

# HOUSE BILL ANALYSIS

## HB 2880

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**Title:** An act relating to the provision of telecommunications services by public utility districts and rural port districts.

**Brief Description:** Allowing public utility districts and rural port districts to provide telecommunications services.

**Sponsors:** Representatives Cooper, Poulsen, Crouse, McDonald, DeBolt, Wolfe, Kastama, Bush, G. Chandler, Mielke, Schindler, Cox, Ruderman, Miloscia, Rockefeller, Eickmeyer, Doumit, Ogden, Mulliken, Linville, Hatfield, Constantine, Gombosky, Lovick, Stensen, Edwards, O'Brien, Keiser, Conway, D. Sommers, McIntire, Haigh, Santos, Wood and Kagi; by request of Governor Locke.

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### HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Meeting:** February 1, 2000.

**Staff:** Scott MacColl (786-7106)

**Background:**

Public Utility Districts (PUDs) have the authority to construct, maintain, operate and develop all lands, plants and plant facilities, and systems for generating electric energy by water power, steam, or other methods. PUDs are also authorized to construct and operate the entire system for distributing water for domestic use and irrigation. PUDs also have authority to raise revenue by the levy of an annual tax, and to exercise the right of eminent domain.

Port districts are authorized to construct, maintain, and develop harbor improvements, rail or motor vehicle transfer and terminal facilities, water transfer and terminal facilities, and other commercial transportation and industrial improvements. Port districts also have the power to levy and collect charges, and to exercise the right of eminent domain.

The Washington Utilities and Transportation Commission (WUTC) is authorized to regulate in the public interest the rates, services, facilities, and practices of all persons engaging in transportation. The WUTC also regulates the rates, services, facilities, and practices of people in the business of supplying any utility service or commodity

including electric companies, gas companies, irrigation companies, telecommunication companies, and water companies.

**Summary of Bill:**

A Public Utility District (PUD) or rural port district that is in existence on the effective date of this act is authorized to provide wholesale telecommunication services within its district limits. PUDs are also authorized to contract wholesale telecommunication services to other PUDs. The districts are required to ensure that rates, terms, and conditions for services are not unduly or unreasonably discriminatory or preferential.

Discriminatory or preferential is described to be when a PUD or rural port district does not offer similar rates, terms and conditions to all entities seeking substantially similar services. A person or entity receiving wholesale telecommunication services from a PUD or rural port district may petition the Washington Utilities and Transportation Commission (WUTC) if it believes the districts' rates, terms, and conditions are unduly or unreasonably discriminatory or preferential. The WUTC powers exercised in this process must follow the Administrative Procedures Act (APA). The person or entity must provide the PUD or rural port district notice of intent to petition the WUTC, and the opportunity for the district to review within 30 days the rates, fees, and conditions in place prior to the petition.

The WUTC may consider things like service quality, cost of service, technical feasibility of connection points on the districts' facilities, time of response to service requests, system capacity, and other matters related to telecommunication services. After the hearing, if the WUTC determines that a PUD or rural port district is providing unduly or unreasonably discriminatory or preferential services, the WUTC shall issue a final order finding noncompliance. The finding of noncompliance is enforceable in any court of competent jurisdiction.

The WUTC may order a PUD or rural port district to pay a share of the costs incurred by the WUTC in connection with the petition. A PUD or rural port district may obtain judicial review of the WUTC's actions after a finding against the district. The WUTC and prevailing party may also seek injunctive relief to compel compliance with an order. Nothing about this process is construed to affect the WUTC's authority and jurisdiction with respect to actions, proceedings, or orders permitted or contemplated under the 1996 Federal Telecommunications Act.

PUDs and rural port districts are specifically prohibited from exercising the powers of eminent domain to acquire telecommunication facilities or contractual rights to telecommunication facilities owned or held by another person or entity.

The following definitions refer to this act:

Telecommunications– means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. Information in this definition means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or by any other symbols.

Telecommunications facilities– means all equipment and devices, real estate, easements, property, and routes owned, operated or controlled by any entity to facilitate the provision of telecommunications services.

Wholesale telecommunications services– means the provisions of telecommunication services or facilities for resale by an entity authorized to provide telecommunication services to the general public. Resale as used in this definition does not indicate wholesale or retail.

Rural Port District– means a port district located in a county with an average population density of fewer than one hundred persons per square mile.

**Appropriation:** None.

**Fiscal Note:** Requested January 26, 2000.

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