

# FINAL BILL REPORT

## SSB 6675

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### PARTIAL VETO

C 81 L 00

Synopsis as Enacted

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

**Sponsors:** Senate Committee on Energy, Technology & Telecommunications (originally sponsored by Senators Brown, Hochstatter, Hargrove, Costa and Sheahan; by request of Governor Locke).

### **Senate Committee on Energy, Technology & Telecommunications House Committee on Technology, Telecommunications & Energy**

**Background:** Under Washington law, the authority of public utility districts (PUDs) and port districts is governed by the powers they are granted by statute, as well as a long history of interpretive court decisions. PUDs are expressly authorized, among other things, to provide electricity, water, and/or sewer service within and outside their boundaries. They have additional incidental and implied authorities that are necessary for accomplishing their primary purposes.

Many PUDs, like other utilities, utilize extensive telecommunications networks for their internal operations, including such purposes as remote monitoring of their distribution lines, demand side management, electronic billing, and customer relations. Some PUDs have upgraded, and others are planning to upgrade their telecommunications networks to fiber optic systems.

A November 1998 Attorney General Opinion requested by the State Auditor states that, under current law, a PUD may sell or lease excess capacity on its fiber optic cable system assuming that the excess capacity was acquired to serve the district's future needs and not for the purposes of resale to others. The opinion further states that a PUD lacks the statutory authority to offer and provide Internet access, home security services, telephone services, cell phone and paging services, or to install telephone or cable equipment for the public. Two recent lawsuits have been filed in state superior court challenging different Washington PUDs' activities in the area of telecommunications service.

Ports are authorized, among other things, to construct and operate sewer and water utilities, pollution control facilities, and waste treatment facilities to serve their own property and other property owners. Many port districts are involved in arranging or providing infrastructure and utility services as part of their industrial development activities.

**Summary:** Legislative declarations are made that, among other things, public utility districts (PUDs) and rural port districts may be well positioned to construct and operate telecommunications facilities.

Currently existing PUDs and rural port districts may acquire and operate telecommunications facilities for their own internal telecommunications needs and to provide wholesale telecommunications services within the districts' limits. PUDs may additionally provide wholesale services within other PUDs' limits by contract.

PUDs and rural port districts providing wholesale services must ensure that their rates, terms, and conditions are not unduly or unreasonably discriminatory or preferential. Districts must keep separate accountings of revenues and expenditures from their wholesale telecommunications activities as compared to their internal telecommunications operations, and dedicate the revenues from the wholesale activities toward paying off the costs incurred in building and maintaining the telecommunications facilities. Districts must charge themselves the true and full value of telecommunications services provided by their separate telecommunications functions to the district. PUDs and rural port districts may not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights to such facilities.

A savings clause is included clarifying that PUDs and rural port districts may exercise any of the powers granted to them under their current enabling statutes and other applicable law, and that nothing in the bill limits any existing authority of the districts under such laws.

A process is established whereby any entity requesting wholesale telecommunications services from a district may seek review of a district's rates, terms, and conditions by the Washington Utilities and Transportation Commission (WUTC) if it believes the district is acting in an unduly or unreasonably discriminatory or preferential manner and has given the district 30 days' notice to review and act on the allegations. The WUTC may, after notice and a hearing, issue remedial orders that are enforceable in court. Both the WUTC and prevailing parties may seek injunctive relief to compel a district's compliance with an order without limiting any other remedies available to them. The WUTC may order a district to pay a share of the costs incurred by the commission in adjudicating or enforcing nondiscriminatory rates, terms, and conditions.

A process for public review of a PUD or rural port district's plans for wholesale telecommunications projects is specified, involving notice, public hearings, and adoption of a resolution. A referendum vote must be undertaken if, within 90 days after adoption of a resolution, a petition signed by at least 10 percent of the district's voters is submitted. PUDs and rural port districts providing wholesale telecommunications services are required to report biennially to the Legislature on their activities.

Definitions are established for relevant terms, including telecommunications facilities,-- wholesale telecommunication services,-- and rural port districts.--

**Votes on Final Passage:**

Senate	44	1
House	70	28 (House amended)
Senate	46	1 (Senate concurred)

**Effective:** June 8, 2000

**Partial Veto Summary:** Sections 4 and 8 are vetoed which included the requirements for public meetings, referendum votes, and reports to the Legislature by PUDs and rural port districts.