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HOUSE BILL 2664

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State of Washington                      65th Legislature                      2018 Regular Session

By Representatives Dye, Doglio, Jenkin, Chapman, Vick, Stonier, Wylie, and Walsh

Read first time 01/11/18.      Referred to Committee on Technology & Economic Development.

1            AN    ACT    Relating   to   extending   existing   telecommunications  
2 authority to all ports in Washington state in order to facilitate  
3 public-private partnerships in wholesale telecommunications services  
4 and infrastructure; and amending RCW 53.08.005, 53.08.370, and  
5 53.08.380.

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

7            **Sec. 1.**    RCW 53.08.005 and 2000 c 81 s 6 are each amended to read  
8 as follows:

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

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

13            (2)    (~~"Rural port district" means a port district formed under~~  
14 ~~chapter 53.04 RCW and located in a county with an average population~~  
15 ~~density of fewer than one hundred persons per square mile.~~

16            ~~(3))~~ "Telecommunications" has the same meaning as contained in  
17 RCW 80.04.010.

18            (~~(4))~~    (3)    "Telecommunications facilities" means lines,  
19 conduits, ducts, poles, wires, cables, crossarms, receivers,  
20 transmitters, instruments, machines, appliances, instrumentalities  
21 and all devices, real estate, easements, apparatus, property, and

1 routes used, operated, owned, or controlled by any entity to  
2 facilitate the provision of telecommunications services.

3 ((+5)) (4) "Wholesale telecommunications services" means the  
4 provision of telecommunications services or facilities for resale by  
5 an entity authorized to provide telecommunications services to the  
6 general public and internet service providers.

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

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

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

15 (b) For the provision of wholesale telecommunications services  
16 within the district's limits. Nothing in this subsection shall be  
17 construed to authorize ((~~rural~~)) port districts to provide  
18 telecommunications services to end users.

19 (2) A ((~~rural~~)) port district providing wholesale  
20 telecommunications services under this section shall ensure that  
21 rates, terms, and conditions for such services are not unduly or  
22 unreasonably discriminatory or preferential. Rates, terms, and  
23 conditions are discriminatory or preferential when a ((~~rural~~)) port  
24 district offering such rates, terms, and conditions to an entity for  
25 wholesale telecommunications services does not offer substantially  
26 similar rates, terms, and conditions to all other entities seeking  
27 substantially similar services.

28 (3) When a ((~~rural~~)) port district establishes a separate utility  
29 function for the provision of wholesale telecommunications services,  
30 it shall account for any and all revenues and expenditures related to  
31 its wholesale telecommunications facilities and services separately  
32 from revenues and expenditures related to its internal  
33 telecommunications operations. Any revenues received from the  
34 provision of wholesale telecommunications services must be dedicated  
35 to the utility function that includes the provision of wholesale  
36 telecommunications services for costs incurred to build and maintain  
37 the telecommunications facilities until such time as any bonds or  
38 other financing instruments executed after June 8, 2000, and used to  
39 finance the telecommunications facilities are discharged or retired.

1 (4) When a ((~~rural~~)) port district establishes a separate utility  
2 function for the provision of wholesale telecommunications services,  
3 all telecommunications services rendered by the separate function to  
4 the district for the district's internal telecommunications needs  
5 shall be charged at its true and full value. A ((~~rural~~)) port  
6 district may not charge its nontelecommunications operations rates  
7 that are preferential or discriminatory compared to those it charges  
8 entities purchasing wholesale telecommunications services.

9 (5) A ((~~rural~~)) port district shall not exercise powers of  
10 eminent domain to acquire telecommunications facilities or  
11 contractual rights held by any other person or entity to  
12 telecommunications facilities.

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

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

20 (1) A person or entity that has requested wholesale  
21 telecommunications services from a ((~~rural~~)) port district may  
22 petition the commission under the procedures set forth in RCW  
23 80.04.110 (1) through (3) if it believes the district's rates, terms,  
24 and conditions are unduly or unreasonably discriminatory or  
25 preferential. The person or entity shall provide the district notice  
26 of its intent to petition the commission and an opportunity to review  
27 within thirty days the rates, terms, and conditions as applied to it  
28 prior to submitting its petition. In determining whether a district  
29 is providing discriminatory or preferential rates, terms, and  
30 conditions, the commission may consider such matters as service  
31 quality, technical feasibility of connection points on the district's  
32 telecommunications facilities, time of response to service requests,  
33 system capacity, and other matters reasonably related to the  
34 provision of wholesale telecommunications services. If the  
35 commission, after notice and hearing, determines that a ((~~rural~~))  
36 port district's rates, terms, and conditions are unduly or  
37 unreasonably discriminatory or preferential, it shall issue a final  
38 order finding noncompliance with this section and setting forth the

1 specific areas of apparent noncompliance. An order imposed under this  
2 section shall be enforceable in any court of competent jurisdiction.

3 (2) The commission may order a (~~rural~~) port district to pay a  
4 share of the costs incurred by the commission in adjudicating or  
5 enforcing this section.

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

9 (4) Nothing in this section shall be construed to affect the  
10 commission's authority and jurisdiction with respect to actions,  
11 proceedings, or orders permitted or contemplated for a state  
12 commission under the federal telecommunications act of 1996, P.L.  
13 104-104 (110 Stat. 56).

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