25 of broadband infrastructure and greater broadband access, while
26 protecting proprietary information;

27 (c) Review existing broadband initiatives, policies, and public
28 and private investments;

29 (d) Develop, recommend, and implement a statewide plan to
30 encourage cost-effective broadband access and to make recommendations
31 for increased usage, particularly in rural and other unserved areas;

32 (e) Update the state's broadband goals and definitions for
33 broadband service in unserved areas as technology advances, except
34 that the state's definition for broadband service may not be actual
35 speeds less than twenty-five megabits per second download and three
36 megabits per second upload; and

37 (f) Encourage public-private partnerships to increase deployment
38 and adoption of broadband services and applications.

1 (2) When developing plans or strategies for broadband deployment,
2 the office must consider:

3 (a) Partnerships between communities, tribes, nonprofit
4 organizations, local governments, consumer-owned and investor-owned
5 utilities, and public and private entities;

6 (b) Funding opportunities that provide for the coordination of
7 public, private, state, and federal funds for the purposes of making
8 broadband infrastructure or broadband services available to rural and
9 unserved areas of the state;

10 (c) Barriers to the deployment, adoption, and utilization of
11 broadband service, including affordability of service and project
12 coordination logistics; and

13 (d) Requiring minimum broadband service of twenty-five megabits
14 per second download and three megabits per second upload speed, that
15 is scalable to faster service.

16 (3) The office may assist applicants for the grant and loan
17 program created in RCW 43.155.160 with seeking federal funding or
18 matching grants and other grant opportunities for deploying broadband
19 services.

20 (4) The office may take all appropriate steps to seek and apply
21 for federal funds for which the office is eligible, and other grants,
22 and accept donations, and must deposit these funds in the statewide
23 broadband account created in RCW 43.155.165.

24 (5) In carrying out its purpose, the office may collaborate with
25 the utilities and transportation commission, the office of the chief
26 information officer, the department of commerce, the community
27 economic revitalization board, the department of transportation, the
28 public works board, the state librarian, and all other relevant state
29 agencies.

30 **Sec. 4.** RCW 43.330.538 and 2019 c 365 s 6 are each amended to
31 read as follows:

32 (1) Beginning January 1, 2021, and biennially thereafter, the
33 office shall report to the legislative committees with jurisdiction
34 over broadband policy and finance on the office's activities during
35 the previous two years.

36 (2) The report must, at a minimum, contain:

37 (a) An analysis of the current availability and use of broadband,
38 including average broadband speeds, within the state;

1 (b) Information gathered from schools, libraries, hospitals, and
2 public safety facilities across the state, determining the actual
3 speed and capacity of broadband currently in use and the need, if
4 any, for increases in speed and capacity to meet current or
5 anticipated needs;

6 (c) An overview of incumbent broadband infrastructure within the
7 state;

8 (d) A summary of the office's activities in coordinating
9 broadband infrastructure development with the department of
10 transportation and the public works board, including a summary of
11 funds awarded under RCW 43.155.160;

12 (e) Suggested policies, incentives, and legislation designed to
13 accelerate the achievement of the goals under RCW 43.330.536; and

14 (f) Any proposed legislative and policy initiatives.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 47.44
16 RCW to read as follows:

17 (1) The department is directed to adopt and maintain an agency
18 policy that requires the department to proactively provide broadband
19 facility owners with information about planned state highway projects
20 to enable collaboration between broadband facility owners and the
21 department to identify opportunities for the installation of
22 broadband facilities during the appropriate phase of these projects
23 when such opportunities exist.

24 (2) If no owners are ready or able to participate in coordination
25 of the installation of broadband infrastructure concurrently with
26 state highway projects, the department may enlist its contractors to
27 install broadband conduit as part of road construction projects in
28 order to directly benefit the transportation system and motor vehicle
29 users by:

30 (a) Reducing future traffic impacts to the traveling public on
31 the roadway;

32 (b) Supporting the vehicle miles traveled reduction and
33 congestion management goals of the state by allowing for more
34 telework; or

35 (c) Proactively preparing the transportation system for the
36 widespread development and use of autonomous vehicles.

37 (3) Broadband facility owners must first obtain a franchise
38 granted by the department pursuant to RCW 47.44.010 and 47.44.020
39 before installing broadband facilities within the department's

1 conduit. The costs for installation and maintenance of such broadband
2 facilities shall be the responsibility of the broadband facility
3 owner.

4 (4) As used in this section:

5 (a) "Broadband conduit" means a conduit used to support broadband
6 infrastructure, including fiber optic cables.

7 (b) "Broadband infrastructure" has the same meaning as in RCW
8 43.330.530.

9 **Sec. 6.** RCW 47.52.001 and 2004 c 131 s 1 are each amended to
10 read as follows:

11 (1) Unrestricted access to and from public highways has resulted
12 in congestion and peril for the traveler. It has caused undue slowing
13 of all traffic in many areas. The investment of the public in highway
14 facilities has been impaired and highway facilities costing vast sums
15 of money will have to be relocated and reconstructed.

16 (2) (~~Personal wireless service~~) Broadband, which includes a
17 range of high-speed transmission technologies, including fiber optic
18 lines and personal wireless service facilities, is a critical part of
19 the state's infrastructure. The rapid deployment of (~~personal~~
20 ~~wireless service~~) broadband facilities is critical to ensure public
21 safety, network access, quality of service, and rural economic
22 development.

23 (3) It is, therefore, the declared policy of this state to limit
24 access to the highway facilities of this state in the interest of
25 highway safety and for the preservation of the investment of the
26 public in such facilities, and to (~~assure~~) ensure that the use of
27 rights-of-way of limited access facilities accommodate the deployment
28 of (~~personal wireless service~~) broadband facilities consistent with
29 these interests. In furtherance of this policy, the department is
30 directed to adopt and maintain an agency policy that requires the
31 department to proactively provide broadband facility owners with
32 information about planned limited access highway projects to enable
33 collaboration between broadband facility owners and the department to
34 identify opportunities for the installation of broadband facilities
35 during the appropriate phase of these projects when such
36 opportunities exist. Coordination between the department and
37 broadband facilities under this section must comply with applicable
38 state and federal law including, but not limited to, chapter 47.44
39 RCW and RCW 47.04.045.

1 NEW SECTION. **Sec. 7.** (1) Subject to the availability of amounts
2 appropriated for this specific purpose in the omnibus transportation
3 appropriations act, the joint transportation committee shall oversee
4 a consultant study to recommend:

5 (a) An effective department of transportation strategy, and
6 specific state highway corridors, that could be used to address
7 missing fiber connections and inadequate broadband service in parts
8 of the state underserved by broadband facilities;

9 (b) The most promising planning and financing tools that could be
10 used by the department of transportation to provide the state with
11 greater ability to install conduit in anticipation of future
12 broadband fiber occupancy by others;

13 (c) Opportunities for mutually beneficial partnerships between
14 the department of transportation and broadband service providers that
15 could provide broadband services for transportation purposes such as
16 intelligent transportation systems, cooperative automated
17 transportation/autonomous vehicles, transportation demand management,
18 and highway maintenance activities; and

19 (d) Strategies for the mitigation of potential safety,
20 operations, and preservation impacts to transportation related to the
21 recommendations made in (a) through (c) of this subsection.

22 (2) The study must also include an examination of any state and
23 federal laws and regulations that could prevent or limit the
24 implementation of these recommendations, as well as recommendations
25 for modifications to the applicable state laws and regulations.

26 (3) The joint transportation committee shall consult with the
27 department of transportation, the Washington statewide broadband
28 office, and other state agencies and local jurisdictions, as
29 necessary, during development of the study's recommendations to
30 ensure the relevance and applicability of the recommendations to the
31 state.

32 **Sec. 8.** RCW 47.44.010 and 2001 c 201 s 5 are each amended to
33 read as follows:

34 (1) The department of transportation may grant franchises to
35 persons, associations, private or municipal corporations, the United
36 States government, or any agency thereof, to use any state highway
37 for the construction and maintenance of water pipes, flume, gas, oil
38 or coal pipes, telephone, telegraph (~~and~~), fiber optic, electric
39 light and power lines and conduits, trams or railways, and any

1 structures or facilities that are part of an urban public
2 transportation system owned or operated by a municipal corporation,
3 agency, or department of the state of Washington other than the
4 department of transportation, and any other such facilities. In order
5 to minimize the disruption to traffic and damage to the roadway, the
6 department is encouraged to develop a joint trenching policy with
7 other affected jurisdictions so that all permittees and franchisees
8 requiring access to ground under the roadway may do so at one time.

9 (2) All applications for the franchise must be made in writing
10 and subscribed by the applicant, and describe the state highway or
11 portion thereof over which franchise is desired and the nature of the
12 franchise. The application must also include the identification of
13 all jurisdictions affected by the franchise and the names of other
14 possible franchisees who should receive notice of the application for
15 a franchise.

16 (3) The department of transportation shall adopt rules providing
17 for a hearing or an opportunity for a hearing with reasonable public
18 notice thereof with respect to any franchise application involving
19 the construction and maintenance of utilities or other facilities
20 within the highway right-of-way which the department determines may
21 (a) during construction, significantly disrupt the flow of traffic or
22 use of driveways or other facilities within the right-of-way, or (b)
23 during or following construction, cause a significant and adverse
24 effect upon the surrounding environment."

SSB 5439 - S AMD **147**
By Senator Saldaña

ADOPTED 02/26/2021

25 On page 1, line 2 of the title, after "highways;" strike the
26 remainder of the title and insert "amending RCW 43.330.532,
27 43.330.534, 43.330.538, 47.52.001, and 47.44.010; adding a new
28 section to chapter 47.44 RCW; and creating new sections."

EFFECT: (1) Aligns direction across sections to WSDOT to develop
a policy to provide broadband owners information about planned
projects to identify opportunities for coordinated installation.

(2) Specifies that broadband owners must first obtain a franchise
from WSDOT before installing broadband within WSDOT's conduit, and
pay for installation and maintenance.

(3) Modifies the JTC study to look at all state highway corridors
instead of limited access highway corridors.

(4) Clarifies that fiber optic is eligible for WSDOT franchises to use state highway rights-of-way.

--- END ---