



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0671/P2
KP:cdc&emw

DOA:.....Sherwin, BB0206 - Municipal Broadband Service

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

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. This bill eliminates the requirement that a municipality prepare and make available for public inspection that report if the facility is a broadband facility intended to serve an area designated as underserved or unserved by the PSC.

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. As a result,

a municipality is not required to hold a public hearing or prepare a report for a broadband facility intended to serve an underserved or unserved area if the municipality offers use of the facility on a nondiscriminatory basis to persons who provide broadband 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 three months.

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) (cg) of the statutes is created to read:

66.0422 (1) (cg) “Underserved area” means an area of this state that is designated as an underserved area by the public service commission under s. 196.504 (2) (d).

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

66.0422 (1) (cr) “Unserved area” means an area of this state that is designated as an unserved area by the public service commission under s. 196.504 (2) (e).

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

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)