
**Technology & Economic Development
Committee**

ESSB 5679

Brief Description: Concerning the authority of port districts to provide telecommunications services.

Sponsors: Senate Committee on Energy, Environment & Telecommunications (originally sponsored by Senators Warnick, Wellman, Sheldon, Rivers, Wilson, Cleveland, Walsh, Takko and Rolfes).

Brief Summary of Engrossed Substitute Bill

- Authorizes rural port districts to acquire and operate telecommunications facilities for wholesale telecommunications services outside of their district.
- Authorizes certain port districts to acquire and operate telecommunications facilities for: (1) their own internal use; and (2) wholesale telecommunications services outside of their district.
- Authorizes rural and certain other port districts to select a telecommunications company as the sole provider of telecommunications services to end users.

Hearing Date: 3/16/17

Staff: Lily Smith (786-7175).

Background:

There are 75 port districts in Washington, located in 33 of its 39 counties. Port districts are a type of special purpose district, authorized in 1911, for the purpose of constructing harbor improvements, developing rail and terminal facilities, and undertaking other industrial improvements.

Ports have the authority to develop marine terminals, airports, and other cargo facilities; establish foreign trade zones; operate or lease marinas; provide environmental protection and

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enhancement; and provide public access. Among the general powers granted to ports are the following:

- acquire land, property, leases, and easements;
- condemn property and exercise the power of eminent domain;
- develop lands for industrial and commercial uses;
- impose taxes, rates, and other charges;
- sell or otherwise convey rights to property; and
- construct and maintain specified types of park and recreation facilities.

The Telecommunications Act of 1996 requires the Federal Communications Commission to report annually on the deployment of advanced telecommunications capability. The 2016 report found that 14 percent of rural areas in Washington lack access to fixed advanced telecommunications capability, compared to 3 percent of all areas and 1 percent of urban areas in the state.

The Washington Utilities and Transportation Commission (UTC) is authorized to regulate in the public interest the rates, services, facilities, and practices of all persons supplying a utility service within the state.

In 2000 legislation was passed authorizing rural port districts to provide telecommunications services for their own use. Rural port districts were also authorized to provide wholesale telecommunications services within district limits, but are specifically prohibited from providing telecommunications services to end users. The districts must ensure that rates, terms, and conditions for services are not unduly or unreasonably discriminatory or preferential.

Rates, terms, and conditions are considered discriminatory or preferential when not similarly offered to all entities seeking substantially similar services. A person or entity receiving wholesale telecommunications services from a rural port district may petition the UTC if it believes the district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential.

"Telecommunications" is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Information" refers to knowledge or intelligence represented by any form of writing, including signs, signals, or any other symbols.

"Telecommunications facilities" refers to the lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities, devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

"Wholesale telecommunications services" is the provision of telecommunications services or facilities for resale by an entity authorized to provide telecommunications services to the general public and Internet service providers.

A "rural port district" is a port district formed under chapter 53.04 RCW and located in a county with an average population density of fewer than 100 persons per square mile.

Summary of Bill:

In addition to rural port districts, port districts located in counties with a population less than 700,000 are authorized to provide telecommunications services, subject to existing requirements for rural port districts. Both types of port districts may use unlit optical fiber:

- for the district's own use; and
- to provide wholesale telecommunications services within or without the district's limits.

A port district authorized to provide wholesale telecommunications services may select a telecommunications company to operate its telecommunications facilities. Under contract terms specified with the port district, the telecommunications company may be the exclusive provider of services to end users.

For purposes of this section, "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

A legislative finding is made regarding adequate access to telecommunications services for certain areas.

Appropriation: None.

Fiscal Note: Requested on March 15, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.