

2 **SSB 6675** - H COMM AMD ADOPTED AS AMENDED 3/2/00
3 By Committee on Technology, Telecommunications & Energy

4
5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature makes the following
8 findings:

9 (1) Access to telecommunications facilities and services is
10 essential to the economic well-being of both rural and urban areas.

11 (2) Many persons and entities, particularly in rural areas, do not
12 have adequate access to telecommunications facilities and services.

13 (3) Public utility districts and rural port districts may be well-
14 positioned to construct and operate telecommunications facilities.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 54.16 RCW
16 to read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Commission" means the Washington utilities and transportation
20 commission.

21 (2) "Telecommunications" has the same meaning as that contained in
22 RCW 80.04.010.

23 (3) "Telecommunications facilities" means lines, conduits, ducts,
24 poles, wires, cables, crossarms, receivers, transmitters, instruments,
25 machines, appliances, instrumentalities and all devices, real estate,
26 easements, apparatus, property, and routes used, operated, owned, or
27 controlled by any entity to facilitate the provision of
28 telecommunications services.

29 (4) "Wholesale telecommunications services" means the provision of
30 telecommunications services or facilities for resale by an entity
31 authorized to provide telecommunications services to the general public
32 and internet service providers.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 54.16 RCW
34 to read as follows:

1 (1) A public utility district in existence on the effective date of
2 this act may construct, purchase, acquire, develop, finance, lease,
3 license, handle, provide, add to, contract for, interconnect, alter,
4 improve, repair, operate, and maintain any telecommunications
5 facilities within or without the district's limits for the following
6 purposes:

7 (a) For the district's internal telecommunications needs; and

8 (b) For the provision of wholesale telecommunications services
9 within the district and by contract with another public utility
10 district.

11 Nothing in this subsection shall be construed to authorize public
12 utility districts to provide telecommunications services to end users.

13 (2) A public utility district providing wholesale
14 telecommunications services shall ensure that rates, terms, and
15 conditions for such services are not unduly or unreasonably
16 discriminatory or preferential. Rates, terms, and conditions are
17 discriminatory or preferential when a public utility district offering
18 rates, terms, and conditions to an entity for wholesale
19 telecommunications services does not offer substantially similar rates,
20 terms, and conditions to all other entities seeking substantially
21 similar services.

22 (3) When a public utility district establishes a separate utility
23 function for the provision of wholesale telecommunications services, it
24 shall account for any and all revenues and expenditures related to its
25 wholesale telecommunications facilities and services separately from
26 revenues and expenditures related to its internal telecommunications
27 operations. Any revenues received from the provision of wholesale
28 telecommunications services must be dedicated to the utility function
29 that includes the provision of wholesale telecommunications services
30 for costs incurred to build and maintain the telecommunications
31 facilities until such time as any bonds or other financing instruments
32 executed after the effective date of this act and used to finance the
33 telecommunications facilities are discharged or retired.

34 (4) When a public utility district establishes a separate utility
35 function for the provision of wholesale telecommunications services,
36 all telecommunications services rendered by the separate function to
37 the district for the district's internal telecommunications needs shall
38 be charged at its true and full value. A public utility district may
39 not charge its nontelecommunications operations rates that are

1 preferential or discriminatory compared to those it charges entities
2 purchasing wholesale telecommunications services.

3 (5) A public utility district shall not exercise powers of eminent
4 domain to acquire telecommunications facilities or contractual rights
5 held by any other person or entity to telecommunications facilities.

6 (6) Except as otherwise specifically provided, a public utility
7 district may exercise any of the powers granted to it under this title
8 and other applicable laws in carrying out the powers authorized under
9 this section. Nothing in this act limits any existing authority of a
10 public utility district under this title.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 54.16 RCW
12 to read as follows:

13 (1) Prior to financing or constructing telecommunications
14 facilities for the provision of wholesale telecommunications services,
15 a public utility district shall:

16 (a) Develop a written implementation plan stating the district's
17 intent to provide wholesale telecommunications services which must
18 include:

19 (i) A general description of how the district intends to engage in
20 the provision of wholesale telecommunications services under section 3
21 of this act; and

22 (ii) A discussion of how the public interest shall be served by the
23 provision of wholesale telecommunications services; and

24 (b) Present the implementation plan to the district's commission,
25 and make the plan available to the general public. The commission
26 shall conduct at least three public hearings throughout the district to
27 take public comment on the implementation plan. At least two weeks
28 prior to each public hearing, a notice that includes a general
29 description of the implementation plan and the date and place of
30 hearing shall be published in a newspaper of general circulation in the
31 county in which the district is located.

32 (2) After the public hearings, the commission may adopt, alter, or
33 reject the implementation plan by resolution. Within ninety days after
34 the adoption of such resolution, a petition signed by at least ten
35 percent of the registered voters in the district may be submitted to
36 the commission requiring the subject of the resolution be put to a vote
37 of the people in the district.

1 (3) If a petition meets the requirements of subsection (2) of this
2 section, the commission shall submit the resolution to the legislative
3 authority of the county in which the district is located. Upon receipt
4 of the resolution, the legislative authority shall submit a proposal to
5 the voters of the district at the next general election regarding the
6 question of providing wholesale telecommunications services in the
7 district in substantially the following terms:

8 Shall Public Utility District No. of
9 County be authorized to provide wholesale telecommunications
10 services within the boundaries of the district?

11 Yes . . .

12 No . . .

13 Within ten days after such an election, the election board of the
14 county shall canvass the returns, and if at such an election a majority
15 of voters voting on the proposition shall vote in favor of such
16 authority, the district shall have the authority to provide wholesale
17 telecommunications services.

18 (4) A public utility district providing wholesale
19 telecommunications services shall submit a report to the appropriate
20 committees of the legislature by December 1st of the second year of
21 each biennium. The report must include, at a minimum, a description of
22 the following activities:

23 (a) All activities relating to the construction, acquisition,
24 operation, marketing, and leasing of telecommunications facilities and
25 wholesale telecommunications services; and

26 (b) The number of new locations connected to the telecommunications
27 facilities resulting from the provision of wholesale telecommunications
28 services to enhanced service providers and entities authorized to
29 provide telecommunications services to the general public.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 54.16 RCW
31 to read as follows:

32 (1) A person or entity that has requested wholesale
33 telecommunications services from a public utility district providing
34 wholesale telecommunications services under this chapter may petition
35 the commission under the procedures set forth in RCW 80.04.110 (1)
36 through (3) if it believes the district's rates, terms, and conditions
37 are unduly or unreasonably discriminatory or preferential. The person

1 or entity shall provide the public utility district notice of its
2 intent to petition the commission and an opportunity to review within
3 thirty days the rates, terms, and conditions as applied to it prior to
4 submitting its petition. In determining whether a district is
5 providing discriminatory or preferential rates, terms, and conditions,
6 the commission may consider such matters as service quality, cost of
7 service, technical feasibility of connection points on the district's
8 facilities, time of response to service requests, system capacity, and
9 other matters reasonably related to the provision of wholesale
10 telecommunications services. If the commission, after notice and
11 hearing, determines that a public utility district's rates, terms, and
12 conditions are unduly or unreasonably discriminatory or preferential,
13 it shall issue a final order finding noncompliance with this section
14 and setting forth the specific areas of apparent noncompliance. An
15 order imposed under this section shall be enforceable in any court of
16 competent jurisdiction.

17 (2) The commission may order a public utility district to pay a
18 share of the costs incurred by the commission in connection with
19 adjudicating or enforcing the provisions of this section.

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

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

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 53.08 RCW
29 to read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Commission" means the Washington utilities and transportation
33 commission.

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

37 (3) "Telecommunications" has the same meaning as contained in RCW
38 80.04.010.

1 (4) "Telecommunications facilities" means lines, conduits, ducts,
2 poles, wires, cables, crossarms, receivers, transmitters, instruments,
3 machines, appliances, instrumentalities and all devices, real estate,
4 easements, apparatus, property, and routes used, operated, owned, or
5 controlled by any entity to facilitate the provision of
6 telecommunications services.

7 (5) "Wholesale telecommunications services" means the provision of
8 telecommunications services or facilities for resale by an entity
9 authorized to provide telecommunications services to the general public
10 and internet service providers.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 53.08 RCW
12 to read as follows:

13 (1) A rural port district in existence on the effective date of
14 this act may construct, purchase, acquire, develop, finance, lease,
15 license, handle, provide, add to, contract for, interconnect, alter,
16 improve, repair, operate, and maintain any telecommunications
17 facilities within or without the district's limits for the following
18 purposes:

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

20 (b) For the provision of wholesale telecommunications services
21 within the district's limits. Nothing in this subsection shall be
22 construed to authorize rural port districts to provide
23 telecommunications services to end users.

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

33 (3) When a rural port district establishes a separate utility
34 function for the provision of wholesale telecommunications services, it
35 shall account for any and all revenues and expenditures related to its
36 wholesale telecommunications facilities and services separately from
37 revenues and expenditures related to its internal telecommunications
38 operations. Any revenues received from the provision of wholesale

1 telecommunications services must be dedicated to the utility function
2 that includes the provision of wholesale telecommunications services
3 for costs incurred to build and maintain the telecommunications
4 facilities until such time as any bonds or other financing instruments
5 executed after the effective date of this act and used to finance the
6 telecommunications facilities are discharged or retired.

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

15 (5) A rural port district shall not exercise powers of eminent
16 domain to acquire telecommunications facilities or contractual rights
17 held by any other person or entity to telecommunications facilities.

18 (6) Except as otherwise specifically provided, a rural port
19 district may exercise any of the powers granted to it under this title
20 and other applicable laws in carrying out the powers authorized under
21 this section. Nothing in this act limits any existing authority of a
22 rural port district under this title.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 53.08 RCW
24 to read as follows:

25 (1) Prior to financing or constructing telecommunications
26 facilities for the provision of wholesale telecommunications services,
27 a rural port district shall:

28 (a) Develop a written implementation plan stating the district's
29 intent to provide wholesale telecommunications services which must
30 include:

31 (i) A general description of how the district intends to engage in
32 the provision of wholesale telecommunications services under section 7
33 of this act; and

34 (ii) A discussion of how the public interest shall be served by the
35 provision of wholesale telecommunications services; and

36 (b) Present the implementation plan to the district's commission,
37 and make the plan available to the general public. The commission
38 shall conduct at least three public hearings throughout the district to

1 take public comment on the implementation plan. At least two weeks
2 prior to each public hearing, a notice that includes a general
3 description of the implementation plan and the date and place of
4 hearing shall be published in a newspaper of general circulation in the
5 county in which the district is located.

6 (2) After the public hearings, the commission may adopt, alter, or
7 reject the implementation plan by resolution. Within ninety days after
8 adoption of such resolution, a petition signed by at least ten percent
9 of the registered voters in the district may be submitted to the
10 commission requiring the subject of the resolution be put to a vote of
11 the people in the district.

12 (3) If a petition meets the requirements of subsection (2) of this
13 section, the commission shall submit the resolution to the legislative
14 authority of the county in which the district is located. Upon receipt
15 of the resolution, the legislative authority shall submit a proposal to
16 the voters of the district at the next general election regarding the
17 question of providing wholesale telecommunications services in the
18 district in substantially the following terms:

19 Shall Port District No. of County be
20 authorized to provide wholesale telecommunications services
21 within the boundaries of the district?
22 Yes . . .
23 No . . .

24 Within ten days after such an election, the election board of the
25 county shall canvass the returns, and if at such an election a majority
26 of voters voting on the proposition shall vote in favor of such
27 authority, the district shall have the authority to provide wholesale
28 telecommunications services.

29 (4) A rural port district providing wholesale telecommunications
30 services shall submit a report to the appropriate committees of the
31 legislature by December 1st of the second year of each biennium. The
32 report must include, at a minimum, a description of the following
33 activities:

34 (a) All activities relating to the construction, acquisition,
35 operation, marketing, and leasing of telecommunications facilities and
36 wholesale telecommunications services; and

37 (b) The number of new locations connected to the telecommunications
38 facilities resulting from the provision of wholesale telecommunications

1 services to enhanced service providers and entities authorized to
2 provide telecommunications services to the general public.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 53.08 RCW
4 to read as follows:

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

26 (2) The commission may order a rural port district to pay a share
27 of the costs incurred by the commission in adjudicating or enforcing
28 this section.

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

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

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.01 RCW
2 to read as follows:

3 The commission is authorized to perform the duties required by
4 sections 5 and 9 of this act."

5 Correct the title.

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