

SENATE BILL REPORT

SB 6237

As of January 20, 2016

Title: An act relating to ensuring economic development by authorizing public utility districts to provide retail telecommunications services.

Brief Description: Ensuring economic development by authorizing public utility districts to provide retail telecommunications services.

Sponsors: Senators Rolfes, Sheldon, McCoy, Takko, Hasegawa, Cleveland and Chase.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/21/16.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The powers of public utility districts (PUDs) and port districts are governed by statutes and a long history of court decisions. PUDs are expressly authorized, among other things, to provide electricity, water, and sewer service. They have additional incidental and implied authorities that are necessary for accomplishing their primary purposes.

PUDs and rural port districts that were in existence in 2000 are authorized to acquire and operate telecommunications facilities for their own internal telecommunications needs and to provide wholesale telecommunications services within their district limits. PUDs are also allowed to provide wholesale services to other PUDs by contract.

Currently, the sections of statute authorizing districts to provide wholesale telecommunications services include the provision: "Nothing in this subsection shall be construed to authorize public utility districts [or rural port districts] to provide telecommunications services to end users." The term "end user" is not defined in statute. In 2001, Attorney General Opinion No. 3 concluded that "end user" means "retail customer," and that a PUD or rural port district may not use an interlocal agreement to sell or lease telecommunications facilities or services to other public agencies.

PUDs and rural port districts are required to ensure that their rates, terms, and conditions on wholesale services are not unduly or unreasonably discriminatory or preferential. Revenues

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from the wholesale activities must be used to pay off the costs incurred in building and maintaining the telecommunications facilities.

Districts must charge themselves the true and full value of telecommunications services provided by their separate telecommunications functions to the district. PUDs and rural port districts may not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights to such facilities.

Summary of Bill: PUDs that were in existence in 2000 are authorized to provide retail telecommunications services and facilities within the district or outside the district by contract with another PUD or any local government authorized to provide such services.

A PUD may provide retail telecommunications services by a majority vote of the district commission; or by a petition to the district on which the commission has held a hearing to consider broadband services. The petition must be signed by no less than 10 percent of the qualified voters who voted in the last general county election held in an even numbered year and the commission must approve, by a majority vote to provide broadband services. A PUD must develop a written implementation plan for retail telecommunications services prior to beginning any work, including construction, acquisitions, purchases, financing, et cetera.

A PUD that does not provide retail internet services may provide access to the internet to end-use customers of a dominant internet service provider (ISP), when the ISP ceases to provide internet services to the end-use customers. The PUD must start a process to find a replacement ISP within 30 days after the ISP stopped providing access to the internet. The district commission may establish a rate for providing access to the internet and cover expenses necessary to provide access until a replacement ISP is in operation. A dominant internet service provider is one that provides retail internet services to at least 51 percent of the total customers connected to a PUD owned or leased telecommunications facilities.

The requirements for ensuring rates, terms, and conditions that apply to wholesale services also apply to retail telecommunication services.

A person or entity receiving retail telecommunications services from a PUD may file a complaint with the district commission regarding rates, terms, conditions, or services provided.

Terms are defined.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.