

HOUSE BILL REPORT

ESSB 6034

As Passed House - Amended:
March 6, 2018

Title: An act relating to authorizing limited retail telecommunications services for public utility districts that provide only sewer, water, and telecommunications on the effective date of this act.

Brief Description: Authorizing limited retail telecommunications services for public utility districts that provide only sewer, water, and telecommunications on the effective date of this act.

Sponsors: Senate Committee on Energy, Environment & Technology (originally sponsored by Senators Rolfes, Sheldon, Angel, Hunt, Chase, Kuderer and Hasegawa).

Brief History:

Committee Activity:

Technology & Economic Development: 2/22/18 [DPA];

Finance: 2/26/18 [DPA(TED)].

Floor Activity:

Passed House - Amended: 3/6/18, 93-5.

**Brief Summary of Engrossed Substitute Bill
(As Amended by House)**

- Authorizes certain public utility districts (PUDs) to provide retail Internet telecommunications services.
- Imposes a privilege tax on PUD sales of retail Internet service.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended. Signed by 12 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Doglio, Fey, Hudgins, Manweller, Santos, Slatter, Steele, Wylie and Young.

Minority Report: Without recommendation. Signed by 2 members: Representatives Harmsworth and Nealey.

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.

Staff: Lily Smith (786-7175).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Technology & Economic Development. Signed by 6 members: Representatives Lytton, Chair; Frame, Vice Chair; Dolan, Pollet, Springer and Wylie.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Wilcox.

Minority Report: Without recommendation. Signed by 2 members: Representatives Nealey, Ranking Minority Member; Stokesbary.

Staff: Serena Dolly (786-7150).

Background:

Public utility districts (PUDs) in existence on June 8, 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. Public utility districts may also provide wholesale services to other PUDs by contract. Public utility districts are not authorized to provide telecommunications services to end users.

Public utility districts are required to ensure that their rates, terms, and conditions on wholesale services are not unduly or unreasonably discriminatory or preferential. The Utilities and Transportation Commission (UTC) is authorized to review petitions brought by consumers concerning a PUD's wholesale telecommunications rates, terms, and conditions.

Public utility districts must charge themselves the true and full value of telecommunications services provided by their separate telecommunications functions.

A privilege tax is applied to PUDs that generate, transit, or distribute electricity. For retail sales of electricity, the tax rate is 2 percent of gross revenues from the sales, with a surtax equal to 7 percent multiplied by the rate.

Summary of Bill:

A PUD that provides limited services in a county less than 500 square miles and west of Puget Sound is authorized to provide end user ("retail") Internet services on its broadband network within the district's boundaries, if the existing end user Internet service providers cease or provide inadequate service. The authority provided expires in five years for any PUD that has not either entered into a partnership payment structure to finance broadband deployment or been petitioned to provide Internet service.

After a PUD board of commissioners receives a petition requesting provision of retail Internet services, the PUD commissioners may hold three meetings to verify property owners' signatures; determine and submit findings regarding the existence or adequacy of

retail Internet services on the PUD's broadband network; receive a business case plan; and by resolution, authorize the PUD to provide retail Internet service on its broadband network. Authorization is contingent on the development of the business case plan and a determination of no or inadequate service.

Adequate retail Internet service is determined by measuring retail Internet service on the PUD's broadband network and comparing it to service standards in the PUD service level agreement used for other PUD network providers. A petition may be submitted by a majority of a group, including homeowners associations, within the district, or an individual who has developed a partnership payment structure to finance broadband deployment with the PUD. The business case plan must be reviewed by an independent qualified consultant.

The PUD commissioners must request an administrative law judge to hear Internet service adequacy disputes. The commissioners must provide written notice and may require disputing parties to attend the hearing. The administrative law judge must make and file a determination on the adequacy of retail Internet service with the commissioners. A company regulated by the UTC may request resolution of Internet service disputes through the UTC process for reviewing wholesale telecommunications.

Public utility district retail Internet service rates must be just, fair, and reasonable, but may set tiers of charges based on end user service demands. Revenues and expenditures for retail Internet services must be accounted for separately from other services.

Public utility districts are subject to annual payments in lieu of property taxes for broadband networks used in providing retail Internet services. The Department of Revenue must submit annual reports to the Legislature on payments made and the amount of property tax that would be owed on the property.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Technology & Economic Development):

(In support) The bill is another solution to bringing broadband to rural areas, and protects investments by the PUD and citizens. Kitsap PUD has installed a fiber backbone to hospitals, military cities, schools, and libraries. Citizens are now petitioning the PUD to bring this broadband to them, who have paid for the cost of the final mile themselves. Kitsap is committed to continue building fiber to unserved and underserved communities, and does not want stranded investments. This bill represents significant stakeholder work, all of whom are neutral on the bill. The taxing piece is not right, but if there is a tax paid by private entities, Kitsap PUD would be willing to make it clear it would assume the same obligation.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) The bill is not perfect, but it should be moved forward. It may not have the appropriate tax. It takes the energy taxes and applies them to telecommunications. There are other ways to create parity with private telecommunications taxes. The Department of Revenue may be able to find a formula. Kitsap County Public Utility District is committed to solving the tax parity issue.

(Opposed) None.

Persons Testifying (Technology & Economic Development): Debra Lester, Lisa Thatcher, and Paul Avis, Kitsap Public Utility District.

Persons Testifying (Finance): Lisa Thatcher, Kitsap Public Utility District; and Bill Clarke, Washington Public Utility District Association.

Persons Signed In To Testify But Not Testifying (Technology & Economic Development): None.

Persons Signed In To Testify But Not Testifying (Finance): None.