
SUBSTITUTE SENATE BILL 6425

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Sutherland and Ludwig)

Read first time 02/04/94.

1 AN ACT Relating to information and telecommunications policy;
2 amending RCW 80.04.010, 80.36.130, 84.52.0531, 43.105.052, 19.27.078,
3 and 43.63A.320; adding new sections to chapter 80.36 RCW; adding new
4 sections to chapter 35.21 RCW; adding new sections to chapter 35A.21
5 RCW; adding new sections to chapter 36.32 RCW; adding a new section to
6 chapter 54.04 RCW; adding new sections to chapter 24.06 RCW; adding new
7 sections to chapter 23.86 RCW; adding a new section to chapter 36.70A
8 RCW; adding a new section to chapter 79.08 RCW; adding new sections to
9 chapter 43.17 RCW; adding new sections to chapter 28A.300 RCW; adding
10 new sections to chapter 28B.80 RCW; adding new sections to chapter
11 28B.50 RCW; adding a new section to chapter 28A.150 RCW; adding new
12 sections to chapter 38.52 RCW; adding a new section to chapter 43.22
13 RCW; adding a new section to chapter 54.16 RCW; creating new sections;
14 prescribing penalties; and providing an effective date.

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

16 NEW SECTION. **Sec. 1.** The legislature finds that advanced
17 telecommunications systems will bring significant benefits to the
18 people of the state of Washington, including economic development,
19 improved health care, public safety, and expanded educational and

1 governmental services, and that state policy should encourage
2 deployment of advanced services by providing appropriate regulation
3 which fosters full and fair competition, removes undue regulatory
4 barriers to market entry by communications service providers,
5 encourages development of advanced telecommunications infrastructure in
6 all areas, including rural areas, avoids duplications of state-owned
7 communications facilities, and extends consumer protection standards to
8 users of various advanced systems.

9 **CREATING PARITY AMONG COMMUNICATIONS SERVICE PROVIDERS**

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.36 RCW
11 to read as follows:

12 The commission is authorized to prescribe open and standardized
13 access to telecommunications networks and systems.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW
15 to read as follows:

16 No city or town, or public corporation of which it has an ownership
17 interest, may impose terms and conditions for use of a utility pole or
18 right of way to a telecommunications company, as defined by RCW
19 80.04.010, that are more burdensome or less favorable than those
20 imposed on other telecommunications companies for similar uses,
21 regardless of differences between companies regarding overall service
22 areas or kinds of services provided. No city or town, or public
23 corporation in which it has an ownership interest, may limit or
24 otherwise restrict use of utility poles or rights of way for the
25 purpose of limiting competition. No city or town, or public
26 corporation in which it has an ownership interest, may impose
27 registration or application procedures for use of poles or rights of
28 way that are unreasonable given the nature and extent of the proposed
29 use, or that result in undue delay of action upon an application for
30 such use. Nothing in this section affects the authority of a city or
31 town to set terms and conditions for use of poles or rights of way by
32 cable television companies or other companies that are not
33 telecommunications companies under RCW 80.04.010.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.21 RCW
35 to read as follows:

1 No code city, or public corporation of which it has an ownership
2 interest, may impose terms and conditions for use of a utility pole or
3 right of way to a telecommunications company, as defined by RCW
4 80.04.010, that are more burdensome or less favorable than those
5 imposed on other telecommunications companies for similar uses,
6 regardless of differences between companies regarding overall service
7 areas or kinds of services provided. No code city, or public
8 corporation in which it has an ownership interest, may limit or
9 otherwise restrict use of utility poles or rights of way for the
10 purpose of limiting competition. No code city, or public corporation
11 in which it has an ownership interest, may impose registration or
12 application procedures for use of poles or rights of way that are
13 unreasonable given the nature and extent of the proposed use, or that
14 result in undue delay of action upon an application for such use.
15 Nothing in this section affects the authority of a code city to set
16 terms and conditions for use of poles or rights of way by cable
17 television companies or other companies that are not telecommunications
18 companies under RCW 80.04.010.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.32 RCW
20 to read as follows:

21 No county, or public corporation of which it has an ownership
22 interest, may impose terms and conditions for use of a utility pole or
23 right of way to a telecommunications company, as defined by RCW
24 80.04.010, that are more burdensome or less favorable than those
25 imposed on other telecommunications companies for similar uses,
26 regardless of differences between companies regarding overall service
27 areas or kinds of services provided. No county, or public corporation
28 in which it has an ownership interest, may limit or otherwise restrict
29 use of utility poles or rights of way for the purpose of limiting
30 competition. No county, or public corporation in which it has an
31 ownership interest, may impose registration or application procedures
32 for use of poles or rights of way that are unreasonable given the
33 nature and extent of the proposed use, or that result in undue delay of
34 action upon an application for such use. Nothing in this section
35 affects the authority of a county to set terms and conditions for use
36 of poles or rights of way by cable television companies or other
37 companies that are not telecommunications companies under RCW
38 80.04.010.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 54.04 RCW
2 to read as follows:

3 No public utility district may impose terms and conditions for use
4 of a utility pole or right of way to a telecommunications company or
5 cable system, as defined by RCW 80.04.010, that are more burdensome or
6 less favorable than those imposed on other telecommunications
7 companies, cable systems, or other providers of telecommunications
8 services for similar uses, regardless of differences between companies
9 regarding overall service areas or kinds of services provided. No
10 public utility district may limit or otherwise restrict use of utility
11 poles or rights of way for the purpose of limiting competition. No
12 public utility district may impose registration or application
13 procedures for use of poles or rights of way that are unreasonable
14 given the nature and extent of the proposed use, or that result in
15 undue delay of action upon an application for such use.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 24.06 RCW
17 to read as follows:

18 No mutual corporation providing electricity service may impose
19 terms and conditions for use of a utility pole or right of way to a
20 telecommunications company or cable system, as defined by RCW
21 80.04.010, that are more burdensome or less favorable than those
22 imposed on other telecommunications companies, cable systems, or other
23 providers of telecommunications services for similar uses, regardless
24 of differences between companies regarding overall service areas or
25 kinds of services provided. No mutual corporation providing
26 electricity service may limit or otherwise restrict use of utility
27 poles or rights of way for the purpose of limiting competition. No
28 mutual corporation providing electricity service may impose
29 registration or application procedures for use of poles or rights of
30 way that are unreasonable given the nature and extent of the proposed
31 use, or that result in undue delay of action upon an application for
32 such use.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 23.86 RCW
34 to read as follows:

35 No rural electric cooperative may impose terms and conditions for
36 use of a utility pole or right of way to a telecommunications company
37 or cable system, as defined by RCW 80.04.010, that are more burdensome

1 or less favorable than those imposed on other telecommunications
2 companies, cable systems, or other providers of telecommunications
3 services for similar uses, regardless of differences between companies
4 regarding overall service areas or kinds of services provided. No
5 rural electric cooperative may limit or otherwise restrict use of
6 utility poles or rights of way for the purpose of limiting competition.
7 No rural electric cooperative may impose registration or application
8 procedures for use of poles or rights of way that are unreasonable
9 given the nature and extent of the proposed use, or that result in
10 undue delay of action upon an application for such use.

11 **Sec. 9.** RCW 80.04.010 and 1991 c 100 s 1 are each amended to read
12 as follows:

13 As used in this title, unless specifically defined otherwise or
14 unless the context indicates otherwise:

15 "Automatic location identification" means a system by which
16 information about a caller's location is forwarded to a public safety
17 answering point for display.

18 "Automatic number identification" means a system that allows for
19 the automatic display of the seven-digit number used to place a 911
20 call, or a different seven-digit number to which a return call can be
21 made from the public switched network.

22 "Cable service" means the one-way transmission to subscribers of
23 video programming or other programming service, and such subscriber
24 interaction as required for the selection of video programming or other
25 programming service.

26 "Cable television company" includes every corporation, company,
27 association, joint stock association, partnership and person, their
28 lessees, trustees, or receivers appointed by any court, and every city
29 or town, owning, controlling, operating or managing a cable television
30 system within this state.

31 "Cable television system" or "cable system" means a facility,
32 consisting of a set of closed transmission paths and associated signal
33 generation, reception, and control equipment that is designed to
34 provide cable service which includes video programming and is provided
35 to multiple subscribers in a community, but does not include (1) a
36 facility that serves only to retransmit the television signals of one
37 or more television broadcast stations; (2) a facility that serves only
38 subscribers in one or more multiple unit dwellings, unless such

1 facility uses public rights of way; (3) a facility of a common carrier
2 as defined by this section, except that such facility shall be
3 considered a cable system to the extent the facility is used to provide
4 video programming directly to subscribers; and (4) facilities of an
5 electric utility used solely for operating its electric utility system.

6 "Commission" means the utilities and transportation commission.

7 "Commissioner" means one of the members of such commission.

8 "Competitive telecommunications company" means a telecommunications
9 company which has been classified as such by the commission pursuant to
10 RCW 80.36.320.

11 "Competitive telecommunications service" means a service which has
12 been classified as such by the commission pursuant to RCW 80.36.330.

13 "Corporation" includes a corporation, company, association or joint
14 stock association.

15 "Person" includes an individual, a firm or partnership.

16 "Gas plant" includes all real estate, fixtures and personal
17 property, owned, leased, controlled, used or to be used for or in
18 connection with the transmission, distribution, sale or furnishing of
19 natural gas, or the manufacture, transmission, distribution, sale or
20 furnishing of other type gas, for light, heat or power.

21 "Gas company" includes every corporation, company, association,
22 joint stock association, partnership and person, their lessees,
23 trustees or receiver appointed by any court whatsoever, and every city
24 or town, owning, controlling, operating or managing any gas plant
25 within this state.

26 "Electric plant" includes all real estate, fixtures and personal
27 property operated, owned, used or to be used for or in connection with
28 or to facilitate the generation, transmission, distribution, sale or
29 furnishing of electricity for light, heat, or power for hire; and any
30 conduits, ducts or other devices, materials, apparatus or property for
31 containing, holding or carrying conductors used or to be used for the
32 transmission of electricity for light, heat or power.

33 "Electrical company" includes any corporation, company,
34 association, joint stock association, partnership and person, their
35 lessees, trustees or receivers appointed by any court whatsoever (other
36 than a railroad or street railroad company generating electricity
37 solely for railroad or street railroad purposes or for the use of its
38 tenants and not for sale to others), and every city or town owning,
39 operating or managing any electric plant for hire within this state.

1 "Electrical company" does not include a company or person employing a
2 cogeneration facility solely for the generation of electricity for its
3 own use or the use of its tenants or for sale to an electrical company,
4 state or local public agency, municipal corporation, or quasi municipal
5 corporation engaged in the sale or distribution of electrical energy,
6 but not for sale to others, unless such company or person is otherwise
7 an electrical company.

8 "LATA" means a local access transport area as defined by the
9 commission in conformance with applicable federal law.

10 "Private telecommunications system" means a telecommunications
11 system controlled by a person or entity for the sole and exclusive use
12 of such person, entity, or affiliate thereof, including the provision
13 of private shared telecommunications services by such person or entity.
14 "Private telecommunications system" does not include a system offered
15 for hire, sale, or resale to the general public.

16 "Private shared telecommunications services" includes the provision
17 of telecommunications and information management services and equipment
18 within a user group located in discrete private premises in building
19 complexes, campuses, or high-rise buildings, by a commercial shared
20 services provider or by a user association, through privately owned
21 customer premises equipment and associated data processing and
22 information management services and includes the provision of
23 connections to the facilities of a local exchange and to interexchange
24 telecommunications companies.

25 "Radio communications service company" includes every corporation,
26 company, association, joint stock association, partnership, and person,
27 their lessees, trustees, or receivers appointed by any court, and every
28 city or town making available facilities to provide radio
29 communications service, radio paging, or cellular communications
30 service for hire, sale, or resale.

31 "Telecommunications company" includes every corporation, company,
32 association, joint stock association, partnership and person, their
33 lessees, trustees or receivers appointed by any court whatsoever, and
34 every city or town owning, operating or managing any facilities used to
35 provide telecommunications for hire, sale, or resale to the general
36 public within this state.

37 "Noncompetitive telecommunications service" means any service which
38 has not been classified as competitive by the commission.

1 "Facilities" means lines, conduits, ducts, poles, wires, cables,
2 cross-arms, receivers, transmitters, instruments, machines, appliances,
3 instrumentalities and all devices, real estate, easements, apparatus,
4 property and routes used, operated, owned or controlled by any
5 telecommunications company to facilitate the provision of
6 telecommunications service.

7 "Telecommunications" is the transmission of information by wire,
8 radio, optical cable, electromagnetic, or other similar means. As used
9 in this definition, "information" means knowledge or intelligence
10 represented by any form of writing, signs, signals, pictures, sounds,
11 or any other symbols.

12 "Video programming" means programming provided by, or generally
13 considered comparable to programming provided by, a television
14 broadcast station.

15 "Water system" includes all real estate, easements, fixtures,
16 personal property, dams, dikes, head gates, weirs, canals, reservoirs,
17 flumes or other structures or appliances operated, owned, used or to be
18 used for or in connection with or to facilitate the supply, storage,
19 distribution, sale, furnishing, diversion, carriage, apportionment or
20 measurement of water for power, irrigation, reclamation, manufacturing,
21 municipal, domestic or other beneficial uses for hire.

22 "Water company" includes every corporation, company, association,
23 joint stock association, partnership and person, their lessees,
24 trustees or receivers appointed by any court whatsoever, and every city
25 or town owning, controlling, operating, or managing any water system
26 for hire within this state: PROVIDED, That for purposes of commission
27 jurisdiction it shall not include any water system serving less than
28 one hundred customers where the average annual gross revenue per
29 customer does not exceed three hundred dollars per year, which revenue
30 figure may be increased annually by the commission by rule adopted
31 pursuant to chapter 34.05 RCW to reflect the rate of inflation as
32 determined by the implicit price deflator of the United States
33 department of commerce: AND PROVIDED FURTHER, That such measurement of
34 customers or revenues shall include all portions of water companies
35 having common ownership or control, regardless of location or corporate
36 designation. "Control" as used herein shall be defined by the
37 commission by rule and shall not include management by a satellite
38 agency as defined in chapter 70.116 RCW if the satellite agency is not
39 an owner of the water company. "Water company" also includes, for

1 auditing purposes only, nonmunicipal water systems which are referred
2 to the commission pursuant to an administrative order from the
3 department, or the city or county as provided in RCW 80.04.110.
4 However, water companies exempt from commission regulation shall be
5 subject to the provisions of chapter 19.86 RCW. A water company cannot
6 be removed from regulation except with the approval of the commission.
7 Water companies subject to regulation may petition the commission for
8 removal from regulation if the number of customers falls below one
9 hundred or the average annual revenue per customer falls below three
10 hundred dollars. The commission is authorized to maintain continued
11 regulation if it finds that the public interest so requires.

12 "Cogeneration facility" means any machinery, equipment, structure,
13 process, or property, or any part thereof, installed or acquired for
14 the primary purpose of the sequential generation of electrical or
15 mechanical power and useful heat from the same primary energy source or
16 fuel.

17 "Public service company" includes every gas company, electrical
18 company, telecommunications company, and water company. Ownership or
19 operation of a cogeneration facility does not, by itself, make a
20 company or person a public service company.

21 "Local exchange company" means a telecommunications company
22 providing local exchange telecommunications service.

23 "Department" means the department of health.

24 The term "service" is used in this title in its broadest and most
25 inclusive sense.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.36 RCW
27 to read as follows:

28 If a cable television company provides services that allow a
29 customer to electronically interact with the cable system to access
30 programming or services unavailable in standard one-way broadcast
31 packages, it shall inform the commission of the extent of programming
32 and service options available to customers and the terms and conditions
33 of such options. Notification is not required for interactive services
34 that fall within the definition of cable service in RCW 80.04.010.

35 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.70A
36 RCW to read as follows:

1 As used in RCW 36.70A.070, "existing and proposed utilities"
2 includes cellular and wireless communications towers and antennas.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 79.08 RCW
4 to read as follows:

5 By October 1, 1994, the department of natural resources shall adopt
6 rules that provide for an expedited transfer of permits when facilities
7 of wireless or cellular telecommunications transmission located on
8 lands administered by the department are transferred under the same
9 conditions to a new owner.

10 NEW SECTION. **Sec. 13.** A new section is added to chapter 80.36 RCW
11 to read as follows:

12 (1) The legislature declares that telecommunications companies need
13 to be given the equivalent incentives given in other states to invest
14 in new technology and equipment and replace obsolete equipment and
15 plants.

16 (2) By December 1, 1994, and continuing thereafter, the commission
17 shall, at a minimum, adopt the depreciation schedules and methods used
18 by the federal communications commission for any local exchange company
19 within the state. The adoption of such schedules and methods shall not
20 change the commission's authority to establish rates for local exchange
21 companies that are fair, just, reasonable, and sufficient.

22 (3) The commission may adopt tariffs for a local exchange company
23 that allow special rates for educational institutions, medical
24 facilities, and libraries based on a cost of service plus a rate of
25 return as deemed appropriate by the commission.

26 (4) The commission shall review the effects of this section and
27 report to the energy and utilities committees of the senate and the
28 house of representatives by December 1, 1996.

29 **Sec. 14.** RCW 80.36.130 and 1992 c 68 s 2 are each amended to read
30 as follows:

31 (1) Except as provided in RCW 80.04.130 and 80.36.150, no
32 telecommunications company shall charge, demand, collect or receive
33 different compensation for any service rendered or to be rendered than
34 the charge applicable to such service as specified in its schedule on
35 file and in effect at that time, nor shall any telecommunications
36 company refund or remit, directly or indirectly, any portion of the

1 rate or charge so specified, nor extend to any person or corporation
2 any form of contract or agreement or any rule or regulation or any
3 privilege or facility except such as are specified in its schedule
4 filed and in effect at the time, and regularly and uniformly extended
5 to all persons and corporations under like circumstances for like or
6 substantially similar service.

7 (2) Except as provided in section 13 of this act, no
8 telecommunications company subject to the provisions of this title
9 shall, directly or indirectly, give any free or reduced service or any
10 free pass or frank for the transmission of messages by
11 telecommunications between points within this state, except to its
12 officers, employees, agents, pensioners, surgeons, physicians,
13 attorneys at law, and their families, and persons and corporations
14 exclusively engaged in charitable and eleemosynary work, and ministers
15 of religion, Young Men's Christian Associations, Young Women's
16 Christian Associations; to indigent and destitute persons, and to
17 officers and employees of other telecommunications companies, railroad
18 companies, and street railroad companies.

19 (3) The commission may accept a tariff that gives free or reduced
20 rate services for a temporary period of time in order to promote the
21 use of the services.

22 NEW SECTION. Sec. 15. A new section is added to chapter 80.36 RCW
23 to read as follows:

24 The universal telecommunications service task force is created,
25 consisting of the chair or a designee of the utilities and
26 transportation commission, the director or a designee of department of
27 community, trade, and economic development, the director or a designee
28 of the department of information services, a representative of the
29 public counsel section from the office of attorney general, one member
30 each from the majority and minority caucus of the house of
31 representatives, selected by the speaker of the house of
32 representatives, and one member each of the majority and minority
33 caucus of the senate selected by the president of the senate. The
34 utilities and transportation commission shall serve as lead agency of
35 the task force. The universal telecommunications service task force
36 shall annually review and determine a recommended definition of
37 universal telecommunications service as used in RCW 80.36.300(1), and,
38 beginning December 1, 1994, shall annually report its findings to the

1 energy and utilities committees of the house of representatives and the
2 senate. In reviewing universal telecommunications service, the task
3 force shall hold at least one public forum on the subject within thirty
4 days of the effective date of this section, and at least one public
5 forum annually thereafter. When reviewing and reporting on universal
6 service issues, the task force may include specific services, quality
7 of service standards, percentages of service availability, universal
8 service funds, and other factors relating to telecommunications.

9 NEW SECTION. **Sec. 16.** A new section is added to chapter 80.36 RCW
10 to read as follows:

11 (1) The universal service advisory committee is created to advise
12 and assist the universal service task force in defining and reviewing
13 the parameters of universal telecommunications service. The chair of
14 the commission shall determine the size and membership of the advisory
15 committee, but shall at a minimum appoint members of the committee who
16 are representatives of large local exchange companies, small local
17 exchange companies, cable television companies, wireless communications
18 providers, direct broadcast satellite information providers, enhanced
19 911 service providers, interexchange companies, local government, the
20 department of social and health services, energy utilities, providers
21 of telecommunications equipment, libraries, and the general public.

22 (2) Any member of the advisory committee has the authority to issue
23 a separate statement which shall be included as an attachment to an
24 annual report mandated by section 15 of this act.

25 NEW SECTION. **Sec. 17.** A new section is added to chapter 80.36 RCW
26 to read as follows:

27 (1) As used in this section:

28 (a) "Competitive zone" means a telecommunications service area,
29 described both by service and territory, that has been designated a
30 competitive zone by the commission under subsection (2) or (4) of this
31 section.

32 (b) "Competitive zone service" means a local exchange
33 telecommunications service that the commission has authorized to be
34 provided within a competitive zone.

35 (c) "Essential function" means a functional component of a
36 competitive zone service necessary to the provision of the service by
37 a telecommunications provider for which there is no adequate

1 alternative in terms of quality, quantity, and price to the incumbent
2 local exchange telecommunications company.

3 (2)(a) The commission shall authorize one or more persons to
4 provide local exchange telecommunications service within an exchange of
5 a local exchange telecommunications company if the commission
6 determines that such authorization would be in the public interest.
7 For the purpose of determining whether such authorization would be in
8 the public interest, the commission shall consider:

9 (i) The effect on rates for local exchange telecommunications
10 service customers both within and outside the competitive zone;

11 (ii) The effect on competition in the local exchange
12 telecommunications service area;

13 (iii) The effect on access by customers to high-quality, innovative
14 telecommunications service in the local exchange telecommunications
15 service area; and

16 (iv) Any other facts the commission considers relevant.

17 (b) Upon certification of a telecommunications provider under (a)
18 of this subsection, the commission shall establish a competitive zone
19 defined by the services to be provided by the telecommunications
20 provider and the geographic area to be served by the telecommunications
21 provider. Effective competition within the meaning of RCW 80.36.320
22 and 80.36.330 for the services defined as within the competitive zone
23 shall be deemed to exist by virtue of the establishment of a
24 competitive zone.

25 (c) At the time of certification of a telecommunications provider,
26 the commission shall impose reasonable conditions upon the authority of
27 the telecommunications provider to provide competitive zone service
28 within the competitive zone, including, but not limited to, conditions
29 designed to promote fair competition, such as interconnection, and
30 contributions of the type required of a local exchange
31 telecommunications company in the provision of basic local exchange
32 service, including, but not limited to, those for enhanced 911,
33 Washington telephone assistance program, telecommunications relay
34 service, and universal service programs.

35 (3) Upon demand, a competitive provider of competitive zone
36 services shall make available to the commission any information
37 relating to competitive zone services that the commission requests.
38 Information provided to the commission by a competitive provider under
39 this subsection shall be confidential and shall not be disclosed by the

1 commission, except for regulatory purposes in the context of a
2 proceeding before the commission.

3 (4) Upon application by a local exchange telecommunications company
4 and a determination of competition within its exchange, whether or not
5 from certificated providers, the commission shall designate one or more
6 local exchanges a competitive zone.

7 (5) Upon designation of a competitive zone, price changes, service
8 variations, and modifications of competitive zone services offered by
9 a telecommunications company in the zone shall not be subject to RCW
10 80.36.110, and, at the telecommunications company's discretion, may be
11 made effective upon filing with the commission.

12 (6) The price and terms of service offered by a telecommunications
13 company for a competitive zone service within a competitive zone may
14 differ from the outside of the zone. However, the price for a
15 competitive zone service within the zone may not be lower than the
16 long-run incremental cost, for nonessential functions, of providing the
17 service within the zone, and the charges for essential functions used
18 in providing the service.

19 (7) The commission may revoke the exemption from RCW 80.36.110 of
20 a telecommunications company for a competitive zone if the commission
21 finds that the company has violated statutes, rules, or conditions of
22 the commission applicable to competitive zone services or that there
23 has been a substantial change in the circumstances that prevailed at
24 the time the competitive zone was first established.

25 NEW SECTION. **Sec. 18.** (1) The legislature finds that as
26 traditional roles for telecommunications are blurred by increased
27 competition due to regulatory changes and market forces, the taxation
28 policies of telecommunications providers need to be analyzed to
29 determine if changes should be made to the levels and methods of
30 taxation so that the existing tax structure does not provide distinct
31 advantages or disadvantages to various telecommunications providers.

32 (2) The department of revenue, with the assistance of the
33 Washington utilities and transportation commission, shall conduct a
34 study of the taxation and assessment of telecommunications companies
35 property, equipment, and services, including cable television
36 companies. The study shall focus on methods to create uniformity in
37 the taxation of telecommunications providers. The study shall include
38 an inventory of all types of state and local taxes paid including, but

1 not limited to, utility taxes, property taxes, sales and use taxes, and
2 per-line charges paid to the state and local governments.

3 (3) The department of revenue shall form an advisory committee to
4 provide guidance and advice for the study. The advisory committee
5 shall include, but need not be limited to, persons representing local
6 exchange companies, interexchange companies, competitive access
7 providers, cable television companies, wireless communications
8 companies, tax specialists, city and county governments, emergency
9 response agencies, large and small businesses, and the public.

10 (4) The department of revenue shall present an interim report of
11 the findings of the study to the committees of the legislature that
12 deal with revenue matters, and the energy and utilities committees, no
13 later than December 1, 1994, and shall present a final report to the
14 same committees no later than December 1, 1995.

15 **FACILITATING DEPLOYMENT OF GOVERNMENT SERVICES**

16 **Sec. 19.** RCW 84.52.0531 and 1993 c 465 s 1 are each amended to
17 read as follows:

18 Except as provided in subsection (9) of this section, the maximum
19 dollar amount which may be levied by or for any school district for
20 maintenance and operation support under the provisions of RCW 84.52.053
21 shall be determined as follows:

22 (1) For excess levies for collection in calendar year 1992, the
23 maximum dollar amount shall be calculated pursuant to the laws and
24 rules in effect in November 1991.

25 (2) For the purpose of this section, the basic education allocation
26 shall be determined pursuant to RCW 28A.150.250, 28A.150.260, and
27 28A.150.350: PROVIDED, That when determining the basic education
28 allocation under subsection (4) of this section, nonresident full time
29 equivalent pupils who are participating in a program provided for in
30 chapter 28A.545 RCW or in any other program pursuant to an
31 interdistrict agreement shall be included in the enrollment of the
32 resident district and excluded from the enrollment of the serving
33 district.

34 (3) For excess levies for collection in calendar year 1993 and
35 thereafter, the maximum dollar amount shall be the sum of (a) and (b)
36 of this subsection minus (c) of this subsection:

1 (a) The district's levy base as defined in subsection (4) of this
2 section multiplied by the district's maximum levy percentage as defined
3 in subsection (5) of this section;

4 (b) In the case of nonhigh school districts only, an amount equal
5 to the total estimated amount due by the nonhigh school district to
6 high school districts pursuant to chapter 28A.545 RCW for the school
7 year during which collection of the levy is to commence, less the
8 increase in the nonhigh school district's basic education allocation as
9 computed pursuant to subsection (1) of this section due to the
10 inclusion of pupils participating in a program provided for in chapter
11 28A.545 RCW in such computation;

12 (c) The maximum amount of state matching funds under RCW
13 28A.500.010 for which the district is eligible in that tax collection
14 year.

15 (4) For excess levies for collection in calendar year 1993 and
16 thereafter, a district's levy base shall be the sum of allocations in
17 (a) through (c) of this subsection received by the district for the
18 prior school year, including allocations for compensation increases,
19 plus the sum of such allocations multiplied by the percent increase per
20 full time equivalent student as stated in the state basic education
21 appropriation section of the biennial budget between the prior school
22 year and the current school year and divided by fifty-five percent. A
23 district's levy base shall not include local school district property
24 tax levies or other local revenues, or state and federal allocations
25 not identified in (a) through (c) of this subsection.

26 (a) The district's basic education allocation as determined
27 pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

28 (b) State and federal categorical allocations for the following
29 programs:

30 (i) Pupil transportation;

31 (ii) Handicapped education;

32 (iii) Education of highly capable students;

33 (iv) Compensatory education, including but not limited to learning
34 assistance, migrant education, Indian education, refugee programs, and
35 bilingual education;

36 (v) Food services; and

37 (vi) State-wide block grant programs; and

1 (c) Any other federal allocations for elementary and secondary
2 school programs, including direct grants, other than federal impact aid
3 funds and allocations in lieu of taxes.

4 (5) For excess levies for collection in calendar year 1993 and
5 thereafter, a district's maximum levy percentage shall be determined as
6 follows:

7 (a) Multiply the district's maximum levy percentage for the prior
8 year by the district's levy base as determined in subsection (4) of
9 this section;

10 (b) Reduce the amount in (a) of this subsection by the total
11 estimated amount of any levy reduction funds as defined in subsection
12 (6) of this section which are to be allocated to the district for the
13 current school year;

14 (c) Divide the amount in (b) of this subsection by the district's
15 levy base to compute a new percentage;

16 (d) The percentage in (c) of this subsection or twenty percent,
17 whichever is greater, shall be the district's maximum levy percentage
18 for levies collected in that calendar year; and

19 (e) For levies to be collected in calendar years 1994 and 1995 the
20 maximum levy rate shall be the district's maximum levy percentage for
21 1993 plus four percent reduced by any levy reduction funds. For levies
22 collected in 1996, the prior year shall mean 1993.

23 (6) "Levy reduction funds" shall mean increases in state funds from
24 the prior school year for programs included under subsection (4) of
25 this section: (a) That are not attributable to enrollment changes,
26 compensation increases, or inflationary adjustments; and (b) that are
27 or were specifically identified as levy reduction funds in the
28 appropriations act. If levy reduction funds are dependent on formula
29 factors which would not be finalized until after the start of the
30 current school year, the superintendent of public instruction shall
31 estimate the total amount of levy reduction funds by using prior school
32 year data in place of current school year data. Levy reduction funds
33 shall not include moneys received by school districts from cities or
34 counties.

35 (7) For the purposes of this section, "prior school year" shall
36 mean the most recent school year completed prior to the year in which
37 the levies are to be collected.

38 (8) For the purposes of this section, "current school year" shall
39 mean the year immediately following the prior school year.

1 (9) For levies collected in 1995 and years thereafter, this section
2 shall not apply to or otherwise act to limit the amount of an excess
3 tax levy that is expressly authorized by or for any school district
4 under RCW 84.52.053 for the purpose of purchasing and installing
5 electronic and optical hardware and peripherals such as computers,
6 networks, videodisc players, compact disc players, and printers, for
7 instructional purposes; or purchasing software applications for such
8 hardware and peripherals.

9 (10) The superintendent of public instruction shall develop rules
10 and regulations and inform school districts of the pertinent data
11 necessary to carry out the provisions of this section.

12 **Sec. 20.** RCW 43.105.052 and 1993 c 281 s 53 are each amended to
13 read as follows:

14 The department shall:

15 (1) Perform all duties and responsibilities the board delegates to
16 the department, including but not limited to:

17 (a) The review of agency acquisition plans and requests; and

18 (b) Implementation of state-wide and interagency policies,
19 standards, and guidelines;

20 (2) Make available information services to state agencies and local
21 governments on a full cost-recovery basis. These services may include,
22 but are not limited to:

23 (a) Telecommunications services for voice, data, and video;

24 (b) Mainframe computing services;

25 (c) Support for departmental and microcomputer evaluation,
26 installation, and use;

27 (d) Equipment acquisition assistance, including leasing, brokering,
28 and establishing master contracts;

29 (e) Facilities management services for information technology
30 equipment, equipment repair, and maintenance service;

31 (f) Negotiation with local cable companies and local governments to
32 provide for connection to local cable services to allow for access to
33 these public and educational channels in the state;

34 (g) Office automation services;

35 (h) System development services; and

36 (i) Training.

37 These services are for discretionary use by customers and customers
38 may elect other alternatives for service if those alternatives are more

1 cost-effective or provide better service. Agencies may be required to
2 use the backbone network portions of the telecommunications services
3 during an initial start-up period not to exceed three years;

4 (3) Establish rates and fees for services provided by the
5 department to assure that the services component of the department is
6 self-supporting. A billing rate plan shall be developed for a two-year
7 period to coincide with the budgeting process. The rate plan shall be
8 subject to review at least annually by the customer oversight
9 committees. The rate plan shall show the proposed rates by each cost
10 center and will show the components of the rate structure as mutually
11 determined by the department and the customer oversight committees.
12 The same rate structure will apply to all user agencies of each cost
13 center. The rate plan and any adjustments to rates shall be approved
14 by the office of financial management. The services component shall
15 not subsidize the operations of the planning component;

16 (4) With the advice of the information services board and agencies,
17 develop a state strategic information technology plan and performance
18 reports as required under RCW 43.105.160;

19 (5) Develop plans for the department's achievement of state-wide
20 goals and objectives set forth in the state strategic information
21 technology plan required under RCW 43.105.160. These plans shall
22 address such services as telecommunications, central and distributed
23 computing, local area networks, office automation, and end user
24 computing. The department shall seek the advice of customer oversight
25 committees and the board in the development of these plans;

26 (6) Under direction of the information services board and in
27 collaboration with the department of personnel, and other agencies as
28 may be appropriate, develop training plans and coordinate training
29 programs that are responsive to the needs of agencies;

30 (7) Identify opportunities for the effective use of information
31 services and coordinate appropriate responses to those opportunities;

32 (8) Assess agencies' projects, acquisitions, plans, or overall
33 information processing performance as requested by the board, agencies,
34 the director of financial management, or the legislature. Agencies may
35 be required to reimburse the department for agency-requested reviews;

36 (9) Develop planning, budgeting, and expenditure reporting
37 requirements, in conjunction with the office of financial management,
38 for agencies to follow;

1 (10) Assist the office of financial management with budgetary and
2 policy review of agency plans for information services;

3 (11) Provide staff support from the planning component to the board
4 for:

5 (a) Meeting preparation, notices, and minutes;

6 (b) Promulgation of policies, standards, and guidelines adopted by
7 the board;

8 (c) Supervision of studies and reports requested by the board;

9 (d) Conducting reviews and assessments as directed by the board;

10 (12) Be the lead agency in coordinating video telecommunications
11 services for all state agencies and develop, pursuant to board
12 policies, standards and common specifications for leased and purchased
13 telecommunications equipment. The department shall not evaluate the
14 merits of school curriculum, higher education course offerings, or
15 other education and training programs proposed for transmission and/or
16 reception using video telecommunications resources. Nothing in this
17 section shall abrogate or abridge the legal responsibilities of
18 licensees of telecommunications facilities as licensed by the federal
19 communication commission on March 27, 1990; and

20 (13) Inventory all state-owned and state-leased high capacity
21 telecommunications backbone networks and systems and report on the
22 findings of such inventory to the energy and utilities committees of
23 the house of representatives and the senate by January 16, 1995. The
24 inventory shall include state agencies, state institutions of higher
25 education, school districts, and other political subdivisions of the
26 state as determined by the director. The report shall include
27 recommendations on methods to maximize efficient use of existing and
28 planned state-owned and state-leased telecommunications backbone
29 networks and systems.

30 (14) Perform all other matters and things necessary to carry out
31 the purposes and provisions of this chapter.

32 **NEW SECTION. Sec. 21.** A new section is added to chapter 43.17 RCW
33 to read as follows:

34 By December 1, 1994, the chief executive officer of each state
35 agency shall inform the director of the department of information
36 services of all existing or planned backbone communications systems
37 owned or leased by the agency. "Backbone communication system" means
38 specially conditioned high-speed communications carrier lines,

1 multiplexors, digital switches, headends, and any equipment and
2 software components necessary for management and control of a backbone
3 network.

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.17 RCW
5 to read as follows:

6 Whenever a state agency installs or leases a significant amount of
7 backbone communications plant or equipment, the chief executive officer
8 of the state agency shall inform the director of the department of
9 information services of the location, amount, and type of plant or
10 equipment installed, the planned uses of the equipment or plant, and
11 any excess capacity of equipment or plant.

12 NEW SECTION. **Sec. 23.** A new section is added to chapter 28A.300
13 RCW to read as follows:

14 By December 1, 1994, the superintendent of public instruction shall
15 inform the director of the department of information services of all
16 existing or planned backbone communications systems of school districts
17 in the state. "Backbone communication system" means specially
18 conditioned high-speed communications carrier lines, multiplexors,
19 digital switches, headends, and any equipment and software components
20 necessary for management and control of a backbone network.

21 NEW SECTION. **Sec. 24.** A new section is added to chapter 28A.300
22 RCW to read as follows:

23 Whenever a school district installs or leases a significant amount
24 of backbone communications plant or equipment, the superintendent of
25 public instruction shall inform the director of the department of
26 information services of the location, amount, and type of plant or
27 equipment installed, the planned uses of the equipment or plant, and
28 any excess capacity of equipment or plant.

29 NEW SECTION. **Sec. 25.** A new section is added to chapter 28B.80
30 RCW to read as follows:

31 By December 1, 1994, the board shall inform the director of the
32 department of information services of all existing or planned backbone
33 communications systems of four-year institutions in the state.
34 "Backbone communication system" means specially conditioned high-speed
35 communications carrier lines, multiplexors, digital switches, headends,

1 and any equipment and software components necessary for management and
2 control of a backbone network.

3 NEW SECTION. **Sec. 26.** A new section is added to chapter 28B.80
4 RCW to read as follows:

5 Whenever a four-year institution installs or leases a significant
6 amount of backbone communications plant or equipment, the board shall
7 inform the director of the department of information services of the
8 location, amount, and type of plant or equipment installed, the planned
9 uses of the equipment or plant, and any excess capacity of equipment or
10 plant.

11 NEW SECTION. **Sec. 27.** A new section is added to chapter 28B.50
12 RCW to read as follows:

13 By December 1, 1994, the college board shall inform the director of
14 the department of information services on all existing or planned
15 backbone communications systems of community and technical colleges in
16 the state. "Backbone communication system" means specially conditioned
17 high-speed communications carrier lines, multiplexors, digital
18 switches, headends, and any equipment and software components necessary
19 for management and control of a backbone network.

20 NEW SECTION. **Sec. 28.** A new section is added to chapter 28B.50
21 RCW to read as follows:

22 Whenever a community or technical college installs or leases a
23 significant amount of backbone communications plant or equipment, the
24 college board shall inform the director of the department of
25 information services of the amount and type of plant or equipment
26 installed, the planned uses of the equipment or plant, and any excess
27 capacity of equipment or plant.

28 **Sec. 29.** RCW 19.27.078 and 1989 c 266 s 4 are each amended to read
29 as follows:

30 (1) The state building code council shall contract with a private
31 entity to conduct a study and analysis of the codes referred to in RCW
32 19.27.031 and related regulations of state and local agencies to
33 ascertain the amount and nature of any conflict and inconsistencies.
34 The findings and proposed solutions resulting from this study and
35 analysis shall be submitted to the state building code council no later

1 than September 1, 1987. The state building code council shall consider
2 these findings and proposed solutions when carrying out its
3 responsibilities under RCW 19.27.074.

4 (2) The state building code council shall conduct a study of county
5 and city enforcement of the requirements of the codes to which
6 reference is made in RCW 19.27.031. In conducting the study, the
7 council shall conduct public hearings at designated council meetings to
8 seek input from interested individuals and organizations. The findings
9 of the study shall be submitted in a report to the governor and the
10 legislature no later than September 1, 1987.

11 (3) The study required under subsection (2) of this section shall
12 include, but not be limited to, a review of the impact of discretionary
13 building permit requirements imposed by local code enforcement
14 personnel. This review shall be designed to determine the extent, if
15 any, to which such discretionary requirements are based upon (a) the
16 requirements of the state building code or (b) city or county
17 amendments to the state building code.

18 (4) The state building code council shall conduct a study to
19 identify and define stand-alone ordinances adopted by counties and
20 cities that add or alter construction requirements to buildings and
21 structures built under the codes enumerated in RCW 19.27.031, as
22 adopted and amended by the state building code council. In conducting
23 the study, the council shall consult with representatives from
24 counties, cities, home builders, architects, building officials, and
25 fire officials. To aid in data collection, local governments shall
26 submit fire suppression ordinances, as defined by the state building
27 code council, in effect on March 31, 1989, to the state building code
28 council. The findings of the study shall be submitted in a written
29 report to the house of representatives committee on housing and the
30 senate governmental operations committee no later than November 1,
31 1989.

32 (5) The study required under subsection (4) of this section shall
33 include, but not be limited to, a review of ordinances or regulations
34 adopted by counties and cities that add or alter construction
35 requirements to buildings and structures built under the codes
36 enumerated in RCW 19.27.031.

37 (6) The state building code council shall conduct a study on the
38 feasibility of adopting standards for equipment and procedures relating
39 to the wiring of new residential and new commercial structures for

1 internal telecommunications networks that include copper wires, coaxial
2 cable, fiber optic cable, or other transmission media. The council
3 shall report the findings of the study to the energy and utilities
4 committees of the house of representatives and the senate by January
5 16, 1995, and shall include recommendations for legislative action.

6 NEW SECTION. Sec. 30. The legislature finds that citizens of the
7 state increasingly rely on the dependability of enhanced 911, a system
8 that allows the person answering an emergency call to immediately
9 determine the location of the emergency without the need of the caller
10 to speak. The legislature further finds that in some cases, calls made
11 from telephones connected to private telephone systems may not be
12 precisely located by the answerer, eliminating some of the benefit of
13 enhanced 911, and that this condition could additionally imperil
14 citizens calling from these locations in an emergency. The legislature
15 also finds that until national standards have been developed to address
16 this condition, information-forwarding requirements should be mandated
17 for only those settings with the most risk, including schools,
18 residences, and some business settings.

19 NEW SECTION. Sec. 31. A new section is added to chapter 80.36 RCW
20 to read as follows:

21 By January 1, 1996, an owner of private shared telecommunications
22 services to residential customers shall ensure that the
23 telecommunications system is connected to the public switched network
24 such that calls to 911 result in automatic location identification for
25 each residential unit in a format that is compatible with the existing
26 or planned county enhanced 911 system.

27 NEW SECTION. Sec. 32. A new section is added to chapter 28A.150
28 RCW to read as follows:

29 By January 1, 1996, all common and public schools located in
30 counties that provide enhanced 911 service shall provide persons using
31 school facilities reasonable access to telephones that are connected to
32 the public switched network such that calls to 911 result in automatic
33 location identification for each telephone in a format that is
34 compatible with the existing and planned county enhanced 911 system.

1 NEW SECTION. **Sec. 33.** A new section is added to chapter 80.36 RCW
2 to read as follows:

3 By January 1, 1996, a commercial shared services provider of
4 private shared telecommunications services to multiple business users
5 from a single system shall ensure that the system is connected to the
6 public switched network such that calls to 911 result in automatic
7 location identification for each telephone in a format that is
8 compatible with the existing or planned county enhanced 911 system.
9 This section applies only to providers of service to businesses
10 containing a physical area exceeding twenty-five thousand square feet,
11 or businesses on more than one floor of a building, or businesses in
12 multiple buildings.

13 NEW SECTION. **Sec. 34.** A new section is added to chapter 35.21 RCW
14 to read as follows:

15 No city or town may enact or enforce an ordinance or regulation
16 mandating automatic number identification or automatic location
17 identification for a private telecommunications system or for a
18 provider of private shared telecommunications services.

19 NEW SECTION. **Sec. 35.** A new section is added to chapter 35A.21
20 RCW to read as follows:

21 No code city may enact or enforce an ordinance or regulation
22 mandating automatic number identification or automatic location
23 identification for a private telecommunications system or for a
24 provider of private shared telecommunications services.

25 NEW SECTION. **Sec. 36.** A new section is added to chapter 36.32 RCW
26 to read as follows:

27 No county may enact or enforce an ordinance or regulation mandating
28 automatic number identification or automatic location identification
29 for a private telecommunications system or for a provider of private
30 shared telecommunications services.

31 NEW SECTION. **Sec. 37.** A new section is added to chapter 38.52 RCW
32 to read as follows:

33 The state enhanced 911 coordination office may develop and
34 implement public education materials regarding the capability of
35 specific equipment used as part of a private telecommunications system

1 or in the provision of private shared telecommunications services to
2 forward automatic location identification and automatic number
3 identification.

4 NEW SECTION. **Sec. 38.** A new section is added to chapter 38.52 RCW
5 to read as follows:

6 The state enhanced 911 coordination office and the enhanced 911
7 advisory committee may participate in efforts to set uniform national
8 standards for automatic number identification and automatic location
9 identification data transmission for private telecommunications systems
10 and private shared telecommunications services. The enhanced 911
11 advisory committee shall report to the legislature by January 1, 1996,
12 the progress of such standards development and shall make
13 recommendations on steps to be taken if such standards have not been
14 adopted.

15 NEW SECTION. **Sec. 39.** A new section is added to chapter 43.22 RCW
16 to read as follows:

17 The department of labor and industries shall adopt rules that
18 require owners of private telecommunications systems and providers of
19 private shared telecommunications services to advise users of the
20 dialing procedures necessary to access 911 emergency service and advise
21 users of the extent to which automatic location information is
22 transmitted when using 911 emergency service. Such rules shall provide
23 for advising users on at least an annual basis, and may include the use
24 of designated adhesive labels for telephone sets.

25 **Sec. 40.** RCW 43.63A.320 and 1993 c 280 s 69 are each amended to
26 read as follows:

27 Except for matters relating to the statutory duties of the director
28 of community, trade, and economic development which are to be carried
29 out through the director of fire protection, the board shall have the
30 responsibility of developing a comprehensive state policy regarding
31 fire protection services. In carrying out its duties, the board shall:

- 32 (1) Adopt a state fire protection master plan;
- 33 (2) Monitor fire protection in the state and develop objectives and
34 priorities to improve fire protection for the state's citizens;
- 35 (3) Establish and promote state arson control programs and ensure
36 development of local arson control programs;

1 (4) Provide representation for local fire protection services to
2 the governor in state-level fire protection planning matters such as,
3 but not limited to, hazardous materials;

4 (5) Recommend to the director of community, trade, and economic
5 development rules on minimum data requirements of automatic location
6 identification for the purposes of enhanced 911 emergency service;

7 (6) Seek and solicit grants, gifts, bequests, devices, and matching
8 funds for use in furthering the objectives and duties of the board, and
9 establish procedures for administering them;

10 ~~((+6))~~ (7) Promote mutual aid and disaster planning for fire
11 services in this state;

12 ~~((+7))~~ (8) Assure the dissemination of information concerning the
13 amount of fire damage including that damage caused by arson, and its
14 causes and prevention;

15 ~~((+8))~~ (9) Submit annually a report to the governor containing a
16 statement of its official acts pursuant to this chapter, and make such
17 studies, reports, and recommendations to the governor and the
18 legislature as are requested;

19 ~~((+9))~~ (10) Adopt a state fire training and education master plan;

20 ~~((+10))~~ (11) Develop and adopt a master plan for the construction,
21 equipping, maintaining, and operation of necessary fire service
22 training and education facilities, but the authority to construct,
23 equip, and maintain such facilities is subject to chapter 43.19 RCW;

24 ~~((+11))~~ (12) Develop and adopt a master plan for the purchase,
25 lease, or other acquisition of real estate necessary to establish and
26 operate fire service training and education facilities in a manner
27 provided by law;

28 ~~((+12))~~ (13) Adopt standards for state-wide fire service training
29 and education courses including courses in arson detection and
30 investigation for personnel of fire, police, and prosecutor's
31 departments;

32 ~~((+13))~~ (14) Assure the administration of any legislation enacted
33 by the legislature in pursuance of the aims and purposes of any acts of
34 Congress insofar as the provisions thereof may apply;

35 ~~((+14))~~ (15) Cooperate with the common schools, community
36 colleges, institutions of higher education, and any department or
37 division of the state, or of any county or municipal corporation in
38 establishing and maintaining instruction in fire service training and
39 education in accordance with any act of Congress and legislation

1 enacted by the legislature in pursuance thereof and in establishing,
2 building, and operating training and education facilities.

3 This section does not apply to forest fire service personnel and
4 programs. Industrial fire departments and private fire investigators
5 may participate in training and education programs under this chapter
6 for a reasonable fee established by rule.

7 **FACILITATING COMMUNICATIONS SERVICES IN RURAL AREAS**

8 NEW SECTION. **Sec. 41.** The legislature finds that communications
9 services play an important role in providing residents of Washington's
10 rural areas with valuable information from diverse sources, including
11 news, weather, entertainment, and educational services from local and
12 national sources.

13 NEW SECTION. **Sec. 42.** (1) Cable franchising authorities are
14 authorized to adopt ordinances and rules, or establish franchise terms,
15 that create incentives for deployment of cable systems in areas
16 unserved by any cable operator. Such incentives may include periodic
17 rebates to cable operators of an amount up to twice the amount of that
18 portion of a customer's cable bill which is allocated to franchise
19 fees, if the customer resides in an area in which cable service is
20 unavailable prior to the effective date of this section.

21 (2) Franchising authorities may establish any other terms and
22 conditions for cable operators if the franchising authority determines
23 that such terms and conditions are necessary to promote development of
24 cable systems in unserved areas. However, in no instance may a
25 franchising authority establish terms and conditions that fail to
26 conform to the minimal standards set forth in sections 47 through 59 of
27 this act.

28 (3) An incentive program adopted pursuant to this section must
29 contain an expiration date of no later than five years from the date of
30 the ordinance, rule, or franchise agreement, although nothing in this
31 section prohibits a franchise authority from renewing an incentive
32 program at its discretion after a review of the existing program's
33 effectiveness.

34 NEW SECTION. **Sec. 43.** A new section is added to chapter 54.16 RCW
35 to read as follows:

1 A district may construct, acquire, add to, maintain, and operate
2 high-capacity telecommunications equipment and plant for district use,
3 including customer end-use metering or demand-side management or
4 modifications to energy consumption. A district may allow open access
5 to any telecommunications capacity in excess of district use, provided
6 such access is provided on a standard and nondiscriminatory basis.
7 Prices or rates charged to information providers for use of excess
8 capacity shall, at a minimum, cover the cost of such use.

9 NEW SECTION. **Sec. 44.** A new section is added to chapter 23.86 RCW
10 to read as follows:

11 When a rural electric cooperative doing business in this state for
12 the primary purpose of providing electricity to its members deploys
13 high-capacity telecommunications equipment and plant for the purpose of
14 customer end-use metering or demand-side management or modifications to
15 energy consumption, it may allow any excess capacity on such a system
16 to be used by other providers of information, subject to standard rates
17 and limitations set by the board of the rural electric cooperative.
18 Prices or rates charged to information providers for services shall, at
19 a minimum, cover their costs, except that wireless repeater services
20 provided to local law enforcement agencies may be offered at reduced
21 rates or at no charge.

22 NEW SECTION. **Sec. 45.** A new section is added to chapter 24.06 RCW
23 to read as follows:

24 When a mutual corporation providing electricity service deploys
25 high-capacity telecommunications equipment and plant for the purpose of
26 customer end-use metering or demand-side management or modifications to
27 energy consumption, it may allow any excess capacity on such a system
28 to be used by other providers of information, subject to standard rates
29 and limitations set by the board of the corporation. Prices or rates
30 charged to information providers for services shall, at a minimum,
31 cover their costs.

32 **CONSUMER PROTECTION STANDARDS**

33 NEW SECTION. **Sec. 46.** The legislature finds that local
34 governments are in the best position to address health, safety, and
35 aesthetic concerns related to installation and construction of cable

1 systems, to assess the demands of local consumers, and to monitor local
2 cable operations. The legislature declares that it is the policy in
3 Washington that local city, town, code city, and county governments
4 have the primary role in franchising cable systems, establishing
5 franchise fees, establishing terms and conditions for cable operators'
6 use of public rights of way, and enforcing laws and ordinances
7 applicable to cable operators. It is also the policy in Washington to
8 ensure that cities, towns, code cities, and counties have sufficient
9 resources, information, and expertise available to set policy, adopt
10 rules, regulate rates, and negotiate franchise terms with regard to
11 cable systems. The legislature finds that cooperative efforts among
12 cities, towns, and counties in regulating cable television have
13 provided economic efficiencies, greater expertise, and greater
14 availability of resources to negotiate franchise terms and conditions,
15 establish appropriate ordinances, regulate cable rates, and enforce
16 franchise terms and applicable local, state, and federal laws. Local
17 governments are encouraged to share resources and establish cooperative
18 efforts where appropriate.

19 NEW SECTION. **Sec. 47.** Sections 47 through 59 of this act are
20 intended to further the states' interest in ensuring that cable
21 operators provide adequate cable television services to subscribers,
22 and to set minimal standards that a cable operator must meet for a
23 cable system located in the state of Washington. If the cable operator
24 acts pursuant to a local ordinance, these standards are mandatory. If
25 the cable operator acts pursuant to a franchise agreement, the
26 standards are mandatory if the local franchising authority has reserved
27 the right to amend the agreement, or if terms are conditioned upon
28 changes in state or local law. These terms are the minimal terms and
29 conditions for any franchise granted by any franchise authority after
30 the effective date of this section. In all other cases, these are
31 minimal suggested guidelines for cable service.

32 NEW SECTION. **Sec. 48.** The definitions in this section apply
33 throughout sections 47 through 59 of this act unless the context
34 clearly requires otherwise.

35 (1) "Cable operator" means any person or group of persons:

1 (a) Who provides cable service over a cable system and directly or
2 through one or more affiliates owns a significant interest in such a
3 cable system; or

4 (b) Who otherwise controls or is responsible for, through any
5 arrangement, the management or operation of such a cable system.

6 (2) "Cable service" means the one-way transmission to subscribers
7 of video programming or other programming service, and such subscriber
8 interaction as required for the selection of video programming or other
9 programming service.

10 (3) "Cable television system" or "cable system" means a facility,
11 consisting of a set of closed transmission paths and associated signal
12 generation, reception, and control equipment that is designed to
13 provide cable service which includes video programming and is provided
14 to multiple subscribers in a community, but does not include (a) a
15 facility that serves to retransmit the television signals of one or
16 more television broadcast stations; (b) a facility that serves only
17 subscribers in one or more multiple unit dwellings, unless such
18 facility uses public rights of way; (c) a facility of a common carrier
19 as defined by this section, except that such facility shall be
20 considered a cable system to the extent the facility is used to provide
21 video programming directly to subscribers; and (d) facilities of an
22 electric utility used solely for operating its electric utility system.

23 (4) "Channel" means a unit of cable service identified and selected
24 by a channel number or similar designation.

25 (5) "Local franchising authority" means a city or town, code city,
26 or county, or delegated authority thereof, that regulates cable
27 television services within its jurisdiction.

28 (6) "Franchise area" means the area in which a cable operator is
29 authorized by a franchise authority to construct and operate a cable
30 system.

31 (7) "Negative option" means an attempt to charge for, or increase
32 the charge for, an optional service that does not require the
33 subscriber to affirmatively indicate agreement to pay for that charge.

34 (8) "Optional service" means an offering of a cable television
35 company, including channels, publications, equipment, or other items or
36 services that can be declined by the subscriber without the loss of the
37 right to receive other services offered by the cable television
38 company.

1 (9) "Affirmative indication of agreement" means that a subscriber,
2 in a manner other than paying the amount indicated on an invoice or
3 bill, indicates acceptance of a discreet proposal for an optional
4 service, or an increase in fees for such service, by affirmatively
5 requesting such service or items.

6 (10) "Subscriber" means a recipient of cable service.

7 NEW SECTION. **Sec. 49.** (1) Each cable operator shall be reachable
8 by a local or toll-free telephone number to receive inquiries about
9 service, equipment, billing, or similar matters and to schedule and
10 conduct service and repair.

11 (2) Each cable operator shall provide the means to accept customer
12 phone calls twenty-four hours a day, seven days a week, including
13 holidays.

14 (3) The company shall provide a system that is responsive to
15 customer calls with a minimum of delays, including receiving busy
16 signals, being placed "on hold," or receiving a voice-mail system that
17 during normal working hours does not include access to a human
18 operator.

19 NEW SECTION. **Sec. 50.** (1) Each cable operator shall acknowledge
20 requests for repairs and maintenance within twenty-four hours. Repair
21 and maintenance for service interruptions or other repairs not
22 requiring on-premises work shall be completed within twenty-four hours
23 under normal operating procedures. All other repairs shall be
24 completed within seventy-two hours under normal circumstances. No
25 charge may be made for repair and maintenance service unless the need
26 for maintenance or repair is due to documentable negligence or abuse of
27 equipment by the customer.

28 (2) Standard installations shall be completed within seven business
29 days after an order is placed, unless the subscriber's schedule
30 requires alternative arrangements.

31 (3) Each cable operator shall provide the customer with a specific
32 appointment time, or block of time not to exceed four hours, for
33 customer service appointments. A cable operator shall not cancel an
34 appointment after the close of business the day before an appointment
35 is scheduled. If the cable operator's representative is unable to keep
36 a scheduled appointment for any reason, he or she shall contact the
37 customer and offer another time at the customer's convenience.

1 NEW SECTION. **Sec. 51.** (1) A cable operator may disconnect a
2 customer for cause if (a) at least thirty days have elapsed after the
3 due date for payment of the customer's bill, and (b) the cable operator
4 has provided at least seven days' written notice to the affected
5 customer prior to disconnection, specifying the effective date cable
6 services are subject to termination. Such notice shall be separate
7 from the regular monthly billing statement.

8 (2) The provisions of subsection (1) of this section
9 notwithstanding, a cable operator may disconnect a customer for cause
10 at any time if the company, in good faith, determines that the customer
11 has tampered with or abused equipment of the cable operator, or is
12 engaged in the unlawful theft of cable services.

13 (3) Fee schedules for disconnection for nonpayment or improper use
14 of equipment and for reconnection to the cable system shall be
15 available to customers upon request.

16 (4) The cable operator shall promptly disconnect from the cable
17 system any customer who so requests. No period of notice prior to
18 voluntary termination of service may be required of customers by the
19 cable operator. No charge may be imposed by the cable operator for
20 such voluntary disconnection, or for any cable services delivered after
21 the date of the disconnection request.

22 (5) The cable operator shall refund to the customer any amount
23 collected by the cable operator, less undisputed amounts owed to the
24 cable operator, for cable services paid for before disconnection. Such
25 refunds shall be made no later than the customer's next billing cycle
26 following disconnection and return of equipment, or thirty days,
27 whichever is earlier.

28 NEW SECTION. **Sec. 52.** Except for planned service interruptions
29 when customers are provided reasonable notice in advance, upon request
30 of the customer the company shall provide a twenty-four hour credit to
31 the customer's account for a service interruption of four hours or more
32 in any one day during which the customer experienced a disruption or
33 impairment of cable service, unless the interruption or impairment was
34 due to customer negligence or abuse of equipment. Credits shall be
35 issued no later than the customer's next billing cycle following
36 determination that a credit is in fact warranted.

1 NEW SECTION. **Sec. 53.** (1) Each cable operator shall itemize all
2 bills to customers, indicating each category of service, equipment,
3 downgrade charges, transaction fees, late charges, and other applicable
4 fees, and the charge for each.

5 (2) A cable operator is prohibited from offering any service by a
6 negative option.

7 (3) Each cable operator shall respond to written complaints from
8 subscribers regarding billing disputes within thirty days.

9 NEW SECTION. **Sec. 54.** (1) Upon installation of cable service,
10 each cable operator shall provide the customer with information
11 regarding:

12 (a) Equipment and services currently available, and the rates and
13 charges applicable to each;

14 (b) The cable operator's policy and procedures for addressing
15 customer complaints;

16 (c) A toll-free telephone number and address of the cable
17 operator's office to which complaints and inquiries may be reported;
18 and

19 (d) The cable operator's practices and procedures for protecting
20 subscriber privacy.

21 (2) The cable operator shall provide customers with at least thirty
22 days' advance written notice of any deletions in programming service or
23 any channel repositions that are within control of the cable operator.

24 (3) All promotional materials, announcements, and advertising of
25 residential cable service to subscribers and the general public, if
26 price information is listed in any manner, shall clearly and accurately
27 disclose price terms. In the case of pay-per-view or pay-per-event
28 programming, all materials shall clearly and accurately disclose price
29 terms. In the case of telephone orders, the cable operator's
30 representative shall clearly and accurately disclose price terms before
31 taking an order.

32 NEW SECTION. **Sec. 55.** The cable operator shall provide customers
33 with at least thirty days' advance written notice of all increases in
34 rates of services, equipment, and other applicable charges.

35 NEW SECTION. **Sec. 56.** No cable operator may discriminate against
36 any person in providing cable television service on the basis of race,

1 color, religion, national origin, sex, age, disability, income, or the
2 area in which the person lives.

3 NEW SECTION. **Sec. 57.** Each cable system shall make available at
4 least two channels exclusively for local and state originated public,
5 educational, and governmental programming.

6 NEW SECTION. **Sec. 58.** A cable operator shall not refer, or cause
7 to be entered, a negative report to any consumer credit reporting
8 agency, association, or bureau unless thirty days have elapsed after
9 sending notice to the customer at the last service address or billing
10 address of record after disconnection has occurred.

11 NEW SECTION. **Sec. 59.** The franchising authority and its
12 representatives have the authority, upon reasonable notice, to inspect
13 a cable operator's books, records, reports, summaries, tests, lists,
14 and other items regarding the cable operator's operations within the
15 franchise area that the franchising authority deems necessary to
16 monitor the cable operator's compliance with sections 47 through 59 of
17 this act and other applicable laws and regulations, as well as terms
18 and conditions of a franchise agreement. Such authority includes, but
19 is not limited to, the right to audit a cable operator's books and
20 records and to inspect and test a cable operator's technical
21 facilities.

22 NEW SECTION. **Sec. 60.** (1) Prior to billing a subscriber for
23 optional services or an increase in fees for optional services not
24 previously affirmatively ordered by a subscriber, a cable television
25 system shall notify the subscriber of the proposed charge, or increase
26 in charges, for the optional service. The notification must be made on
27 the subscriber's invoice for the existing services, must be set forth
28 separately, and must be clearly identified as a proposed charge or
29 increase in charges for an optional service.

30 (2) No cable television service may bill a subscriber for optional
31 services unless it has received an affirmative indication of agreement
32 from the subscriber to pay for the services.

33 (3) No cable television system may utilize a negative option in
34 respect to its billing for an optional service unless a cable

1 television subscriber has previously made an affirmative indication of
2 agreement to pay for the service or increase in fees.

3 (4) No cable television system may contract with a subscriber in a
4 manner that would constitute the subscriber's agreement to waive the
5 rights enumerated in this section.

6 (5) A violation of this section is a matter vitally affecting the
7 public interest and is not reasonable in relation to the development or
8 preservation of business. A violation of this section is an unfair or
9 deceptive act or practice in trade and commerce for the purpose of
10 applying the consumer protection act, chapter 19.86 RCW, and shall be
11 in addition to the provisions in RCW 19.86.020 and 19.56.030.

12 (6) The attorney general or a local franchising authority is
13 authorized to bring action against a cable television system that
14 violates this section.

15 NEW SECTION. **Sec. 61.** A new section is added to chapter 80.36 RCW
16 to read as follows:

17 The commission shall provide assistance to city, town, code city,
18 and county governments in negotiating franchise terms, regulating cable
19 rates, drafting ordinances, and providing other assistance it deems
20 appropriate, when requested by the government. Such assistance shall
21 be provided at cost according to a rate schedule to be determined by
22 the commission and paid by the government requesting assistance.
23 Commission assistance shall be in the form of recommendations; in no
24 event shall a recommendation be deemed binding upon a local government.

25 NEW SECTION. **Sec. 62.** A new section is added to chapter 80.36 RCW
26 to read as follows:

27 (1) Prior to billing a customer of telecommunications service for
28 optional services, or an increase in fees for an optional service not
29 previously affirmatively ordered by a subscriber, a telecommunications
30 company system shall notify the customer of the proposed charge for the
31 optional service. The notification must be made on the customer's
32 invoice for the existing services, must be set forth separately, and
33 must be clearly identified as a proposed charge or increase in charges
34 for an optional service.

35 (2) No telecommunications company may bill a customer for optional
36 services unless it has received an affirmative indication of agreement
37 from the customer to pay for the services.

1 (3) No telecommunications company may utilize a negative option in
2 respect to its billing for an optional service unless a customer has
3 previously made an affirmative indication of agreement to pay for the
4 service.

5 (4) No telecommunications company may contract with a customer in
6 a manner that would constitute the customer's agreement to waive the
7 rights enumerated in this section.

8 (5) A violation of this section is a matter vitally affecting the
9 public interest, and is not reasonable in relation to the development
10 or preservation of business. A violation of this section is an unfair
11 or deceptive act or practice in trade and commerce for the purpose of
12 applying the consumer protection act, chapter 19.86 RCW, and shall be
13 in addition to the provisions in RCW 19.86.020 and 19.56.030.

14 (6) The attorney general or the commission is authorized to bring
15 action against a cable television system that violates this section.

16 NEW SECTION. **Sec. 63.** A new section is added to chapter 80.36 RCW
17 to read as follows:

18 No person or company may operate a pay telephone service linked to
19 the public switched network that fails to post a consumer protection
20 notice or provide call routing in conformance to commission rules. The
21 commission has authority to enforce this provision with appropriate
22 sanctions, including injunctions and fines not to exceed one thousand
23 dollars per violation per telephone.

24 NEW SECTION. **Sec. 64.** A new section is added to chapter 80.36 RCW
25 to read as follows:

26 No alternate operator service may provide service to a customer-
27 owned pay telephone service or call aggregator that has been denied
28 service by any other alternate service operator during the previous
29 sixty days because of violations of commission rules, unless the
30 commission specifically authorizes such service. The commission has
31 authority to enforce this section with appropriate sanctions.

32 NEW SECTION. **Sec. 65.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 66.** Section 40 of this act shall take effect
2 July 1, 1994.

3 NEW SECTION. **Sec. 67.** Captions used in this act do not constitute
4 part of the law.

5 NEW SECTION. **Sec. 68.** If specific funding for section 18 of this
6 act, referencing this act by bill and section number, is not provided
7 by June 30, 1994, in the public service revolving fund section of the
8 supplemental biennial operating appropriations act, section 18 of this
9 act shall be null and void.

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