

SENATE BILL REPORT

SB 5679

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 16, 2017

Title: An act relating to the authority of port districts to provide telecommunications services.

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

Sponsors: Senators Warnick, Wellman, Sheldon, Rivers, Wilson, Cleveland, Walsh, Takko and Rolfes.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/14/17, 2/16/17 [DPS].

Brief Summary of 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 port districts to select a telecommunications company as their sole provider of telecommunications services to end users.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5679 be substituted therefor, and the substitute bill do pass.

Signed by Senators Sheldon, Vice Chair; Carlyle, Ranking Minority Member; Brown, Hobbs, Honeyford, Ranker, Short and Wellman.

Staff: Jan Odano (786-7486)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: A rural port district in existence on June 8, 2000, may acquire and operate telecommunications facilities for their own internal telecommunications needs within and outside of its district and to provide wholesale telecommunications services within its district limits.

Rural port districts providing wholesale services must:

- ensure that their rates, terms, and conditions are not unduly or unreasonably discriminatory or preferential;
- keep accountings of revenues and expenditures of their wholesale telecommunications activities separate from their internal telecommunications operations;
- dedicate the revenues from the wholesale activities to paying off the costs incurred in building and maintaining the telecommunications facilities; and
- charge themselves the true and full value of telecommunications services provided by their separate telecommunications functions to the district.

Rural port districts may not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights to such facilities.

A rural port district is defined as one located in a county with an average population density of less than 100 persons per square mile.

Summary of Bill (First Substitute): Rural port districts in existence on June 8, 2000, may acquire and operate telecommunications facilities to provide wholesale telecommunications services outside their district limits.

Port districts within a county with at least one border along the southern, eastern, or northern border of the state may acquire and operate telecommunications facilities for their own internal use and to provide wholesale telecommunications services within and outside their district limits.

Port districts authorized to provide wholesale telecommunications must follow the same requirements as rural ports.

A rural port or port district authorized to provide wholesale telecommunications 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.

A rural port or port district authorized to provide wholesale telecommunications may not construct or operate telecommunications facilities for service in areas already provided broadband service unless the port district has constructed facilities capable of providing broadband service to at least 50 percent of its total underserved and unserved end users.

A telecommunications company is defined as any for-profit entity owned by investors that sells telecommunications services to end users.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (First Substitute):

- Removes authority for port districts to provide telecommunications services for other public bodies' telecommunications needs.
- Provides that a port district may not construct or operate telecommunications facilities in areas already receiving broadband services unless the port district has constructed telecommunications facilities capable of providing broadband services to at least 50 percent of its total underserved or unserved end users.
- Clarifies that exclusive contracts with telecommunications companies are excepted from the discriminatory and preferential petition process.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill would give rural port districts the opportunity to provide internet, it is a big step. This would give schools and residents and businesses the connection to the outside world. Lacking basic broadband services is an economic development problem especially in rural areas. If you can't get a connection, you can't get a job. With innovations, the digital divide is getting larger every day. Without broadband, smaller businesses can't compete, people can't work from home, this includes telecommuting, telemedicine, and distance learning. Carriers serve urban areas because they can recoup their costs in a few years. The solution for rural areas is public/private partnerships where costs can be recouped in 15 years. This would provide carrier grade services to rural areas. In Skagit County, not all schools are connected or adequately connected. Companies want to grow but they are limited by lack of carrier grade broadband companies. Industry expects broadband. Ports would plan to build out the dark fiber and lease it while the private carriers would bring all the equipment and light the fiber. They have the true expertise.

CON: We are concerned with the interlocal agreements and authorizing ports to expand outside of their districts. We don't want to see the continuing overbuilding in urban areas when rural and underserved areas have been promised service. The bill needs to include a requirement to direct investments to occur in underserved areas first. This can't happen without subsidizing the build out. Cable companies are not eligible for any subsidies, although they provide a lot of internet service.

OTHER: Supportive of efforts that lead to the expansion of broadband in rural areas of the state. However, we are concerned that this legislation may allow the ports to cherry pick some of the private entities from telecommunications service providers.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; John Sternlicht, Economic Development Alliance of Skagit County/CEO; Patsy Martin, Port of Skagit/ Executive Director; William Bridges, CenturyLink; Nelson Holmberg, Port of Ridgefield.

CON: Betty Buckley, WITA; Ron Main, Broadband Communications Association of WA.

OTHER: Joseph Williams, ICT Sector Lead.

Persons Signed In To Testify But Not Testifying: No one.