



# Joint Legislative Council's Report of the Study Committee on Rural Broadband

[2017 Senate Bill 26]

February 22, 2017

JLCR 2017-04

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# STUDY COMMITTEE ON RURAL BROADBAND

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# PART I

## KEY PROVISIONS OF JOINT LEGISLATIVE COUNCIL RECOMMENDATION

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The Joint Legislative Council recommends the following for introduction in the 2017-18 Session of the Legislature.

### **2017 SENATE BILL 26, RELATING TO BROADBAND EXPANSION GRANTS AND MAKING AN APPROPRIATION**

Senate Bill 26 makes changes to current law relating to the Broadband Expansion Grant Program. Specifically, the bill makes the following changes:

- Clarifies how two priority criteria should be applied in determining whether to award a grant by further defining key terms.
- Creates a new priority criteria.
- Reserves \$1.5 million annually for the Broadband Expansion Grant Program from the Universal Service Fund (USF).
- Creates a requirement for the Public Service Commission (PSC) to consider certain impacts of proposed projects.



# PART II

## COMMITTEE ACTIVITY

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### ASSIGNMENT

The Joint Legislative Council established the Study Committee on Rural Broadband and appointed the chairperson by an April 18, 2016 mail ballot. The committee was directed to review the Wisconsin Broadband Expansion Grant Program and the extent to which it has encouraged construction of broadband infrastructure in areas of the state with few broadband service providers. The committee was also required to discuss the criteria used to evaluate applications and award grants, consider alternatives for determining eligibility and prioritizing proposed projects, consider alternative methods for encouraging construction of broadband infrastructure, and identify options to recommend.

Membership of the Study Committee was appointed by a June 10, 2016 mail ballot. The final committee membership consisted of one Senator, three Representatives, and nine public members. A list of committee members is included as **Appendix 3** to this report.

### SUMMARY OF MEETINGS

The committee held three meetings on the following dates:

August 3, 2016

September 7, 2016

October 5, 2016

At the August 3, 2016 meeting, Justin Huebner, Kiesling Associates, LLP, provided the committee with a broad-view perspective of factors affecting the deployment and use of Internet-capable resources, including changes in demographics, generational trends, real estate values, and economic development.

Bob Seitz, Angela Dickison, Jeff Richter, Sarah Klein, and Dennis Klaila, Wisconsin PSC, provided information to the committee about the Wisconsin Broadband Expansion Grant Program administered by the PSC, and provided an overview of the programs that receive funding through Wisconsin's Universal Service Fund.

David Cagigal, Chief Information Officer, Wisconsin Department of Administration (DOA), presented information to the committee about the top priorities of Governor Walker that relate to broadband Internet access and efforts of the DOA to facilitate service that supports those goals.

Bill Esbeck, Executive Director, Wisconsin State Telecommunications Association and Adam Raschka, Director of Regulatory and External Affairs, Wisconsin Cable Communications Association, provided information about their respective associations and the makeup of their memberships,

background on broadband service and its evolution, and past and present efforts to expand broadband coverage in the state.

The committee members briefly discussed the day's presentations and future meetings of the committee.

At the September 7, 2016 meeting, Matthew Stanford, General Counsel, Wisconsin Hospital Association, remarked on the effect of broadband infrastructure on access to health care, and Kevin Groskreutz, Chief Information Officer, Ancillary Systems, Western Wisconsin Division, Hospital Sisters Health System (HSHS) and David Mortimer, Director, Innovation Institute, Hospital Sisters of St. Francis Foundation, HSHS, talked about participation in the grant application process.

Roger Luce, Executive Director, Oneida County Economic Development Corporation, Dave Noel, Chair, Oneida County Broadband Committee, and Paul Osterman, Co-Founder, Northwoods Connect, discussed their experience bringing wireless broadband service to rural areas in Oneida County and their experience with the PSC grant process.

Maria Alvarez-Stroud, Director, University of Wisconsin (UW)-Extension Broadband & E-Commerce Education Center and Will Andresen, UW-Extension Community Resource Development Educator for Iron County, discussed UW-Extension's work on broadband education and outreach through grant-writing workshops and boot camps that have been held in various locations throughout the state.

The committee discussed whether changes need to be made to the funding, eligibility, and priority factors of the Broadband Expansion Grant Program.

At the October 5, 2016 meeting, the Study Committee discussed proposed legislation that was suggested by the committee at the September 7, 2016 meeting and prepared by Legislative Council staff. Legislative Council staff described the proposed legislation, and committee members discussed and made suggestions for modifications to the proposed legislation. The committee voted to have Legislative Council staff prepare the drafts with the suggested changes for submission to the committee by mail ballot.

# PART III

## RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

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This Part of the report provides background information on, and a description of, the bill as recommended by the Study Committee on Rural Broadband and introduced by the Joint Legislative Council.

### **2017 SENATE BILL 26, RELATING TO BROADBAND EXPANSION GRANTS AND MAKING AN APPROPRIATION**

#### **Background**

The Study Committee developed and approved 2017 Senate Bill 26, relating to broadband expansion grants and making an appropriation. Broadband service generally refers to high-speed transmission of electronic information between computers or other electronic devices that are connected through a network or the Internet. The availability of broadband service in a geographic area depends on the telecommunications infrastructure in that area. The Federal Communications Commission (FCC) and the PSC collect broadband availability information. According to the information from the federal government, nearly all urban and rural residents of Wisconsin had access to at least one form of wireless service, such as broadband provided via mobile telephone, from two or more providers. However, while 94.5% of Wisconsin's urban residents had access to wireline service from two or more providers, only 44.5% of Wisconsin's rural residents did.<sup>1</sup>

The Broadband Expansion Grant Program was created by 2013 Wisconsin Act 20 to provide funding for the construction of broadband infrastructure in underserved areas of Wisconsin. The PSC administers the program through the State Broadband Office. The statutes require the PSC to: (a) designate areas of Wisconsin as underserved; (b) prescribe the information that must be included in a grant application; (c) evaluate the eligibility and priority of applications; and (d) award grants. [s. 196.504 (2), Stats.] Since 2013, the Broadband Expansion Grant Program has awarded 42 grants totaling approximately \$3.9 million over four grant cycles.

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<sup>1</sup> National Telecommunications and Information Administration Broadband Statistics Report: Broadband Availability in Urban vs. Rural Areas (<http://www.broadbandmap.gov/analyze>), last accessed on December 14, 2016. An area is designated as "rural" if its population density was less than 50,000 people or was outside a cluster of developed areas with between 2,500 and 50,000 people. U.S. Census Bur., Selected Appendixes: 2010, Population and Housing Unit Counts, App. A (June 2012).

## DESCRIPTION

Senate Bill 26 proposes a number of changes to the Broadband Expansion Grant Program, including changes to funding, priority criteria, and the PSC's process for considering grant applications.

### Funding

Under current law, funding for the Broadband Expansion Grant Program is limited to the unspent funds remaining from a total of \$6.0 million that was transferred from the Wisconsin USF in 2015 Wisconsin Act 55. A total of approximately \$3 million remains for grants in Fiscal Year (FY) 2017-18 and FY 2018-19. Under current law, the PSC is not authorized to raise additional funding for the program through the assessment paid into the USF by telecommunications providers.

Beginning in FY 2019-20, the bill reserves for the grant program \$1.5 million annually from the funding that the PSC currently receives from assessments paid into the USF by telecommunications providers.

### Priority Criteria

Under current law, the PSC is required to give priority to projects that: (a) include matching funds; (b) involve public-private partnerships; (c) affect areas with no broadband service providers; (d) are "scalable"<sup>2</sup>; (e) promote economic development; (f) affect a large geographic area; and (g) affect a large number of underserved individuals or communities. [s. 196.504 (2) (c), Stats.] Because the statutes do not prescribe the relative weight to be given to each of the priorities listed above, the PSC has discretion in implementing them.

The bill clarifies how two priority criteria in current law should be applied by further defining projects that promote economic development and projects that affect areas with no broadband service providers, and creates a new priority criteria by specifying that priority shall be given to projects that will not delay the provision of broadband service to neighboring areas, as described below.

#### *Economic Development*

Current law provides that priority shall be given to projects that promote economic development. However, current law does not define "economic development." The bill defines "economic development" to mean development that is designed to promote job growth or retention, expand the property tax base, or improve the overall economic vitality of a town, village, city, county, or region.

#### *Areas With No Broadband Service Providers*

Current law provides that priority under the Broadband Expansion Grant Program shall be given to projects that affect areas with no broadband service providers. However, the statutes do not define "broadband service." The bill repeals the requirement that priority shall be given to

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<sup>2</sup> "Scalable" means that the broadband network has the ability to maintain the quality of its services while increasing the number of users, the geographic area covered by the network, or the number of services provided.

projects that affect areas with no broadband service providers, and it replaces it with a requirement that priority shall be given to projects in “unserved areas.” The bill authorizes the PSC to designate areas of the state as “unserved,” and it defines an “unserved area” to mean an area of this state that is not served by an Internet service provider offering Internet service that is all of the following:

- Wired service or fixed wireless service, which includes service that is a telecommunications service that provides radio communications between fixed points but which excludes mobile wireless service and satellite service.
- Provided at actual speeds of at least 20% of the upload and download speed for high-speed, switched, broadband telecommunications capability as designated by the FCC in its annual inquiries regarding advanced telecommunications capability. Currently, the FCC's standard for this purpose is 25 Megabits per second (Mbps) download / 3 Mbps upload. Therefore, the current speed specified in the bill is 5 Mbps download / 600 Kbps upload.

#### **Projects That Will Not Delay the Provision of Broadband Service to Neighboring Areas**

The bill also requires prioritization of projects that will not result in delaying the provision of broadband service to areas neighboring areas to be served by the proposed project. Similar to the existing priority criteria, the bill does not prescribe the relative weight to be given the new priority criteria, so the PSC has discretion in implementing all priority criteria.

#### **Consideration of Certain Project Impacts**

The bill creates a new requirement that the PSC consider certain project impacts when evaluating a grant application under the grant program, but it does not require priority to be given to a project based on these considerations. Specifically, this bill requires that the PSC must consider:

- The degree to which a proposed project would duplicate existing broadband infrastructure, information about the presence of which is provided to the PSC by the applicant or another person within a time period designated by the PSC.
- The impacts of a proposed project on the ability of individuals to access health care services from home and the cost of those services.
- The impacts of a proposed project on the ability of students to access educational opportunities from home.



## COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

The following draft was recommended by the Study Committee on Rural Broadband to the Joint Legislative Council for introduction in the 2017-18 Session of the Legislature.

### STUDY COMMITTEE VOTE

The Study Committee voted by an October 24, 2016 mail ballot, to recommend the following draft to the Joint Legislative Council for introduction in the 2017-18 Session of the Legislature. The vote on the draft was as follows:

- LRB-0143/1, relating to broadband expansion grants and making an appropriation, passed by a vote of Ayes, 13 (Sen. Marklein; Reps. Petryk, Meyers, and Spreitzer; and Public Members Behn, Brisbois, Costello, Hejtmanek, Hill, Olson, Pauk, Rivard, and Shipley); and Noes, 0.

### JOINT LEGISLATIVE COUNCIL VOTE

At its February 1, 2017 meeting, the Joint Legislative Council voted as follows on the recommendation of the Study Committee:

*Rep. Ballweg moved, seconded by Rep. Nygren, that **LRB-0143/1**, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 19 (Sens. Roth, Fitzgerald, Marklein, Miller, Petrowski, Risser, Shilling, Taylor, and Wanggaard; and Reps. Brooks, August, Ballweg, Barca, Hesselbein, Hintz, Mason, Nygren, Steineke, and Vos); Noes, 0; and Excused, 3 (Sens. Darling and Moulton; and Rep. Spiros).*



## JOINT LEGISLATIVE COUNCIL

<u>SENATE MEMBERS</u>	<u>ASSEMBLY MEMBERS</u>
<b>Roger Roth, Co-Chair</b> Senate President Appleton	<b>Robert Brooks, Co-Chair</b> Assistant Majority Leader Saukville
<b>Alberta Darling</b> JFC Co-Chair River Hills	<b>Tyler August</b> Speaker Pro Tempore Lake Geneva
<b>Scott Fitzgerald</b> Majority Leader Juneau	<b>Joan Ballweg</b> Markesan
<b>Howard Marklein</b> President Pro Tempore Spring Green	<b>Peter Barca</b> Minority Leader Kenosha
<b>Mark Miller</b> Monona	<b>Dianne Hesselbein</b> Assistant Minority Leader Middleton
<b>Terry Moulton</b> Chippewa Falls	<b>Gordon Hintz</b> JFC Ranking Minority Oshkosh
<b>Jerry Petrowski</b> Marathon	<b>Cory Mason</b> Racine
<b>Fred A. Risser</b> Madison	<b>John Nygren</b> JFC Co-Chair Marinette
<b>Jennifer Shilling</b> Minority Leader La Crosse	<b>John Spiros</b> Marshfield
<b>Lena Taylor</b> JFC Ranking Minority Milwaukee	<b>Jim Steineke</b> Majority Leader Kaukauna
<b>Van Wanggaard</b> Racine	<b>Robin Vos</b> Speaker Rochester

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Terry C. Anderson, Director, Legislative Council Staff, 1 East Main Street, Suite 401, Madison, WI 53703-3382



## COMMITTEE LIST

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**STUDY ASSIGNMENT:** The Study Committee is directed to review the Wisconsin Broadband Expansion Grant Program and the extent to which it has encouraged construction of broadband infrastructure in areas of the state with few broadband service providers. The committee shall discuss the criteria used to evaluate applications and award grants, consider alternatives for determining eligibility and prioritizing proposed projects, consider alternative methods for encouraging construction of broadband infrastructure, and identify options to recommend.

**13 MEMBERS:** 3 Representatives; 1 Senator; and 9 Public Members.

**LEGISLATIVE COUNCIL STAFF:** Larry Konopacki, Principal Attorney; Zach Ramirez and Julia Norsetter, Staff Attorneys; and Julie Learned, Support Staff.



## COMMITTEE MATERIALS LIST

*[Copies of documents are available at [www.legis.wisconsin.gov/lc](http://www.legis.wisconsin.gov/lc)]*

### August 3, 2016 Meeting

- Presentation by David Cagigal, Chief Information Officer, Department of Administration, "The State of Broadband in Wisconsin" (August 3, 2016).
- Presentation by Bill Esbeck, Executive Director, WSTA, "Broadband 101 and the Economics of Broadband Investments" (August 3, 2016).
- Presentation by Justin Huebner, Kiesling Associates LLP, "The Internet of Things."
- Presentation by Justin Huebner, Kiesling Associates LLP, The Internet of Things, Additional Information Links (August 3, 2016).
- Testimony from Bob Seitz, Executive Assistant to Public Commission Chairperson Ellen Nowak.
- Testimony from Bob Seitz, Executive Assistant to Public Service Commission Chairperson Ellen Nowak.
- Testimony by Adam Raschka, Director of Regulatory and External Affairs, Wisconsin Cable Communications Association.
- Staff Brief 2016-05, Study Committee on Rural Broadband (July 26, 2016) (Revised August 9, 2016).
- Broadband Reference Guide, A Resource for Digital Stakeholders, Center for Community Technology Solutions, developed by the Wisconsin Public Service Commission and UW-Extension Madison (January 2014).
- Minutes of the August 3, 2016 meeting.

### September 7, 2016 Meeting

- 2014 Broadband Grant Awards Table.
- 2015 Broadband Grant Awards Table.
- 2016 Broadband Grant Awards Table.
- 2017 Broadband Grant Awards Table.
- 2017 Broadband Grant Awards Map, "Connecting Wisconsin to the World, Broadband Expansion Grant Awardees, Fiscal Year 2017", presented by the Public Service Commission.
- 2014-2017 Broadband Grant Awards Map, "Connecting Wisconsin to the World, Broadband Expansion Grant Awardees, presented by the Wisconsin Broadband Office, Public Service Commission.
- Minutes of the September 7, 2016 meeting.

### **October 5, 2016 Meeting**

- LRB-0143/P3, relating to broadband expansion grants and making an appropriation.
- LRB-0143/P5, relating to broadband expansion grants and making an appropriation.
- Changes to LRB-0143/P5, relating to broadband expansion grants and making an appropriation.
- Memo No. 2, "Committee Discussion of Bill Draft, LRB-0143/P3" (September 23, 2016).
- "Connecting Wisconsin to the World, Legislative Council Map Request," presented by the Wisconsin Broadband Office, Public Service Commission of Wisconsin.
- Minutes of the October 5, 2016 meeting.

### **October 24, 2016 Mail Ballot**

- LRB-0143/1, relating to broadband expansion grants and making an appropriation.
- Mail Ballot — Mail Ballot of the Study Committee on Rural Broadband (October 24, 2016).
- Results of the October 24, 2016 Mail Ballot.

### **Recommendation to the Joint Legislative Council (February 1, 2017)**

- LRB-0143/1, relating to broadband expansion grants and making an appropriation.
- Report to the Joint Legislative Council LCR 2017-04 Study Committee on Rural Broadband (January 18, 2017).

### **Joint Legislative Council Recommendation to the 2017-18 Legislature**

- 2017 Senate Bill 26.