

2 **SSB 6675 - H COMM AMD ADOPTED 3-2-00**

3 By Committee on Technology, Telecommunications & Energy

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature makes the following
8 findings:

9 (1) Access to telecommunications facilities and services is
10 essential to the economic well-being of both rural and urban areas.

11 (2) Many persons and entities, particularly in rural areas, do not
12 have adequate access to telecommunications facilities and services.

13 (3) Public utility districts and rural port districts may be well-
14 positioned to construct and operate telecommunications facilities.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 54.16 RCW
16 to read as follows:

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

19 (1) "Commission" means the Washington utilities and transportation
20 commission.

21 (2) "Telecommunications" has the same meaning as that contained in
22 RCW 80.04.010.

23 (3) "Telecommunications facilities" means lines, conduits, ducts,
24 poles, wires, cables, crossarms, receivers, transmitters, instruments,
25 machines, appliances, instrumentalities and all devices, real estate,
26 easements, apparatus, property, and routes used, operated, owned, or
27 controlled by any entity to facilitate the provision of
28 telecommunications services.

29 (4) "Wholesale telecommunications services" means the provision of
30 telecommunications services or facilities for resale by an entity
31 authorized to provide telecommunications services to the general
32 public.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 54.16 RCW
34 to read as follows:

1 (1) A public utility district in existence on the effective date of
2 this act may construct, purchase, acquire, develop, finance, lease,
3 license, handle, provide, add to, contract for, interconnect, alter,
4 improve, repair, operate, and maintain any telecommunications
5 facilities within or without the district's limits for the following
6 purposes:

7 (a) For the district's internal telecommunications needs;

8 (b) For the provision of wholesale telecommunications services
9 within the district's limits, except for within cities having
10 populations greater than seventy thousand as of the effective date of
11 this act; and

12 (c) By contract with another public utility district, for the
13 provision of wholesale telecommunications services within another
14 public utility district's limits, except for within cities having
15 populations greater than seventy thousand as of the effective date of
16 this act.

17 Nothing in this subsection shall be construed to authorize public
18 utility districts to provide telecommunications services to end users.

19 (2) A public utility district providing wholesale
20 telecommunications services shall ensure that rates, terms, and
21 conditions for such services are not unduly or unreasonably
22 discriminatory or preferential. Rates, terms, and conditions are
23 discriminatory or preferential when a public utility district offering
24 rates, terms, and conditions to an entity for wholesale
25 telecommunications services does not offer substantially similar rates,
26 terms, and conditions to all other entities seeking substantially
27 similar services.

28 (3) When a public utility district establishes a separate utility
29 function for the provision of wholesale telecommunications services, it
30 shall account for any and all revenues and expenditures related to its
31 wholesale telecommunications facilities and services separately from
32 revenues and expenditures related to its internal telecommunications
33 operations. Any revenues received from the provision of wholesale
34 telecommunications services must be dedicated to the utility function
35 that includes the provision of wholesale telecommunications services
36 for costs incurred to build and maintain the telecommunications
37 facilities until such time as any bonds or other financing instruments
38 executed after the effective date of this act and used to finance the
39 telecommunications facilities are discharged or retired.

1 (4) When a public utility district establishes a separate utility
2 function for the provision of wholesale telecommunications services,
3 all telecommunications services rendered by the separate function to
4 the district for the district's internal telecommunications needs shall
5 be charged at its true and full value. A public utility district may
6 not charge its nontelecommunications operations rates that are
7 preferential or discriminatory compared to those it charges entities
8 purchasing wholesale telecommunications services.

9 (5) A public utility district shall not exercise powers of eminent
10 domain to acquire telecommunications facilities or contractual rights
11 held by any other person or entity to telecommunications facilities.

12 (6) Except as otherwise specifically provided, a public utility
13 district may exercise any of the powers granted to it under this title
14 and other applicable laws in carrying out the powers authorized under
15 this section. Nothing in this act limits any existing authority of a
16 public utility district under this title.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 54.16 RCW
18 to read as follows:

19 (1) Prior to financing or constructing telecommunications
20 facilities for the provision of wholesale telecommunications services,
21 a public utility district shall:

22 (a) Develop a written implementation plan stating the district's
23 intent to provide wholesale telecommunications services which must
24 include:

25 (i) A general description of how the district intends to engage in
26 the provision of wholesale telecommunications services under section 3
27 of this act; and

28 (ii) A discussion of how the public interest shall be served by the
29 provision of wholesale telecommunications services; and

30 (b) Present the implementation plan to the district's commission,
31 and make the plan available to the general public. The commission
32 shall conduct at least three public hearings throughout the district to
33 take public comment on the implementation plan. At least two weeks
34 prior to each public hearing, a notice that includes a general
35 description of the implementation plan and the date and place of
36 hearing shall be published in a newspaper of general circulation in the
37 county in which the district is located.

1 (2) After the public hearings, the commission may adopt, alter, or
2 reject the implementation plan by resolution. Within ninety days after
3 the adoption of such resolution, a petition signed by at least ten
4 percent of the registered voters in the district may be submitted to
5 the commission requiring the subject of the resolution be put to a vote
6 of the people in the district.

7 (3) If a petition meets the requirements of subsection (2) of this
8 section, the commission shall submit the resolution to the legislative
9 authority of the county in which the district is located. Upon receipt
10 of the resolution, the legislative authority shall submit a proposal to
11 the voters of the district at the next general election regarding the
12 question of providing wholesale telecommunications services in the
13 district in substantially the following terms:

14 Shall Public Utility District No. of
15 County be authorized to provide wholesale telecommunications
16 services within the boundaries of the district?

17 Yes . . .

18 No . . .

19 Within ten days after such an election, the election board of the
20 county shall canvass the returns, and if at such an election a majority
21 of voters voting on the proposition shall vote in favor of such
22 authority, the district shall have the authority to provide wholesale
23 telecommunications services.

24 (4) A public utility district providing wholesale
25 telecommunications services shall submit a report to the appropriate
26 committees of the legislature by December 1st of the second year of
27 each biennium. The report must include, at a minimum, a description of
28 the following activities:

29 (a) All activities relating to the construction, acquisition,
30 operation, marketing, and leasing of telecommunications facilities and
31 wholesale telecommunications services; and

32 (b) The number of new locations connected to the telecommunications
33 facilities resulting from the provision of wholesale telecommunications
34 services to enhanced service providers and entities authorized to
35 provide telecommunications services to the general public.

36 NEW SECTION. **Sec. 5.** A new section is added to chapter 54.16 RCW
37 to read as follows:

1 (1) A person or entity that has requested wholesale
2 telecommunications services from a public utility district providing
3 wholesale telecommunications services under this chapter may petition
4 the commission under the procedures set forth in RCW 80.04.110 (1)
5 through (3) if it believes the district's rates, terms, and conditions
6 are unduly or unreasonably discriminatory or preferential. The person
7 or entity shall provide the public utility district notice of its
8 intent to petition the commission and an opportunity to review within
9 thirty days the rates, terms, and conditions as applied to it prior to
10 submitting its petition. In determining whether a district is
11 providing discriminatory or preferential rates, terms, and conditions,
12 the commission may consider such matters as service quality, cost of
13 service, technical feasibility of connection points on the district's
14 facilities, time of response to service requests, system capacity, and
15 other matters reasonably related to the provision of wholesale
16 telecommunications services. If the commission, after notice and
17 hearing, determines that a public utility district's rates, terms, and
18 conditions are unduly or unreasonably discriminatory or preferential,
19 it shall issue a final order finding noncompliance with this section
20 and setting forth the specific areas of apparent noncompliance. An
21 order imposed under this section shall be enforceable in any court of
22 competent jurisdiction.

23 (2) The commission may order a public utility district to pay a
24 share of the costs incurred by the commission in connection with
25 adjudicating or enforcing the provisions of this section.

26 (3) Without limiting other remedies at law or equity, the
27 commission and prevailing party may also seek injunctive relief to
28 compel compliance with an order.

29 (4) Nothing in this section shall be construed to affect the
30 commission's authority and jurisdiction with respect to actions,
31 proceedings, or orders permitted or contemplated for a state commission
32 under the federal telecommunications act of 1996, P.L. 104-104 (110
33 Stat. 56).

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 53.08 RCW
35 to read as follows:

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

1 (1) "Commission" means the Washington utilities and transportation
2 commission.

3 (2) "Rural port district" means a port district formed under
4 chapter 53.04 RCW and located in a county with an average population
5 density of fewer than one hundred persons per square mile.

6 (3) "Telecommunications" has the same meaning as contained in RCW
7 80.04.010.

8 (4) "Telecommunications facilities" means lines, conduits, ducts,
9 poles, wires, cables, crossarms, receivers, transmitters, instruments,
10 machines, appliances, instrumentalities and all devices, real estate,
11 easements, apparatus, property, and routes used, operated, owned, or
12 controlled by any entity to facilitate the provision of
13 telecommunications services.

14 (5) "Wholesale telecommunications services" means the provision of
15 telecommunications services or facilities for resale by an entity
16 authorized to provide telecommunications services to the general
17 public.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 53.08 RCW
19 to read as follows:

20 (1) A rural port district in existence on the effective date of
21 this act may construct, purchase, acquire, develop, finance, lease,
22 license, handle, provide, add to, contract for, interconnect, alter,
23 improve, repair, operate, and maintain any telecommunications
24 facilities within or without the district's limits for the following
25 purposes:

26 (a) For the district's own use; and

27 (b) For the provision of wholesale telecommunications services
28 within the district's limits. Nothing in this subsection shall be
29 construed to authorize rural port districts to provide
30 telecommunications services to end users.

31 (2) A rural port district providing wholesale telecommunications
32 services under this section shall ensure that rates, terms, and
33 conditions for such services are not unduly or unreasonably
34 discriminatory or preferential. Rates, terms, and conditions are
35 discriminatory or preferential when a rural port district offering such
36 rates, terms, and conditions to an entity for wholesale
37 telecommunications services does not offer substantially similar rates,

1 terms, and conditions to all other entities seeking substantially
2 similar services.

3 (3) When a rural port district establishes a separate utility
4 function for the provision of wholesale telecommunications services, it
5 shall account for any and all revenues and expenditures related to its
6 wholesale telecommunications facilities and services separately from
7 revenues and expenditures related to its internal telecommunications
8 operations. Any revenues received from the provision of wholesale
9 telecommunications services must be dedicated to the utility function
10 that includes the provision of wholesale telecommunications services
11 for costs incurred to build and maintain the telecommunications
12 facilities until such time as any bonds or other financing instruments
13 executed after the effective date of this act and used to finance the
14 telecommunications facilities are discharged or retired.

15 (4) When a rural port district establishes a separate utility
16 function for the provision of wholesale telecommunications services,
17 all telecommunications services rendered by the separate function to
18 the district for the district's internal telecommunications needs shall
19 be charged at its true and full value. A rural port district may not
20 charge its nontelecommunications operations rates that are preferential
21 or discriminatory compared to those it charges entities purchasing
22 wholesale telecommunications services.

23 (5) A rural port district shall not exercise powers of eminent
24 domain to acquire telecommunications facilities or contractual rights
25 held by any other person or entity to telecommunications facilities.

26 (6) Except as otherwise specifically provided, a rural port
27 district may exercise any of the powers granted to it under this title
28 and other applicable laws in carrying out the powers authorized under
29 this section. Nothing in this act limits any existing authority of a
30 rural port district under this title.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 53.08 RCW
32 to read as follows:

33 (1) Prior to financing or constructing telecommunications
34 facilities for the provision of wholesale telecommunications services,
35 a rural port district shall:

36 (a) Develop a written implementation plan stating the district's
37 intent to provide wholesale telecommunications services which must
38 include:

1 (i) A general description of how the district intends to engage in
2 the provision of wholesale telecommunications services under section 7
3 of this act; and

4 (ii) A discussion of how the public interest shall be served by the
5 provision of wholesale telecommunications services; and

6 (b) Present the implementation plan to the district's commission,
7 and make the plan available to the general public. The commission
8 shall conduct at least three public hearings throughout the district to
9 take public comment on the implementation plan. At least two weeks
10 prior to each public hearing, a notice that includes a general
11 description of the implementation plan and the date and place of
12 hearing shall be published in a newspaper of general circulation in the
13 county in which the district is located.

14 (2) After the public hearings, the commission may adopt, alter, or
15 reject the implementation plan by resolution. Within ninety days after
16 adoption of such resolution, a petition signed by at least ten percent
17 of the registered voters in the district may be submitted to the
18 commission requiring the subject of the resolution be put to a vote of
19 the people in the district.

20 (3) If a petition meets the requirements of subsection (2) of this
21 section, the commission shall submit the resolution to the legislative
22 authority of the county in which the district is located. Upon receipt
23 of the resolution, the legislative authority shall submit a proposal to
24 the voters of the district at the next general election regarding the
25 question of providing wholesale telecommunications services in the
26 district in substantially the following terms:

27 Shall Port District No. of County be
28 authorized to provide wholesale telecommunications services
29 within the boundaries of the district?

30 Yes . . .

31 No . . .

32 Within ten days after such an election, the election board of the
33 county shall canvass the returns, and if at such an election a majority
34 of voters voting on the proposition shall vote in favor of such
35 authority, the district shall have the authority to provide wholesale
36 telecommunications services.

37 (4) A rural port district providing wholesale telecommunications
38 services shall submit a report to the appropriate committees of the

1 legislature by December 1st of the second year of each biennium. The
2 report must include, at a minimum, a description of the following
3 activities:

4 (a) All activities relating to the construction, acquisition,
5 operation, marketing, and leasing of telecommunications facilities and
6 wholesale telecommunications services; and

7 (b) The number of new locations connected to the telecommunications
8 facilities resulting from the provision of wholesale telecommunications
9 services to enhanced service providers and entities authorized to
10 provide telecommunications services to the general public.

11 NEW SECTION. **Sec. 9.** A new section is added to chapter 53.08 RCW
12 to read as follows:

13 (1) A person or entity that has requested wholesale
14 telecommunications services from a rural port district may petition the
15 commission under the procedures set forth in RCW 80.04.110 (1) through
16 (3) if it believes the district's rates, terms, and conditions are
17 unduly or unreasonably discriminatory or preferential. The person or
18 entity shall provide the district notice of its intent to petition the
19 commission and an opportunity to review within thirty days the rates,
20 terms, and conditions as applied to it prior to submitting its
21 petition. In determining whether a district is providing
22 discriminatory or preferential rates, terms, and conditions, the
23 commission may consider such matters as service quality, technical
24 feasibility of connection points on the district's telecommunications
25 facilities, time of response to service requests, system capacity, and
26 other matters reasonably related to the provision of wholesale
27 telecommunications services. If the commission, after notice and
28 hearing, determines that a rural port district's rates, terms, and
29 conditions are unduly or unreasonably discriminatory or preferential,
30 it shall issue a final order finding noncompliance with this section
31 and setting forth the specific areas of apparent noncompliance. An
32 order imposed under this section shall be enforceable in any court of
33 competent jurisdiction.

34 (2) The commission may order a rural port district to pay a share
35 of the costs incurred by the commission in adjudicating or enforcing
36 this section.

1 (3) Without limiting other remedies at law or equity, the
2 commission and prevailing party may also seek injunctive relief to
3 compel compliance with an order.

4 (4) Nothing in this section shall be construed to affect the
5 commission's authority and jurisdiction with respect to actions,
6 proceedings, or orders permitted or contemplated for a state commission
7 under the federal telecommunications act of 1996, P.L. 104-104 (110
8 Stat. 56).

9 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.01 RCW
10 to read as follows:

11 The commission is authorized to perform the duties required by
12 sections 5 and 9 of this act."

13 Correct the title.

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