

SENATE BILL REPORT

SB 5439

As of February 15, 2021

Title: An act relating to facilitating the coordinated installation of broadband along state highways.

Brief Description: Facilitating the coordinated installation of broadband along state highways.

Sponsors: Senators Saldaña, Kuderer, Lovelett and Nguyen.

Brief History:

Committee Activity: Transportation: 2/15/21.

Brief Summary of Bill

- Directs the Statewide Broadband Office to create a registration system for broadband providers applying for permits so other transportation or broadband projects in the area can be notified for coordination purposes.
- Requires the Department of Transportation (WSDOT) to provide broadband providers 60 days notice before construction projects so installation opportunities can be coordinated, and if no opportunities can be identified, allows (WSDOT) to proactively install conduit.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Erica Bramlet (786-7321)

Background: Broadband. Broadband is any service providing advanced telecommunications capability and Internet access with certain transmission speeds. There are several transmission technologies, some of which require installing fiber optic technology in conduits, which are often located in public rights-of-way similar to other utility infrastructure.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

In 2019, the Statewide Broadband Office (SBO) was established within the Department of Commerce (Commerce) with a goal of improving affordable, quality broadband within the state. SBO powers and duties include:

- serving as the central broadband planning body for the state;
- coordinating with relevant parties to develop strategies and plans for deployment of broadband infrastructure;
- reviewing existing broadband initiatives;
- developing and implementing a statewide plan to encourage cost-effective broadband access and increased usage; and
- encouraging public-private partnerships to increase deployment and adoption of broadband services and applications.

Highways and Utilities. The Department of Transportation (WSDOT) issues utility permits and franchises on highway rights-of-way for water, gas, electricity, telephone, and telecommunications at no cost except for recovery of staff labor costs. Personal wireless service facilities are exempt from the permit and franchise process, but are required to pay fair market value for the lease costs.

If a service provider is granted a permit, franchise, or lease by WSDOT and installs infrastructure in the rights-of-way, whether it be underground, at-grade, above grade, or some combination thereof, it is required to follow WSDOT standards for any trenching, pavement restoration, or traffic control. Service providers are also required to construct and maintain their facilities at their own expense, including relocation if a future WSDOT project requires it.

In 2018, the U.S. Secretary of Transportation was directed to issue a regulation—for which rulemaking is still in progress—requiring each state receiving federal-aid highway funds to meet the following requirements:

- identify a broadband utility coordinator to facilitate broadband infrastructure rights-of-way efforts within the state;
- register broadband infrastructure entities that seek to be included in those facilitation efforts;
- establish an electronic process to annually notify broadband infrastructure entities of the state transportation improvement program; and
- coordinate statewide and local telecommunications and land use plans, including strategies to minimize repeated excavations involving the installation of broadband infrastructure in a right-of-way.

Summary of Bill: The SBO, in consultation with local governments and the Washington Utilities and Transportation Commission, is directed to create a registration system for broadband providers applying to install broadband infrastructure that provides automatic notice to WSDOT and other broadband service providers applying for permits in the same area so coordination opportunities can be identified. Locations where broadband infrastructure has been deployed during the previous five years, and where it is planned to

be deployed, is added to the list of information to be included in regular reports by Commerce.

The SBO is encouraged to collaborate with WSDOT and report biennially on this coordination as part of an existing reporting requirement. Addressing the growing needs of the transportation system is added as an expected outcome of the SBO's purpose in increasing access to broadband.

Prior to construction of any road project that breaks ground, WSDOT must provide at least a 60-day notice to service providers operating within the same county as the project so potential installation of personal wireless service facilities and broadband conduit can be coordinated. If a service provider responds within 30 days, WSDOT may schedule a consultation, but is not obligated to provide installation. If notice is given and no providers are ready or able to coordinate, WSDOT may enlist its contractors to install conduit as part of a project to minimize future traffic impacts, support vehicle miles traveled and congestion reduction goals by supporting more telework, and preparing the transportation system for widespread use of autonomous vehicles. WSDOT may allow nonprofit service providers to install broadband infrastructure in rural or unserved areas at no charge if there is quantifiable benefit to the transportation system and motor vehicle users.

Broadband facilities are added to an existing lease process and franchise exemption for construction and maintenance of personal wireless service facilities. Broadband infrastructure is identified as a critical part of the state's infrastructure, and is thus added as one of the reasons for allowing access to limited-access highway rights-of-way.

Appropriation: None.

Fiscal Note: Requested on February 9, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Highways are not only there to move goods and people, but also to move ideas and to make sure everyone has access to economic success regardless of geographic location. This bill has become especially important with everyone working from home and supporting students doing remote learning. Installing broadband infrastructure while WSDOT is doing other projects would be more efficient and would also help rural areas by giving farmers access to new markets and impacting crucial roads less by only digging once. Internet service providers invest \$2.5 billion every year in Washington, and this bill would help them stretch their dollars in order to ensure every citizen has access to fast, reliable Internet. This bill will support the future of autonomous and connected vehicles, improving safety and enhancing livability for all Washington residents.

OTHER: This bill would strengthen the state's role in broadband deployment and establish a clear legislative view that broadband serves a highway purpose in managing transportation demand and enabling cooperative automated transportation systems. Recommendations related to unanticipated complications with sections 6 to 9 have been shared with the sponsor, but overall two important goals would be accomplished with this bill: increasing flexibility for installing broadband in highway rights-of-way and establishing a WSDOT dig once policy.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Reema Griffith, Washington State Transportation Commission; Mike Ennis, Association of Washington Business; Bre Elsey, Washington Farm Bureau; Joe Poire, Port of Whitman County.

OTHER: Ahmer Nizam, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying: No one.