Proposed Substitute House Bill 2313 (H-2770.1)

House Innovation, Community & Economic Development, and Veterans Committee

By Representative Ryu

Original Bill:

The bill expands the purpose and duties of the Statewide Broadband Office (SBO) regarding digital equity, including requiring the SBO to monitor implementation of the Digital Equity Plan. The bill also establishes that the Digital Equity Forum is not required to advise the SBO regarding certain digital equity grant programs. The bill makes changes to the purpose and application selection criteria of the Office of the Superintendent of Public Instruction's technology grant program.

Proposed Substitute House Bill (H-2770.1) compared to the Original Bill:

- Removes certain duties relating to digital equity from the Statewide Broadband Office (SBO);
- Transfers responsibility for the SBO's outreach efforts to hard-to-reach and low-income communities to the Washington State Office of Equity (Office of Equity);
- Requires the Office of Equity to develop and monitor implementation of the state Digital Equity Plan, building upon progress made by the SBO in developing a state Digital Equity Plan;
- Requires the Office of Equity to submit a report to the Governor and the Legislature by December 1, 2024, including an evaluation of existing digital equity initiatives, policies, and public and private investments;
- Requires the Office of Equity to make publicly available, on an ongoing basis, an overview of the progress made in promoting digital equity; and
- Requires the Department of Commerce to consult the Office of Equity in implementing the Digital Equity Planning Grant Program and the Digital Equity Opportunity Program.

Staff: Emily Poole
Date: January 21, 2024

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2770.1/24

ATTY/TYPIST: KS:jlb

BRIEF DESCRIPTION: Furthering digital equity and opportunity in Washington.

AN ACT Relating to furthering digital equity and opportunity in Washington; amending RCW 43.330.532, 43.330.534, 43.330.539, 43.330.5393, 43.330.5395, 43.330.412, 28A.650.065, and 43.060.010; reenacting and amending RCW 43.330.530; adding a new section to chapter 43.06D RCW; and recodifying RCW 43.330.539.

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

Sec. 1. RCW 43.330.530 and 2022 c 265 s 301 and 2022 c 237 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this section and RCW 43.330.532 through ((~~43.330.538,~~)) 43.330.5395 and 43.330.412((~~, 43.330.5393, and 43.330.5395~~)) unless the context clearly requires otherwise.

(1)(a) "Advanced telecommunications capability" means, without regard to any transmission media or technology, high-speed, switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology.

(b) "Advanced telecommunications capability" does not include access to a technology that delivers transmission speeds below the minimum download and upload speeds provided in the definition of broadband in this section.

(2) "Aging individual" means an individual 55 years of age or older.

(3) "Board" means the public works board established in RCW 43.155.030.

(4) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide 100 megabits per second download and 20 megabits per second upload.

(5) "Broadband adoption" means the process by which an individual obtains daily access and ability to use the internet:

(a) At a speed, quality, price, and capacity necessary for the individual to accomplish common tasks, such that the access qualifies as an advanced telecommunications capability;

(b) Providing individuals with the digital skills necessary to participate fully and safely online;

(c) On a device connected to the internet and other advanced telecommunications services via a secure and convenient network, with associated end-user broadband infrastructure equipment such as wifi mesh router or repeaters to enable the device to adequately use the internet network; and

(d) With technical support and digital navigation assistance to enable continuity of service and equipment use and utilization.

(6) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

(7) "Department" means the department of commerce.

(8) "Digital equity" means the condition in which individuals and communities in Washington have the information technology capacity that is needed for full participation in society, democracy, and the economy.

(9)(a) "Digital inclusion" means the activities that are necessary to ensure that all individuals in Washington have access to, and the use of, affordable information and communication technologies including, but not limited to:

(i) Reliable broadband internet service;

(ii) Internet-enabled devices that meet the needs of the user; and

(iii) Applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration.

(b) "Digital inclusion" also includes obtaining access to digital literacy training, the provision of quality technical support, and obtaining basic awareness of measures to ensure online privacy and cybersecurity.

(10) "Digital literacy" means the skills associated with using technology to enable users to use information and communications technologies to find, evaluate, organize, create, and communicate information.

(11) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

(12) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

(13) "Low-income" means households ((~~as defined by the department of social and health services, provided that the definition may not exceed the higher of 80 percent of area median household income or~~)) with a household income that does not exceed 200 percent of the federal poverty level or that does not exceed the self-sufficiency standard as determined by the University of Washington's self-sufficiency calculator.

(14) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

(15) "Office" means the governor's statewide broadband office established in RCW 43.330.532.

(16) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

(17) "Underserved population" means any of the following:

(a) Individuals who live in low-income households;

(b) Aging individuals;

(c) Incarcerated individuals;

(d) Veterans;

(e) Individuals with disabilities;

(f) Individuals with a language barrier, including individuals who are English learners or who have low levels of literacy;

(g) Individuals who are members of a racial or ethnic minority group;

(h) Individuals who primarily reside in a rural area;

(i) ((~~Children and youth~~)) Dependents in foster care; or

(j) Individuals experiencing housing instability.

(18) "Unserved areas" means areas of Washington in which households and businesses lack access to adequate, reliable, and affordable broadband service, as defined by the office.

Sec. 2. RCW 43.330.532 and 2022 c 265 s 302 are each amended to read as follows:

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

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

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

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

(c) Improve broadband accessibility and adoption for unserved and underserved communities and populations.

Sec. 3. RCW 43.330.534 and 2022 c 265 s 303 are each amended to read as follows:

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

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

(b) Coordinate with relevant state agencies, local governments, tribes, public and private entities, public housing agencies, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access and broadband adoption, while protecting proprietary information;

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

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

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than ((~~twenty-five~~)) 100 megabits per second download and ((~~three~~)) 20 megabits per second upload; and

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

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

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

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

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

(d) Requiring minimum broadband service of ((~~twenty-five~~)) 100 megabits per second download and ((~~three~~)) 20 megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan program created in RCW 43.155.160, the digital equity opportunity program created in RCW 43.330.412, and the digital equity planning grant program created in RCW 43.330.5393 with seeking federal funding or matching grants and other grant opportunities for deploying or increasing adoption of broadband services.

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

(5) ((~~The office shall coordinate an outreach effort to hard-to-reach communities and low-income communities across the state to provide information about broadband programs available to consumers of these communities. The outreach effort must include, but is not limited to, providing information to applicable communities about the~~

~~federal lifeline program and other low-income broadband benefit programs. The outreach effort must be reviewed by the office of equity annually. The office may contract with other public or private entities to conduct outreach to communities as provided under this subsection.~~

~~(6)~~)) In carrying out its purpose, the office ((~~may~~)) must collaborate with federally recognized tribes and all relevant state agencies including, but not limited to, the utilities and transportation commission, ((~~the office of the chief information officer,~~)) the department of commerce, the community economic revitalization board, the department of transportation, the public works board, the state librarian, ((~~and all other relevant state agencies~~)) the Washington state office of equity, the office of the superintendent of public instruction, and the consolidated technology services agency.

Sec. 4. RCW 43.330.539 and 2022 c 265 s 201 are each amended to read as follows:

(1) The office shall coordinate an outreach effort to hard-to-reach communities and low-income communities across the state to provide information about broadband and digital equity programs available to consumers of these communities and assist consumers in enrolling in these programs. The outreach effort must include, but is not limited to, providing information to applicable communities about the federal lifeline program and other low-income broadband benefit programs. The outreach effort must be reviewed by the office annually. The office may coordinate or contract with other public or private entities to conduct outreach to communities and assist consumers in program enrollment as provided under this subsection.

(2) The office, in consultation with the digital equity forum, the utilities and transportation commission, ((~~and~~)) the statewide broadband office, the department of social and health services, and other relevant state agencies, must develop and monitor implementation of a state digital equity plan.

(a) ((~~The office must seek any available federal funding for purposes of developing and implementing the state digital equity plan.~~)) The development of the state digital equity plan must build upon the progress made by the statewide broadband office in developing a state digital equity plan.

(b) The state digital equity plan must include such elements as the office determines are necessary to leverage federal funding.

((~~(2)~~)) (3) In developing the plan, the office must identify measurable objectives for documenting and promoting digital equity among underserved communities located in the state.

((~~(3)~~)) (4) By December 1, ((~~2023~~)) 2024, the office must submit a report to the governor and the appropriate committees of the legislature, including the following:

(a) The digital equity plan described in subsection ((~~(1)~~)) (2) of this section and measurable objectives described in subsection ((~~(2)~~)) (3) of this section;

(b) A description of how the office collaborated with the membership of the digital equity forum, state agencies, and key ((~~stakeholders~~)) partners to develop the plan including, but not limited to, the following:

(i) Community anchor institutions;

(ii) Local governments;

(iii) Local educational agencies;

(iv) Entities that carry out workforce development programs; and

(v) Broadband service providers;

(c) A description of federal funding available to advance digital equity in the state, including any available information on the extent to which state residents have enrolled in the affordable connectivity program through an approved provider; ((~~and~~))

(d) An evaluation of existing state digital equity initiatives, policies, and public and private investments, including a recommended model for future infrastructure and outreach investments; and

(e) Recommendations of additional state law or policy that can be targeted to help improve broadband adoption and affordability for state residents. This may include recommendations of ongoing subsidies that the state can provide to low-income individuals and community anchor institutions, as well as identification of revenue sources that other states or jurisdictions have developed to fund such subsidies or discounted rates.

((~~(4) For the purpose of this section, "office" means the statewide broadband office established in RCW 43.330.532.~~)) (5) The office must make publicly available, on an ongoing basis, an overview of the progress made in promoting digital equity among underserved communities located in the state, according to the measurable objectives identified in the digital equity plan. The overview must

include a description of the successes and remaining challenges of promoting digital equity among specific types of underserved populations, as defined in RCW 43.330.530.

Sec. 5. RCW 43.330.5393 and 2022 c 265 s 305 are each amended to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department shall establish a digital equity planning grant program.

(2)(a) This program must provide grants to local governments, institutions of higher education, workforce development councils, or other entities to fund the development of a digital equity plan for a discrete geographic region of the state. Only the director or the director's designee may authorize expenditures.

(b) Priority must be given for grant applications:

(i) Accompanied by express support from community or neighborhood-based nonprofit organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners and partners from the categories of institutions identified in RCW 43.330.421; and

(ii) That intend to use community-based participatory action research methods as a part of the proposed plan.

(3) An applicant must submit an application to the department in order to be eligible for funding under this section.

(4) ((~~The digital equity forum shall review grant applications and provide input to the department regarding the prioritization of applications in awarding grants among eligible applicants under the program.~~

~~(5)~~)) The department must:

(a) Pursuant to subsection (2)(b) of this section, evaluate and rank applications ((~~using~~)) in accordance with program guidelines, developed in consultation with the Washington state office of equity, that use objective criteria such as the number of underserved populations served and subjective criteria such as the degree of support and engagement evidenced by the community who will be served; and

(b) ((~~Consider the input provided by the forum, as provided in subsection (4) of this section, in awarding grants under the digital equity planning grant program; and~~

~~(c)~~)) Consider the extent to which the mix of grants awarded would increase in the number of prekindergarten through 12th grade students gaining access to greater levels of digital inclusion as a factor in awarding grants under the digital equity planning grant program.

((~~(6)~~)) (5) The department shall develop criteria for what the digital equity plans must include.

((~~(7)~~)) (6) The department may adopt rules to implement this section.

Sec. 6. RCW 43.330.5395 and 2022 c 265 s 306 are each amended to read as follows:

(1) The Washington digital equity forum is established for the purpose of developing recommendations to advance digital connectivity, broadband adoption, and digital equity in Washington state ((~~and advising the statewide broadband office on the digital equity opportunity program as provided under RCW 43.330.412 and the digital equity planning grant program as provided under RCW 43.330.5393~~)).

(2) In developing its recommendations to advance digital connectivity, broadband adoption, and digital equity, the forum must:

(a) Develop goals that are consistent with the goals of the governor's statewide broadband office, as provided in RCW 43.330.536;

(b) Strengthen public-private partnerships, cooperatives, and other partnerships that promote digital connectivity, broadband adoption, and digital equity;

(c) Solicit public input through public hearings or informational sessions;

(d) Work to increase collaboration and communication between local, state, and federal governments and agencies; and

(e) Recommend opportunities for sustainable digital equity funding, including reforms to current universal service mechanisms.

(3) The directors of the governor's statewide broadband office and the Washington state office of equity are responsible for appointing participating members of the digital equity forum and no appointment may be made unless each director concurs in the appointment. In making appointments, the directors must prioritize appointees representing:

(a) Federally recognized tribes;

(b) State and local agencies involved in digital equity; and

(c) Underserved and unserved communities, including historically disadvantaged communities.

(4) A majority of the ((~~participating~~)) members appointed by the directors ((~~must~~)) may appoint an administrative chair or cochairs for the forum.

(5) In addition to members appointed by the directors, four legislators may serve on the digital equity forum in an ex officio capacity. Legislative participants must be appointed as follows:

(a) The speaker of the house of representatives must appoint one member from each of the two largest caucuses of the house of representatives; and

(b) The president of the senate must appoint one member from each of the two largest caucuses of the senate.

(6)(a) Funds appropriated to the forum may be used to compensate, for any work done in connection with the forum, additional persons who have lived experience navigating barriers to digital connectivity and digital equity.

(b) Each member of the digital equity forum shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(7) Staff for the digital equity forum must be provided by the governor's statewide broadband office and the Washington state office of equity. The governor's statewide broadband office and the Washington state office of equity are jointly responsible for transmitting the recommendations of the digital equity forum to the legislature, consistent with RCW 43.01.036, by October 28, 2025, and every odd-numbered year thereafter.

Sec. 7. RCW 43.330.412 and 2022 c 265 s 304 are each amended to read as follows:

The digital equity opportunity program is created to advance broadband adoption and digital equity and inclusion throughout the state. The digital equity opportunity program must be administered by the department. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the digital equity opportunity program the director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to digital equity programs throughout the state and additional support for the purpose of:

(i) Evaluating the impact and efficacy of activities supported by grants awarded under the covered programs; and

(ii) Developing, cataloging, disseminating, and promoting the exchange of best practices, with respect to and independent of the covered programs, in order to achieve digital equity. After July 1, 2024, no more than 15 percent of funds received by the director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to ((~~community technology~~)) digital equity programs to advance digital equity and digital inclusion by providing:

(i) Training and skill-building opportunities;

(ii) Access to hardware and software, including online service costs such as application and software;

(iii) Internet connectivity;

(iv) Digital media literacy and cybersecurity training;

(v) Assistance in the adoption of information and communication technologies for low-income and underserved populations of the state;

(vi) Development of locally relevant content and delivery of vital services through technology; and

(vii) Technical support;

(c) Collaborate with the Washington state office of equity and broadband ((~~stakeholders~~)) partners, including broadband action teams across the state, in implementing the program as provided under this subsection; and

(d) For the purposes of this section, include wireless meshed network technology.

(2) Grant applicants must:

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

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

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

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

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

(f) Comply with such other requirements as the director establishes.

(3) ((~~The digital equity forum shall review grant applications and provide input to the director regarding the prioritization of applications in awarding grants among eligible applicants under the program.~~

~~(4)~~)) In awarding grants under the digital equity opportunity program created in this section, the director must:

(a) Consider the ((~~input provided by the digital equity forum, as provided in subsection (3) of this section, in awarding grants~~)) opportunity to leverage additional federal and private investment; and

(b) Consider the extent to which the mix of grants awarded would increase in the number of prekindergarten through 12th grade students gaining access to greater levels of digital inclusion as a factor ((~~in awarding grants~~)).

((~~(5)~~)) (4) The director may use no more than 10 percent of funds received for the digital equity opportunity program to cover administrative expenses.

((~~(6)~~)) (5) The director must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

Sec. 8. RCW 28A.650.065 and 2021 c 301 s 4 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall develop and administer a technology grant program, as described in this section, to advance the following objectives:

(a) Attain or maintain a universal 1:1 student to learning device ratio;

(b) Expand technical support and training of school and district staff in using technology to support student learning; and

(c) Develop district-based and school-based capacity to assist students and their families in accessing and using technology to support student learning.

(2) The following entities, individually or in cooperation, may apply to the office of the superintendent of public instruction for a grant under this section: A public school as defined in RCW 28A.150.010; a school district; an educational service district; the Washington center for deaf and hard of hearing youth; and the state school for the blind.

(3) At a minimum, grant applications must include:

(a) The applicant's technology plan for accomplishing the goals of the grant program, the applicant's student demographics, including the percent of students eligible for free and reduced-price meals, and any specialized technology needs of the applicant's students, such as students with disabilities and English learners who may need adaptive or assistive technologies; and

(b) A description of preexisting programs and funding sources used by the applicant to provide learning devices to students, staff, or both.

((~~(4) When ranking and selecting applicants, the office of the superintendent of public instruction must prioritize both of the following:~~

~~(a) Applicants without preexisting programs to provide a device for every student and that have 30 percent or more students eligible for free and reduced-price meals; and~~

~~(b) Applicants with students who have specialized technology needs.~~))

Sec. 9. RCW 43.06D.010 and 2020 c 332 s 2 are each amended to read as follows:

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

(1) "Agency" means every state executive office, agency, department, or commission.

(2) "Aging individual" has the meaning defined in RCW 43.330.530.

(3) "Broadband" or "broadband service" have the meanings defined in RCW 43.330.530.

(4) "Broadband adoption" has the meaning defined in RCW 43.330.530.

(5) "Community anchor institution" means a public school, a public housing authority, a library, a medical or health care provider, a community college or other institution of higher education, a state library agency, or other nonprofit or governmental community support organization for purposes of broadband connectivity or facilitating use of broadband service by underserved populations.

(6) "Digital equity" has the meaning defined in RCW 43.330.530.

(7) "Director" means the director of the Washington state office of equity.

((~~(3)~~)) (8) "Disaggregated data" means data that has been broken down by appropriate subcategories.

((~~(4)~~)) (9) "Equity lens" means providing consideration to the characteristics listed in RCW 49.60.030, as well as immigration status and language access, to evaluate the equitable impacts of an agency's policy or program.

((~~(5)~~)) (10) "Local government" has the meaning defined in RCW 43.330.530.

(11) "Low-income" has the meaning defined in RCW 43.330.530.

(12) "Office" means the Washington state office of equity.

(13) "Underserved population" has the meaning defined in RCW 43.330.530.

NEW SECTION. **Sec. 10.** RCW 43.330.539 is recodified as a section in chapter 43.06D RCW.

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