

2SSB 5511 - S AMD 193

By Senator Ericksen

NOT ADOPTED 03/06/2019

1 On page 13, after line 12, insert the following:

2 "Sec. 9. RCW 54.16.300 and 1987 c 18 s 1 are each amended to
3 read as follows:

4 A public utility district by resolution may combine two or more
5 of its separate utility functions into a single utility and combine
6 its related funds or accounts into a single fund or account. The
7 separate utility functions include electrical energy systems,
8 domestic water systems, irrigation systems, sanitary sewer systems,
9 ((and)) storm sewer systems, and broadband systems. All powers
10 granted to public utility districts to acquire, construct, maintain,
11 and operate such systems may be exercised in the joint acquisition,
12 construction, maintenance, and operation of such combined systems.
13 The establishment, maintenance, and operation of the combined system
14 shall be governed by the public utility district statutes relating to
15 one of the utility systems that is being combined, as specified in
16 the resolution combining the utility systems."

17 Renumber the remaining sections consecutively and correct any
18 internal references accordingly.

19 On page 14, beginning on line 1, after "purpose." strike all
20 material through "retired." on line 13, and insert "~~((In either case,~~
21 ~~a public utility district providing wholesale telecommunications~~
22 ~~services shall separately account for any revenues and expenditures~~
23 ~~for those services according to standards established by the state~~
24 ~~auditor pursuant to its authority in chapter 43.09 RCW and consistent~~
25 ~~with the provisions of this title. Any revenues received from the~~
26 ~~provision of wholesale telecommunications services must be dedicated~~
27 ~~to costs incurred to build and maintain any telecommunications~~
28 ~~facilities constructed, installed, or acquired to provide such~~
29 ~~services, including payments on debt issued to finance such services,~~
30 ~~until such time as any bonds or other financing instruments executed~~

1 ~~after June 8, 2000, and used to finance such telecommunications~~
2 ~~facilities are discharged or retired.))"~~

3 On page 15, after line 17, insert the following:

4 **"Sec. 10.** RCW 54.16.420 and 2018 c 186 s 1 are each amended to
5 read as follows:

6 (1) The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.

8 (a) "Broadband" means high-speed internet access and other
9 advanced telecommunications services.

10 (b) "Broadband network" means networks of deployed
11 telecommunications equipment and technologies necessary to provide
12 broadband.

13 (c) "Inadequate" means internet retail service that does not meet
14 one hundred percent of the standards detailed in the service level
15 agreement.

16 (d) "Partnership payment structure" means a group of or
17 individual property owners who agree to pay a term payment structure
18 for infrastructure improvements to their property.

19 (e) "Petition" means a formal written request for retail internet
20 service by property owners on the public utility district broadband
21 network.

22 (f) "Retail internet service" means the provision of broadband to
23 end users.

24 (g) "Service level agreement" means a standard agreement, adopted
25 during an open public meeting, between the retail internet service
26 provider and the public utility that describes the required
27 percentage of broadband download and upload speed and system
28 availability, customer service, and transmission time.

29 (2) Any public utility district that, as of June 7, 2018,
30 provides only water, sewer, and wholesale telecommunications services
31 in a county with an area less than five hundred square miles and is
32 located west of the Puget Sound may provide retail internet service
33 on the public utility district's broadband network located within the
34 public utility district boundaries only when all of the existing
35 providers of end-user internet service on the public utility
36 district's broadband network cease to provide end-user service or
37 provide inadequate end-user service as determined in the manner
38 prescribed by this section. The authority provided in this subsection

1 expires five years after June 7, 2018, for any public utility
2 district that has not either entered into a partnership payment
3 structure to finance broadband deployment or been petitioned to
4 provide retail internet service within that time period.

5 (3) Upon receiving a petition meeting the requirements of
6 subsection (4) of this section, a public utility district board of
7 commissioners may hold up to three meetings to:

8 (a) Verify the signature or signatures of the property owners on
9 the petition and certify the petition;

10 (b) Determine and submit findings that the retail internet
11 service available to the petitioners served by the public utility
12 district's broadband network is either nonexistent or inadequate as
13 defined in the service level agreement adopted by the commissioners
14 for all existing internet service providers on the public utility
15 district's broadband network;

16 (c) Receive, and either reject or accept any recommendations or
17 adjustments to, a business case plan developed in accordance with
18 subsection (7) of this section; and

19 (d) By resolution, authorize the public utility district to
20 provide retail internet service on the public utility district's
21 broadband network.

22 (4) A petition meets the requirements of subsection (3) of this
23 section if it is delivered to a public utility district board of
24 commissioners, declares that the signatories on the public utility
25 district's broadband network have no or inadequate retail internet
26 service providers, requests the public utility district to provide
27 the retail internet service, and is signed by one of the following:

28 (a) A majority of a group, including homeowners' associations, of
29 any geographical area within the public utility district, who have
30 developed a partnership payment structure to finance broadband
31 deployment with the public utility district; or

32 (b) Any individual who has developed a partnership payment
33 structure to finance broadband deployment with the public utility
34 district.

35 (5) For the purposes of this section, the adequacy of retail
36 internet service is determined by measuring retail internet service
37 to end users on the public utility district's broadband network and
38 comparing it with service standards in the public utility district
39 service level agreement used for all public utility district network
40 providers. Measurement of the existing retail internet service

1 provider's service must be quantified by measuring the service with
2 speed and capacity devices and software. Additionally, a retail
3 internet service provider may submit its own assessment of its
4 service level for consideration by the commission within thirty days
5 of the first meeting conducted under subsection (3) of this section.

6 (6) The commissioners of a public utility district may by
7 resolution authorize the public utility district to provide or
8 contract for provision of retail internet services on the public
9 utility district's broadband network:

10 (a) After development of a business case plan in accordance with
11 subsection (7) of this section; and

12 (b) When it is determined that no service or inadequate service
13 exists for the individual or petitioners identified in subsection (4)
14 of this section.

15 (7) The business case plan under subsection (6) of this section
16 must be reviewed by an independent qualified consultant. The review
17 must include the use of public funds in the provision of retail
18 internet service. Any recommendations or adjustments to the business
19 case plan made during third-party review must be received and either
20 rejected or accepted by the district board of commissioners in an
21 open meeting.

22 (8) (a) Except as provided in subsection (9) of this section, in
23 case of failure to reach an agreement on the adequacy of retail
24 internet service, the commissioners must request an appointment of an
25 administrative law judge under Title 34 RCW to hear the dispute.

26 (b) The commissioners must provide a written notice, together
27 with a copy of the dispute, and may require the disputing parties to
28 attend a hearing before the administrative law judge, at a time and
29 place to be specified in the written notice.

30 (c) The place of any such hearing may be the office of the
31 commissioners or another place designated by the commissioners. The
32 disputed information must be presented at the hearing.

33 (d) Upon review and consideration of all of the evidence, the
34 administrative law judge must determine if the retail internet
35 service is inadequate or nonexistent as defined in this section. Upon
36 making a determination, the administrative law judge must state
37 findings of fact and must issue and file a determination with the
38 commissioners.

39 (9) If a provider of end-user service is a company regulated by
40 the utilities and transportation commission, the company may choose

1 to have the commission resolve disputes concerning the service level
2 agreement under the process established in RCW 54.16.340. For the
3 purposes of this subsection, "company" includes subsidiaries or
4 affiliates.

5 (10) Any public utility district providing cable television
6 service under this section must secure a cable television franchise,
7 pay franchise fees, and any applicable taxes to the local cable
8 franchise authority as required by federal law.

9 (11) Except as provided in subsection (9) of this section,
10 nothing in this section may be construed or is intended to confer
11 upon the utilities and transportation commission any authority to
12 exercise jurisdiction over locally regulated utilities.

13 (12) All rates for retail internet services offered by a public
14 utility district under this section must be just, fair, and
15 reasonable, except the public utility district may set tiers of
16 service charges based on service demands of the end user, including
17 commercial and residential rates.

18 (13) A public utility district must not condition the
19 availability or cost of other services upon the purchase or use of
20 retail internet service.

21 (14) A public utility district authorized to provide retail
22 internet service within a specific geographical area must, upon
23 reasonable notice, furnish to all persons and entities within that
24 geographical area meeting the provisions of subsections (2) and (4)
25 of this section proper facilities and connections for retail internet
26 service as requested.

27 ~~((15) A public utility district providing retail internet
28 service must separately account for any revenues and expenditures for
29 those services according to standards established by the state
30 auditor pursuant to its authority in chapter 43.09 RCW and consistent
31 with the provisions of this title.))"~~

32 Renumber the remaining sections consecutively and correct any
33 internal references accordingly.

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1 On page 1, line 3 of the title, after "RCW" insert "54.16.300,"
2 and after "54.16.330," insert "54.16.420,"

EFFECT: Allows a public utility district to combine broadband systems with other systems. Removes the separate accounting requirement for a public utility district providing retail services.

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