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**SENATE BILL 6046**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Rolfes and Hasegawa

AN ACT Relating to providing for a vote of the public to authorize public utility districts to provide telecommunications services; amending RCW 54.16.005 and 54.16.330; adding a new section to chapter 54.16 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that there are areas of the state that are not being served with telecommunications or broadband services. The legislature further finds that many public utility districts in the state maintain telecommunications facilities in these underserved or unserved areas but are restricted from providing telecommunications services directly to retail, end-use customers. In an effort to reach those areas of the state that are unserved or underserved, it is the intent of the legislature to grant public utility districts the authority to provide retail telecommunications services.

**Sec.**  RCW 54.16.005 and 2000 c 81 s 2 are each amended to read as follows:

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

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

(2) "Public agency" has the same meaning as defined in RCW 39.34.020.

(3) "Retail telecommunications services" means the sale or lease of telecommunications services or facilities directly to public agencies, individuals, nonprofit organizations, libraries, schools, institutions of higher education, or other public or private entities.

(4) "Telecommunications" has the same meaning as that contained in RCW 80.04.010.

((~~(3)~~)) (5) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

((~~(4)~~)) (6) "Wholesale telecommunications services" means the provision of telecommunications services or facilities for resale by an entity authorized to provide telecommunications services to the general public and internet service providers.

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

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

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

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

(c) For the provision of retail telecommunications services within or adjacent to the district.

((~~Nothing in this subsection shall be construed to authorize public utility districts to provide telecommunications services to end users.~~))

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

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to but may establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this chapter has a complaint regarding the reasonableness of the rates, terms, conditions, or service provided, the person or entity may file a complaint with the governing body of the public utility district.

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

((~~(6)~~)) (7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

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

(1) Prior to constructing, purchasing, acquiring, developing, financing, leasing, licensing, handling, providing, adding to, contracting for, interconnecting, altering, improving, repairing, operating, or maintaining telecommunications facilities for the provision of retail telecommunications services, a public utility district must develop a written implementation plan describing how the district intends to provide retail telecommunications services under RCW 54.16.330.

(2)(a) The public utility district commission may adopt, alter, or reject the implementation plan by resolution. Any resolution to provide retail telecommunications services must be put to a vote of the people in the district at the next general election. The resolution must be expressed in substantially the following terms:

Shall Public Utility District No. . . . . . of . . . . . . . . County be authorized to provide retail telecommunications services within or adjacent to the district?

Yes . . .

No . . .

(b) Within ten days after an election, the election board of the county must canvass the returns, and if a majority of voters voting on the proposition vote in favor of the authority, the district has the authority to provide retail telecommunications services as set forth in the resolution.

**--- END ---**