
OLR Bill Analysis

sHB 6862

AN ACT CONCERNING BROADBAND CONSTRUCTION AND THE PREVAILING WAGE.

SUMMARY

This bill requires the state's Broadband Internet Access Service Grant Program to prioritize giving grants to applicants who meet certain labor-related criteria (e.g., have certain training programs and use a directly employed, rather than contracted, workforce). It correspondingly requires applicants to the program to disclose certain related information when they apply.

The bill also brings broadband installation projects funded by grants from the program under the state's prevailing wage law (see BACKGROUND). In doing so, it (1) requires workers on the projects to be paid the applicable prevailing wage, (2) extends the law's enforcement provisions to the contractors or subcontractors on the projects, and (3) requires the contracting agent to certify to the labor commissioner the total cost of the work to be done for the project. (If the grant recipient is a private-sector entity, it is unclear who the contracting agent would be for these projects. In addition, the bill does not make a conforming change that would require the employers on these projects to submit certified payroll records to an agency or entity with oversight of them as required for other prevailing wage projects.)

By law, the Department of Energy and Environmental Protection (DEEP) commissioner must establish and administer the broadband grant program to support the deployment of broadband Internet access service. Current law requires her to do this subject to the availability of federal funding, but the bill makes this subject to the availability of both state and federal funding.

EFFECTIVE DATE: July 1, 2023

LABOR-RELATED CRITERIA FOR BROADBAND GRANTS

The law, unchanged by the bill, requires the DEEP commissioner to make the broadband program's grant criteria consistent with any federal law for the grants, including application requirements, applicant eligibility, addressing unserved areas in distressed municipalities, and the applicant's commitment to pay at least 20% of a project's costs with its own funding, among other things.

Current law allows the commissioner, when awarding grants, to prioritize applicants based on the percentage of the applicant's commitment to cost sharing. The bill requires the commissioner to prioritize applicants that do so and that:

1. have robust training programs for their workforce that will be performing the contract, including requirements tied to titles, uniform wage scales, and industry-recognized skill codes;
2. require occupational health and safety training for their workforce performing the contract;
3. will perform the contract using a directly employed workforce;
4. can show that they have programs to promote training and hiring pipelines for underrepresented communities; and
5. have either (a) robust compliance records over the past five years with the state's labor code, the (presumably, federal) Occupation Safety and Health Act (OSHA), the federal Fair Labor Standards Act (FLSA), Title VII of the federal Civil Rights Act, and all other applicable labor or employment laws or (b) mitigated violations with labor compliance agreements and measures to ensure future labor compliance (the bill does not specify what constitutes a "robust compliance record").

(Because existing law also requires the commissioner to set eligibility criteria consistent with any federal requirement for the grants, if the bill's criteria conflict with federal requirements, it is unclear which provision would prevail or how it would impact the state's eligibility

for federal funds.) As under existing law, the commissioner can deny applicants that do not submit certain required information.

The bill requires that any disclosure made by an applicant about the above criteria be publicly available on the Office of Telecommunications and Broadband's website.

The bill requires the commissioner to award grants based on a point system, with each applicant given 0 to 100 points. For grants funded by the federal Broadband Equity, Access, and Development (presumably, "Deployment") program, applicants that satisfy the five criteria above and the "Fair Labor Practices" outlined in the National Telecommunications and Information (Administration) Funding Opportunity published on May 13, 2022, must be awarded at least 25 points. (The "fair labor practices" generally require a demonstrated record of compliance with federal labor and employment laws.)

For grants from other funding sources, the bill requires applicants that satisfy the five criteria above be awarded a substantial point allocation of at least 15 points. (The bill does not specify how the remaining points in either point system must be evaluated or allocated.)

The bill requires all projects funded by grants from the Broadband Internet Access Service Grant Program to be subject to the state's prevailing wage requirements.

APPLICATION DISCLOSURES

The bill requires applicants who apply for a grant from the program to give the DEEP commissioner the following information with their applications:

1. whether the workforce is directly employed by the contractor or whether the proposed work will be performed by a subcontracted workforce;
2. the subcontractors, if any, who the contractor plans to subcontract with to perform the proposed work; and

3. for each job title required for the proposed work, a description of (a) the wages, benefits, and applicable wage scales, including overtime rates, and a description of how the wages are calculated; (b) the applicant’s training programs and whether they are tied to titles, uniform wage scales, and industry-recognized skill codes; (c) safety training, and certification or licensure requirements, including whether the participant requires its employees to complete occupational safety and health training or any other training required by law; and (d) the entity employing the workforce in each job title.

Under the bill, any applicant awarded a grant must also submit this information monthly to the commissioner. Any person or entity that fails to meet these disclosure requirements may be deemed ineligible to participate in future grant programs through the Office of Telecommunications and Broadband.

The bill specifies that these disclosure requirements apply to any applicant that is a public agency (it is unclear if they only apply to public agencies or what constitutes a “public agency” for these purposes).

BACKGROUND

Prevailing Wage Law

The state’s prevailing wage law requires employers on certain public works projects to pay their construction workers wages and benefits equal to those that are customary or prevailing for the same work, in the same trade or occupation, in the same town. The requirement applies to new construction projects of \$1 million or more and renovation projects of \$100,000 or more.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 3 (03/23/2023)