

SENATE BILL REPORT

SB 5351

As of February 5, 2013

Title: An act relating to creating a state universal communications service program.

Brief Description: Creating a state universal communications service program.

Sponsors: Senator Ericksen.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/30/13.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: William Bridges (786-7416)

Background: Universal Service. Universal service is the long-standing policy of the United States and the state of Washington to enable every American, regardless of location, to have access to affordable high-quality telephone and, more recently, internet services. While the Legislature first recognized the policy in 1985, it has been the de facto public policy of the state for more than 60 years.

The federal government operates a universal service fund (FUSF) that supports the construction and maintenance of a national telecommunications infrastructure to provide local telephone service and internet access to low-income consumers, those living in high-cost areas, schools and libraries, and rural health care providers. FUSF is financed through a charge on all telecommunications service companies providing interstate and international service, such as wireline phone companies, wireless phone companies, and certain Voice over Internet Protocol (VoIP) providers. The charge for each company differs according to a percentage of its telecommunications revenues as calculated by the Federal Communications Commission (FCC). About 24 states have established similar funds, but not the state of Washington.

Washington has funded universal service through a number of implicit subsidies, such as access charges, higher rates for business customers than for residential customers, and rate averaging. Access charges refer to fees that long-distance carriers pay to connect to a local telephone company's network. By charging above-cost access charges, local telephone companies have been able to use access charge revenues to help subsidize basic phone rates for their customers. Rate averaging refers to the practice of allowing some telephone

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

companies to charge all of their customers the same rates, even though some customers are located in high-cost locations and others in low-cost locations.

According to the Washington Utilities and Transportation Commission (UTC), small, rural wireline phone companies, known as rural incumbent local exchange carriers (ILECs), are experiencing substantial and accelerating reduction of their revenues because of regulatory changes made by the FCC in 2011. These changes include how telecommunications companies pay each other for services to transport and complete calls.

After conducting earnings reviews of small, rural ILECs, the UTC concluded it would be prudent to address the observed declining financial condition of the state's small telephone companies, and the potential for rate increases and service disruption to telecommunications consumers in rural areas, by establishing a targeted state universal service fund of limited duration.

Summary of Bill: Establishing a State Universal Communications Service (Universal Service) Program. A universal service program is to be established on July 1, 2014, and is set to expire on June 30, 2019. The program must be administered by a neutral third party, selected by the UTC through a competitive process, and subject to UTC oversight.

Funding Universal Service. The universal service program must be funded by a network connection fee. The fee must initially be a surcharge on all working telephone numbers in the state, with authority for UTC to assess the surcharge, enforce payment obligations, and request reports on the assessment, payment, and collection of funds and the use of monies distributed to providers. UTC may develop a new basis for the network connection fee as it may be in the public interest.

The universal service fund must be outside of the state treasury and not subject to legislative appropriation. Pursuant to rules adopted by UTC, only the neutral third-party administrator may authorize expenditures from the fund as directed by UTC. Expenditures may not exceed \$5 million in annual distributions.

Determining Eligibility Criteria. UTC must establish eligibility criteria for the universal service fund and designate eligible ILECs, which must be ILECs with fewer than 40,000 access lines in the state or wireless companies providing two-way voice communications to less than the equivalent of 40,000 access lines in the state.

Requiring UTC Oversight over the Universal Service Program. UTC must adopt rules for the universal service program, including the operation of the fund and the creation of an independent advisory board to advise UTC on the selection and oversight of the fund administrator. UTC is authorized to enforce universal service rules by issuing penalties.

Requiring a Report to the Legislature. One year prior to the expiration of the universal service program, UTC must evaluate how the fund has been used to provide rate stability for rural telecommunications providers, and whether, in its view, the act should be allowed to expire. Upon termination of the fund, the administrator will disburse the remaining funds and end its operations, subject to UTC direction and oversight.

Definitions. Various terms are defined, such as communications provider, which means the provider of a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over interconnected protocol service, and includes local exchange carriers.

Legislative Findings and Intent. Various findings are made, such as the benefits to consumers and telecommunications providers of a public network supported by a universal service program, and changes in the communications marketplace affecting the ability of companies to offer service in rural areas of the state. The Legislature intends, among other things, to implement and fund a universal service program.

Limited Emergency Clause. UTC is authorized to adopt rules to implement the universal service program prior to the effective date of the remaining portions of the act.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: This fund will help small, rural phone companies that serve high-cost areas. These companies are carriers-of-last-resort, which must serve customers in their service territories. These companies cannot afford the decrease in access charges mandated by the FCC. If one these companies goes out of business, then all wireless and internet services that are interconnected to that company may not function. The fund proposed in this bill is modeled on programs in 21 other states. It is estimated that a universal service tax on all phone numbers in the state will only increase a customer's cost by \$0.02 a month.

CON: The creation of a universal service fund is not opposed, if it is not permanent and is funded by legislative appropriation. There is some doubt that the fund will expire as contemplated, because experience informs us that subsidies often become part of a company's business model. A universal service fund should not be funded by a dedicated tax on phone numbers because that will add to the tax disparity among different telecommunications companies. Companies should not be forced to fund the capital investments of their competitors.

Persons Testifying: PRO: Betty Buckley, WA Independent Telecommunications Assn.; Ann Rendahl, UTC.

CON: Milt Doumit, John Cmelak, Verizon; Ron Main, Broadband Communications Assn. of WA.