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HOUSE BILL 2600

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives McCoy, Chase, Kenney, and Hasegawa

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1            AN ACT Relating to telecommunications services; amending RCW  
2 54.16.330 and 53.08.370; adding new sections to chapter 54.08 RCW; and  
3 adding a new section to chapter 54.16 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 54.16.330 and 2004 c 158 s 1 are each amended to read  
6 as follows:

7            (1) A public utility district in existence on June 8, 2000, may  
8 construct, purchase, acquire, develop, finance, lease, license, handle,  
9 provide, add to, contract for, interconnect, alter, improve, repair,  
10 operate, and maintain any telecommunications facilities within or  
11 without the district's limits for the following purposes:

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

13            (b) For the provision of wholesale telecommunications services  
14 within the district and by contract with another public utility  
15 district; and

16            (c) For the provision of retail telecommunications services within  
17 the district, provided that the district:

18            (i) Does not individually provide telecommunications services to  
19 the end user as part of its utility function but instead enters into a

1 partnership with a nonprofit organization, or a federally recognized  
2 tribe or its political subdivision, for the joint provision of  
3 telecommunications services to the end user; and

4 (ii) Secures the approval of the voters of the district.

5 Except as provided in this subsection (1)(c), nothing in this  
6 subsection shall be construed to authorize public utility districts to  
7 provide telecommunications services to end users.

8 (2) A public utility district providing wholesale  
9 telecommunications services or retail telecommunications services in  
10 partnership with a nonprofit organization, or a federally recognized  
11 tribe or its political subdivision, shall ensure that rates, terms, and  
12 conditions for such services are not unduly or unreasonably  
13 discriminatory or preferential. Rates, terms, and conditions are  
14 discriminatory or preferential when a public utility district offering  
15 rates, terms, and conditions to an entity for wholesale  
16 telecommunications services does not offer substantially similar rates,  
17 terms, and conditions to all other entities seeking substantially  
18 similar services.

19 (3) A public utility district providing wholesale  
20 telecommunications services shall not be required to but may establish  
21 a separate utility system or function for such purpose. In either  
22 case, a public utility district providing wholesale telecommunications  
23 services or retail telecommunications services in partnership with a  
24 nonprofit organization, or a federally recognized tribe or its  
25 political subdivision, shall separately account for any revenues and  
26 expenditures for those services according to standards established by  
27 the state auditor pursuant to its authority in chapter 43.09 RCW and  
28 consistent with the provisions of this title. Any revenues received  
29 from the provision of wholesale telecommunications services or retail  
30 telecommunications services in partnership with a nonprofit  
31 organization, or a federally recognized tribe or its political  
32 subdivision, must be dedicated to costs incurred to build and maintain  
33 any telecommunications facilities constructed, installed, or acquired  
34 to provide such services, including payments on debt issued to finance  
35 such services, until such time as any bonds or other financing  
36 instruments executed after June 8, 2000, and used to finance such  
37 telecommunications facilities are discharged or retired.

1 (4) When a public utility district provides wholesale  
2 telecommunications services or retail telecommunications services in  
3 partnership with a nonprofit organization, or a federally recognized  
4 tribe or its political subdivision, all telecommunications services  
5 rendered to the district for the district's internal telecommunications  
6 needs shall be allocated or charged at its true and full value. A  
7 public utility district may not charge its nontelecommunications  
8 operations rates that are preferential or discriminatory compared to  
9 those it charges entities purchasing wholesale or retail  
10 telecommunications services.

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

14 (6) Except as otherwise specifically provided, a public utility  
15 district may exercise any of the powers granted to it under this title  
16 and other applicable laws in carrying out the powers authorized under  
17 this section. Nothing in chapter 81, Laws of 2000 limits any existing  
18 authority of a public utility district under this title.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 54.08 RCW  
20 to read as follows:

21 (1) A district that owns or operates electric facilities for the  
22 generation, transmission, or distribution of electric power may expand  
23 their operations to include the provision of retail telecommunications  
24 services in partnership with a nonprofit organization, or a federally  
25 recognized tribe or its political subdivision, if the district secures  
26 the approval of such expansion by the voters of the district.

27 (2) The proposal to expand operations to include retail  
28 telecommunications services in partnership with a nonprofit  
29 organization, or a federally recognized tribe or its political  
30 subdivision, may be conducted at any general election held in an even-  
31 numbered year. The proposal may be submitted in one of two ways:

32 (a) To the voters of the district by resolution of the governing  
33 board of the public utility district; or

34 (b) To the voters of the district by the county legislative  
35 authority on petition of ten percent of the qualified electors of such  
36 a district, based on the total vote cast in the last general county  
37 election held in an even-numbered year.

1 (3) A form of petition for the expansion of a public utility  
2 district's operations to include retail telecommunications services in  
3 partnership with a nonprofit organization, or a federally recognized  
4 tribe or its political subdivision, must be submitted to the county  
5 auditor within ten months prior to the election at which such a  
6 proposition is to be submitted to the voters. Petitions must be filed  
7 with the county auditor not less than four months before such an  
8 election.

9 (4) The county auditor must examine the signatures submitted within  
10 thirty days of the signatures being submitted and certify the  
11 sufficiency or insufficiency of the signatures. If the petition is  
12 found to be insufficient, it must be returned to the public utility  
13 district that filed the petition, who may amend and add names to the  
14 petition for up to ten days before returning the petition to the county  
15 auditor. Upon receipt of an amended petition, the county auditor shall  
16 have an additional fifteen days to examine the amended petition and  
17 attach a certificate to the petition if the signatures are found to be  
18 sufficient.

19 (5) Any person who has signed such a petition may not withdraw his  
20 or her name from the petition after it has been filed with the county  
21 auditor, provided that each signature on the petition is dated and no  
22 signature dated prior to the date on which the form of petition was  
23 submitted to the county auditor is valid.

24 (6) If the petition is certified to be sufficient, the county  
25 auditor shall transmit the petition, along with the attached  
26 certificate of sufficiency, to the county legislative authority.

27 (7) Upon receipt of a petition and a certificate of sufficiency  
28 from the county auditor, the county legislative authority must submit  
29 the proposition to the voters of the district at the next general  
30 election in an even-numbered year according to RCW 29A.04.330. The  
31 notice of the election must state the object of such an election, and  
32 must in other respects conform to the requirements of the general laws  
33 of Washington, governing the time and manner of holding elections.

34 (8) The proposal submitted to the voters for their approval or  
35 rejection must be expressed on the ballot substantially in the  
36 following terms:

37 Shall Public Utility District No. . . . of . . . . . County

1 expand their operations to include retail telecommunications services  
2 in partnership with . . . .?

3 Yes

4 No

5 (9) Within ten days after such an election, the election board of  
6 the county shall canvass the returns, and if at such an election a  
7 majority of the voters voting on such a proposition vote in favor of  
8 the district's proposal, the district is authorized to expand their  
9 operations to include retail telecommunications services.

10 **Sec. 3.** RCW 53.08.370 and 2000 c 81 s 7 are each amended to read  
11 as follows:

12 (1) A rural port district in existence on June 8, 2000, may  
13 construct, purchase, acquire, develop, finance, lease, license, handle,  
14 provide, add to, contract for, interconnect, alter, improve, repair,  
15 operate, and maintain any telecommunications facilities within or  
16 without the district's limits for the following purposes:

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

18 (b) For the provision of wholesale telecommunications services  
19 within the district's limits; and

20 (c) For the provision of retail telecommunications services within  
21 the district, provided that the district:

22 (i) Does not individually provide telecommunications services to  
23 the end user but instead enters into a partnership with a nonprofit  
24 organization, or a federally recognized tribe or its political  
25 subdivision, for the joint provision of telecommunications services to  
26 the end user; and

27 (ii) Secures the approval of the voters of the district.

28 Except as provided in this subsection (1)(c), nothing in this  
29 subsection shall be construed to authorize rural port districts to  
30 provide telecommunications services to end users.

31 (2) A rural port district providing wholesale telecommunications  
32 services or retail telecommunications services in partnership with a  
33 nonprofit organization, or a federally recognized tribe or its  
34 political subdivision, under this section shall ensure that rates,  
35 terms, and conditions for such services are not unduly or unreasonably  
36 discriminatory or preferential. Rates, terms, and conditions are  
37 discriminatory or preferential when a rural port district offering such

1 rates, terms, and conditions to an entity for wholesale  
2 telecommunications services does not offer substantially similar rates,  
3 terms, and conditions to all other entities seeking substantially  
4 similar services.

5 (3) When a rural port district establishes a separate utility  
6 function for the provision of wholesale telecommunications services or  
7 retail telecommunications services in partnership with a nonprofit  
8 organization, or a federally recognized tribe or its political  
9 subdivision, it shall account for any and all revenues and expenditures  
10 related to its wholesale telecommunications facilities and services  
11 separately from revenues and expenditures related to its internal  
12 telecommunications operations. Any revenues received from the  
13 provision of wholesale telecommunications services or retail  
14 telecommunications services in partnership with a nonprofit  
15 organization, or a federally recognized tribe or its political  
16 subdivision, must be dedicated to the utility function that includes  
17 the provision of wholesale telecommunications services for costs  
18 incurred to build and maintain the telecommunications facilities until  
19 such time as any bonds or other financing instruments executed after  
20 June 8, 2000, and used to finance the telecommunications facilities are  
21 discharged or retired.

22 (4) When a rural port district establishes a separate utility  
23 function for the provision of wholesale telecommunications services,  
24 all telecommunications services rendered by the separate function to  
25 the district for the district's internal telecommunications needs shall  
26 be charged at its true and full value. A rural port district may not  
27 charge its nontelecommunications operations rates that are preferential  
28 or discriminatory compared to those it charges entities purchasing  
29 wholesale telecommunications services or retail telecommunications  
30 services offered in partnership with a nonprofit organization, or a  
31 federally recognized tribe or its political subdivision.

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

35 (6) Except as otherwise specifically provided, a rural port  
36 district may exercise any of the powers granted to it under this title  
37 and other applicable laws in carrying out the powers authorized under

1 this section. Nothing in chapter 81, Laws of 2000 limits any existing  
2 authority of a rural port district under this title.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 54.08 RCW  
4 to read as follows:

5 (1) A rural port district may expand its operations to include the  
6 provision of retail telecommunications services in partnership with a  
7 nonprofit organization, or a federally recognized tribe or its  
8 political subdivision, if the district secures the approval of such an  
9 expansion by the voters of the district.

10 (2) The proposal to expand operations to include retail  
11 telecommunications services in partnership with a nonprofit  
12 organization, or a federally recognized tribe or its political  
13 subdivision, may be conducted at any general election held in an even-  
14 numbered year. The proposal may be submitted in one of two ways:

15 (a) To the voters of the district by resolution of the governing  
16 board of the rural port district; or

17 (b) To the voters of the district by the county legislative  
18 authority on petition of ten percent of the qualified electors of such  
19 a district, based on the total vote cast in the last general county  
20 election held in an even-numbered year.

21 (3) A form of petition for the expansion of a rural port district's  
22 operations to include retail telecommunications services in partnership  
23 with a nonprofit organization, or a federally recognized tribe or its  
24 political subdivision, must be submitted to the county auditor within  
25 ten months prior to the election at which such a proposition is to be  
26 submitted to the voters. Petitions must be filed with the county  
27 auditor not less than four months before such an election.

28 (4) The county auditor must examine the signatures submitted within  
29 thirty days of the signatures being submitted and certify the  
30 sufficiency or insufficiency of the signatures. If the petition is  
31 found to be insufficient, it must be returned to the rural port  
32 district that filed the petition, who may amend and add names to the  
33 petition for up to ten days before returning the petition to the county  
34 auditor. Upon receipt of an amended petition, the county auditor shall  
35 have an additional fifteen days to examine the amended petition and  
36 attach a certificate to the petition if the signatures are found to be  
37 sufficient.

1 (5) Any person who has signed such a petition may not withdraw his  
2 or her name from the petition after it has been filed with the county  
3 auditor, provided that each signature on the petition is dated and no  
4 signature dated prior to the date on which the form of petition was  
5 submitted to the county auditor is valid.

6 (6) If the petition is certified to be sufficient, the county  
7 auditor shall transmit the petition, along with the attached  
8 certificate of sufficiency, to the county legislative authority.

9 (7) Upon receipt of a petition and a certificate of sufficiency  
10 from the county auditor, the county legislative authority must submit  
11 the proposition to the voters of the district at the next general  
12 election in an even-numbered year according to RCW 29A.04.330. The  
13 notice of the election must state the object of such an election, and  
14 must in other respects conform to the requirements of the general laws  
15 of Washington, governing the time and manner of holding elections.

16 (8) The proposal submitted to the voters for their approval or  
17 rejection must be expressed on the ballot substantially in the  
18 following terms:

19 Shall Rural Port District No. . . . of . . . . . County expand  
20 their operations to include retail telecommunications services in  
21 partnership with . . . .?

22 Yes

23 No

24 (9) Within ten days after such an election, the election board of  
25 the county shall canvass the returns, and if at such an election a  
26 majority of the voters voting on such a proposition vote in favor of  
27 the rural port district's proposal, the district is authorized to  
28 expand their operations to include retail telecommunications services.

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

31 (1) By July 1, 2010, public utility districts that own, lease, or  
32 have rights to telecommunications infrastructure shall provide  
33 information as requested by the department of information services to  
34 the third party mapping vendor under contract with the department of  
35 information services, in conjunction with the department of information  
36 services' broadband mapping and planning grants from the federal



1 department of commerce and the national telecommunications and  
2 information administration. This information must include, but not be  
3 limited to, the following information, to the extent available:

4 (a) The location of middle mile and last mile infrastructure;

5 (b) The location of dark fiber, including the location and use of  
6 nontelecommunications fiber, such as fiber used for traffic lights;

7 (c) Identification of broadband service area;

8 (d) The penetration and adoption rate of broadband in their  
9 services area;

10 (e) The type of technology used; and

11 (f) The advertised speeds.

12 (2) For purposes of this section, "telecommunications  
13 infrastructure" includes conduits, wires, fiberoptic cable or lines,  
14 coaxial cable, copper twisted pair telephone lines, receivers,  
15 transmitters, and broadcast radio frequency bandwidth.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 54.08 RCW  
17 to read as follows:

18 (1) By July 1, 2010, rural port districts that own, lease, or have  
19 rights to telecommunications infrastructure shall provide information  
20 as requested by the department of information services to the third  
21 party mapping vendor under contract with the department of information  
22 services, in conjunction with the department of information services'  
23 broadband mapping and planning grants from the federal department of  
24 commerce and the national telecommunications and information  
25 administration. This information must include, but not be limited to,  
26 the following information, to the extent available:

27 (a) The location of middle mile and last mile infrastructure;

28 (b) The location of dark fiber, including the location and use of  
29 nontelecommunications fiber, such as fiber used for traffic lights;

30 (c) Identification of broadband service area;

31 (d) The penetration and adoption rate of broadband in their  
32 services area;

33 (e) The type of technology used; and

34 (f) The advertised speeds.

35 (2) For purposes of this section, "telecommunications  
36 infrastructure" includes conduits, wires, fiberoptic cable or lines,

1 coaxial cable, copper twisted pair telephone lines, receivers,  
2 transmitters, and broadcast radio frequency bandwidth.

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