

2SSB 5935 - S AMD TO S AMD (S-5126.1/18) 656

By Senator Schoesler

ADOPTED 02/14/2018

1 Beginning on page 20, line 4 of the amendment, strike all of
2 section 18 and insert the following:

3 "Sec. 18. RCW 53.08.370 and 2000 c 81 s 7 are each amended to
4 read as follows:

5 (1) A rural port district in existence on June 8, 2000, a port
6 district located in a county that borders a foreign nation, and a
7 port district located in a county that borders the Columbia river
8 that has completed feasibility studies for a wholesale
9 telecommunications network, may construct, purchase, acquire,
10 develop, finance, lease, license, handle, provide, add to, contract
11 for, interconnect, alter, improve, repair, operate, and maintain any
12 telecommunications facilities within or without the district's limits
13 for the following purposes:

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

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

19 (2) ((~~A rural~~)) Except as provided in subsection (7) of this
20 section, port districts providing wholesale telecommunications
21 services under this section shall ensure that rates, terms, and
22 conditions for such services are not unduly or unreasonably
23 discriminatory or preferential. Rates, terms, and conditions are
24 discriminatory or preferential when a ((~~rural~~)) port district
25 offering such rates, terms, and conditions to an entity for wholesale
26 telecommunications services does not offer substantially similar
27 rates, terms, and conditions to all other entities seeking
28 substantially similar services.

29 (3) When a ((~~rural~~)) port district establishes a separate utility
30 function for the provision of wholesale telecommunications services
31 under this section, it shall account for any and all revenues and
32 expenditures related to its wholesale telecommunications facilities

1 and services separately from revenues and expenditures related to its
2 internal telecommunications operations. Any revenues received from
3 the provision of wholesale telecommunications services must be
4 dedicated to the utility function that includes the provision of
5 wholesale telecommunications services for costs incurred to build and
6 maintain the telecommunications facilities until such time as any
7 bonds or other financing instruments executed after June 8, 2000, and
8 used to finance the telecommunications facilities are discharged or
9 retired.

10 (4) When a (~~rural~~) port district establishes a separate utility
11 function for the provision of wholesale telecommunications services
12 under this section, all telecommunications services rendered by the
13 separate function to the district for the district's internal
14 telecommunications needs shall be charged at its true and full value.
15 A (~~rural~~) port district may not charge its nontelecommunications
16 operations rates that are preferential or discriminatory compared to
17 those it charges entities purchasing wholesale telecommunications
18 services.

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

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

28 (7) A port district under this section may select a
29 telecommunications company to operate all or a portion of the port
30 district's telecommunications facilities. The company may be the
31 exclusive provider of telecommunications services to end users under
32 terms specified in the contract with the port district. For purposes
33 of this section, "telecommunications company" means any for-profit
34 entity owned by investors that sells telecommunications services to
35 end users. Nothing in this subsection (7) is intended to limit or
36 otherwise restrict any other authority provided by law.

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

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

24 (2) The commission may order a rural port district or port
25 district as identified in RCW 53.08.370(1) to pay a share of the
26 costs incurred by the commission in adjudicating or enforcing this
27 section.

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

31 (4) Nothing in this section shall be construed to affect the
32 commission's authority and jurisdiction with respect to actions,
33 proceedings, or orders permitted or contemplated for a state
34 commission under the federal telecommunications act of 1996, P.L.
35 104-104 (110 Stat. 56)."

36 Renumber the remaining sections consecutively and correct any
37 internal references accordingly.

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1 On page 26, line 29 of the title amendment, after "80.36.690,"
2 strike "and 53.08.370" and insert "53.08.370, and 53.08.380"

EFFECT: Authorizes certain port districts to provide wholesale telecommunications services; authorizes rural port and certain port districts to provide wholesale telecommunications services outside of their district.

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