



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1944/P3
EVM:cdc

DOA:.....Sherwin, BB0325 - Municipal broadband service

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

1. *Municipality construction, ownership, or operation of broadband facilities*

Current law prohibits, with several exceptions, a municipality from constructing, owning, or operating a facility for providing video service, telecommunications service, or broadband service to the public unless 1) the municipality holds a public hearing on the proposed action, 2) notice of the public hearing is given, and 3) the municipality prepares and makes available for public inspection a report estimating the total costs of, and revenues derived from, constructing, owning, or operating the facility for a period of at least three years. Current law specifies the costs that must be estimated under item 3. This bill eliminates that specification of costs when the facility is a broadband facility intended to serve an underserved or unserved area.

Currently, under one of the exceptions, the public hearing and cost report do not apply to a facility for providing broadband service if 1) the municipality offers use of the facility on a nondiscriminatory basis to persons who provide broadband service to end users of the service, 2) the municipality itself does not use the facility to provide broadband service to end users, and 3) the municipality determines that, at the time of authorization, the facility does not compete with more than one provider of broadband service. This bill eliminates the requirements under items 2 and 3 for

facilities that are intended to serve an underserved or unserved area. That is, under the bill, for facilities that are intended to serve an underserved or unserved area, the public hearing and cost report do not apply to a facility for providing broadband service if the municipality offers use of the facility on a nondiscriminatory basis to persons who provide broadband service to end users of the service.

Currently, under another of the exceptions, the public hearing and cost report do not apply to a facility for providing broadband service to an area within the boundaries of a municipality if the municipality asks, in writing, each person that provides broadband service within the boundaries of the municipality whether the person currently provides broadband service to the area or intends to provide broadband service to the area within nine months and 1) does not receive an affirmative response within 60 days, 2) the municipality determines that a person who responded does not currently provide broadband service to the area, and no other person makes the response to the municipality, or 3) the municipality determines that a person who responded that the person intended to provide broadband service to the area within nine months did not actually provide the service within nine months and no other person makes the response to the municipality.

Under the bill, for this exception in the case of an underserved or unserved area, rather than asking whether a person plans to provide broadband service to the area within nine months, the municipality must ask whether the person intends or actively plans to provide broadband service to the area within the relevant time period.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.0422 (1) (e) of the statutes is created to read:

66.0422 (1) (e) “Underserved area” means an area of this state in which households or businesses lack access to broadband service of at least 25 megabits per second download speed and 3 megabits per second upload speed.

SECTION 2. 66.0422 (1) (f) of the statutes is created to read:

66.0422 (1) (f) “Unserved area” means an area of this state in which households or businesses lack access to broadband service of at least 10 megabits per second download speed and one megabit per second upload speed.

SECTION 3. 66.0422 (2) (c) of the statutes is amended to read:

66.0422 (2) (c) No less than 30 days before the public hearing, the local government prepares and makes available for public inspection a report estimating the total costs of, and revenues derived from, constructing, owning, or operating the facility and including a cost-benefit analysis of the facility for a period of at least 3 years. The If the facility is other than a broadband facility that is intended to serve an underserved or unserved area, the costs that are subject to this paragraph include personnel costs and costs of acquiring, installing, maintaining, repairing, or operating any plant or equipment, and include an appropriate allocated portion of costs of personnel, plant, or equipment that are used to provide jointly both telecommunications services and other services.

SECTION 4. 66.0422 (3d) (intro.) of the statutes is amended to read:

66.0422 (3d) (intro.) Subsection (2) does not apply to a facility for providing broadband service to an area within the boundaries of a local government if the local government asks, in writing, each person that provides broadband service within the boundaries of the local government whether the person currently provides broadband service to the area and, if the area is not an underserved or unserved area, whether the person intends to provide broadband service to the area within 9 months, or, if the area is an underserved or unserved area, whether the person actively plans to provide broadband service to the area within 3 months and any of the following are satisfied:

SECTION 5. 66.0422 (3d) (a) of the statutes is amended to read:

66.0422 (3d) (a) ~~The local government asks, in writing, each person that provides broadband service within the boundaries of the local government whether the person currently provides broadband service to the area or intends to provide broadband service within 9 months to the area and within 60 days after receiving the~~

~~written request no person responds in writing to the~~ The local government does not receive a response in writing that the a person currently provides broadband service to the area or intends or actively plans to provide broadband service to the area within ~~9 months~~ the relevant time period.

SECTION 6. 66.0422 (3d) (b) of the statutes is amended to read:

66.0422 **(3d)** (b) The local government determines that a person who responded ~~to a written request under par. (a)~~ that the person currently provides broadband service to the area did not actually provide broadband service to the area and no other person ~~makes the response~~ responds to the local government ~~described in par. (a)~~.

SECTION 7. 66.0422 (3d) (c) of the statutes is amended to read:

66.0422 **(3d)** (c) The local government determines that a person who responded ~~to a written request under par. (a)~~ that the person intended or actively planned to provide broadband service to the area within ~~9 months~~ the relevant time period did not actually provide broadband service to the area within ~~9 months~~ the relevant time period and no other person ~~makes the response~~ responds to the local government ~~described in par. (a)~~.

SECTION 8. 66.0422 (3m) (b) of the statutes is amended to read:

66.0422 **(3m)** (b) The municipality itself does not use the facility to provide broadband service to end users. This paragraph does not apply to a facility that is intended to serve an underserved or unserved area.

SECTION 9. 66.0422 (3m) (c) of the statutes is amended to read:

66.0422 **(3m)** (c) The municipality determines that, at the time that the municipality authorizes the construction, ownership, or operation of the facility, whichever occurs first, the facility does not compete with more than one provider of

broadband service. This paragraph does not apply to a facility that is intended to serve an underserved or unserved area.

(END)