

SSB 5679 - S AMD 26  
By Senator Short

ADOPTED 02/28/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Adequate access to telecommunications facilities and  
5 services, comparable to those offered in urban areas, is essential to  
6 the economic well-being of communities in rural Washington state.

7 (2) Many communities, particularly in rural areas, do not have  
8 adequate access to telecommunications facilities and services.

9 (3) Specifying that port districts in these areas have authority  
10 to enter into contracts to attract private telecommunications  
11 companies may help to create a sufficient market for the provision of  
12 adequate retail telecommunications services.

13 **Sec. 2.** RCW 53.08.370 and 2000 c 81 s 7 are each amended to read  
14 as follows:

15 (1) A rural port district in existence on June 8, 2000, (~~may~~)  
16 and port districts located in counties with a population less than  
17 seven hundred thousand are eligible to construct, purchase, acquire,  
18 develop, finance, lease, license, handle, provide, add to, contract  
19 for, interconnect, alter, improve, repair, operate, and maintain any  
20 telecommunications facilities within or without the district's limits  
21 utilizing unlit optical fiber for the following purposes:

22 (a) For the district's own use; and

23 (b) For the provision of wholesale telecommunications services  
24 within or without the district's limits. Nothing in this subsection  
25 shall be construed to authorize (~~rural~~) eligible port districts to  
26 provide telecommunications services to end users.

27 (2) (~~A rural~~) Except as provided in subsection (7) of this  
28 section, port districts providing wholesale telecommunications  
29 services under this section shall ensure that rates, terms, and  
30 conditions for such services are not unduly or unreasonably  
31 discriminatory or preferential. Rates, terms, and conditions are

1 discriminatory or preferential when a (~~rural~~) port district  
2 offering such rates, terms, and conditions to an entity for wholesale  
3 telecommunications services does not offer substantially similar  
4 rates, terms, and conditions to all other entities seeking  
5 substantially similar services.

6 (3) When a (~~rural~~) port district establishes a separate utility  
7 function for the provision of wholesale telecommunications services  
8 under this section, it shall account for any and all revenues and  
9 expenditures related to its wholesale telecommunications facilities  
10 and services separately from revenues and expenditures related to its  
11 internal telecommunications operations. Any revenues received from  
12 the provision of wholesale telecommunications services must be  
13 dedicated to the utility function that includes the provision of  
14 wholesale telecommunications services for costs incurred to build and  
15 maintain the telecommunications facilities until such time as any  
16 bonds or other financing instruments executed after June 8, 2000, and  
17 used to finance the telecommunications facilities are discharged or  
18 retired.

19 (4) When a (~~rural~~) port district establishes a separate utility  
20 function for the provision of wholesale telecommunications services  
21 under this section, all telecommunications services rendered by the  
22 separate function to the district for the district's internal  
23 telecommunications needs shall be charged at its true and full value.  
24 A (~~rural~~) port district may not charge its nontelecommunications  
25 operations rates that are preferential or discriminatory compared to  
26 those it charges entities purchasing wholesale telecommunications  
27 services.

28 (5) A (~~rural~~) port district under this section shall not  
29 exercise powers of eminent domain to acquire telecommunications  
30 facilities or contractual rights held by any other person or entity  
31 to telecommunications facilities.

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

37 (7) A port district under this section may select a  
38 telecommunications company to operate all or a portion of the port  
39 district's telecommunications facilities. The company may be the  
40 exclusive provider of telecommunications services to end users under

1 terms specified in the contract with the port district. For purposes  
2 of this section, "telecommunications company" means any for-profit  
3 entity owned by investors that sells telecommunications services to  
4 end users. Nothing in this subsection (7) is intended to limit or  
5 otherwise restrict any other authority provided by law.

6 **Sec. 3.** RCW 53.08.380 and 2000 c 81 s 9 are each amended to read  
7 as follows:

8 (1) A person or entity that has requested wholesale  
9 telecommunications services from a rural port district or port  
10 district as identified in RCW 53.08.370(1) may petition the  
11 commission under the procedures set forth in RCW 80.04.110 (1)  
12 through (3) if it believes the district's rates, terms, and  
13 conditions are unduly or unreasonably discriminatory or preferential,  
14 except as provided in RCW 53.08.370. The person or entity shall  
15 provide the district notice of its intent to petition the commission  
16 and an opportunity to review within thirty days the rates, terms, and  
17 conditions as applied to it prior to submitting its petition. In  
18 determining whether a district is providing discriminatory or  
19 preferential rates, terms, and conditions, the commission may  
20 consider such matters as service quality, technical feasibility of  
21 connection points on the district's telecommunications facilities,  
22 time of response to service requests, system capacity, and other  
23 matters reasonably related to the provision of wholesale  
24 telecommunications services. If the commission, after notice and  
25 hearing, determines that a rural port district's rates, terms, and  
26 conditions are unduly or unreasonably discriminatory or preferential,  
27 it shall issue a final order finding noncompliance with this section  
28 and setting forth the specific areas of apparent noncompliance. An  
29 order imposed under this section shall be enforceable in any court of  
30 competent jurisdiction.

31 (2) The commission may order a rural port district or port  
32 district as identified in RCW 53.08.370(1) to pay a share of the  
33 costs incurred by the commission in adjudicating or enforcing this  
34 section.

35 (3) Without limiting other remedies at law or equity, the  
36 commission and prevailing party may also seek injunctive relief to  
37 compel compliance with an order.

38 (4) Nothing in this section shall be construed to affect the  
39 commission's authority and jurisdiction with respect to actions,

1 proceedings, or orders permitted or contemplated for a state  
2 commission under the federal telecommunications act of 1996, P.L.  
3 104-104 (110 Stat. 56)."

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4 On page 1, line 2 of the title, after "services;" strike the  
5 remainder of the title and insert "amending RCW 53.08.370 and  
6 53.08.380; and creating a new section."

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