
SENATE BILL 5139

State of Washington

65th Legislature

2017 Regular Session

By Senators Rolfes, Sheldon, McCoy, Takko, Chase, Cleveland,
Hasegawa, and Van De Wege

1 AN ACT Relating to ensuring economic development by authorizing
2 public utility districts to provide retail telecommunications
3 services; amending RCW 54.16.005 and 54.16.330; adding a new section
4 to chapter 54.16 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that public utility
7 districts provide reliable, affordable electric, water, sewer, and
8 wholesale telecommunications services, depending on the needs of the
9 community. The legislature further finds that many public utility
10 districts in the state maintain telecommunications facilities but are
11 prohibited by statute from providing telecommunications services
12 directly to retail, end-use customers.

13 The legislature finds that the lack of access to broadband
14 services in some areas of Washington is comparable to the
15 availability of electricity in the 1920s and 1930s. The legislature
16 further finds that public utility districts were established by
17 initiative in 1930 to give all people of the state the same rights to
18 develop and distribute electricity. Additionally, the legislature
19 finds that since enactment of the initiative, public utility
20 districts have contributed to the economic development of the
21 counties they serve by ensuring customer access to power.

1 The legislature finds that public utility districts are uniquely
2 positioned to offer broadband services in part because locally
3 elected public utility district boards ensure utility resources are
4 managed in a manner that supports their local communities and
5 economies.

6 The legislature intends for this act to authorize public utility
7 districts to provide retail telecommunications services. The
8 legislature further intends to provide a structured manner for which
9 public utility districts may provide retail broadband services to
10 end-use customers.

11 **Sec. 2.** RCW 54.16.005 and 2000 c 81 s 2 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Commission" means the Washington utilities and
16 transportation commission.

17 (2) "District commission" means the governing board of a public
18 utility district.

19 (3) "Dominant internet service provider" means an internet
20 service provider that provides retail internet access to at least
21 fifty-one percent of the total end-use customers connected to
22 telecommunications facilities owned or leased by a public utility
23 district.

24 (4) "Retail telecommunications services" means the sale, lease,
25 license, or indivisible right of use of telecommunications or
26 telecommunications facilities directly to end users.

27 (5) "Telecommunications" has the same meaning as that contained
28 in RCW 80.04.010.

29 ((+3)) (6) "Telecommunications facilities" means lines,
30 conduits, ducts, poles, wires, cables, crossarms, receivers,
31 transmitters, instruments, machines, appliances, instrumentalities
32 and all devices, real estate, easements, apparatus, property, and
33 routes used, operated, owned, or controlled by any entity to
34 facilitate the provision of telecommunications services.

35 ((+4)) (7) "Wholesale telecommunications services" means the
36 provision of telecommunications or telecommunications facilities for
37 resale by an entity authorized to provide telecommunications services
38 to the general public and internet service providers.

1 **Sec. 3.** RCW 54.16.330 and 2004 c 158 s 1 are each amended to
2 read as follows:

3 (1) A public utility district in existence on June 8, 2000, may
4 construct, purchase, acquire, develop, finance, lease, license,
5 handle, provide, add to, contract for, interconnect, alter, improve,
6 repair, operate, and maintain any telecommunications facilities
7 within or (~~without~~) outside of the district's limits for any or all
8 of the following purposes:

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

10 (b) For the provision of wholesale telecommunications services
11 within the district and by contract with another public utility
12 district(~~-~~

13 ~~Nothing in this subsection shall be construed to authorize public~~
14 ~~utility districts to provide telecommunications services to end~~
15 ~~users));~~

16 (c) For the provision of retail telecommunications services and
17 telecommunications facilities within the district; or

18 (d) For the provision of retail telecommunications services or
19 telecommunications facilities outside of the district by contract
20 with another public utility district or any other political
21 subdivision of the state authorized to provide retail
22 telecommunications services in the state.

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

32 (3) A public utility district providing wholesale or retail
33 telecommunications services shall not be required to but may
34 establish a separate utility system or function for such purpose. In
35 either case, a public utility district providing wholesale or retail
36 telecommunications services shall separately account for any revenues
37 and expenditures for those services according to standards
38 established by the state auditor pursuant to its authority in chapter
39 43.09 RCW and consistent with the provisions of this title. Any
40 revenues received from the provision of wholesale or retail

1 telecommunications services must be dedicated to costs incurred to
2 build and maintain any telecommunications facilities constructed,
3 installed, or acquired to provide such services, including payments
4 on debt issued to finance such services, until such time as any bonds
5 or other financing instruments executed after June 8, 2000, and used
6 to finance such telecommunications facilities are discharged or
7 retired.

8 (4) When a public utility district provides wholesale or retail
9 telecommunications services, all telecommunications services rendered
10 to the district for the district's internal telecommunications needs
11 shall be allocated or charged at its true and full value. A public
12 utility district may not charge its nontelecommunications operations
13 rates that are preferential or discriminatory compared to those it
14 charges entities purchasing wholesale or retail telecommunications
15 services.

16 (5) If a person or entity receiving retail telecommunications
17 services from a public utility district under this chapter has a
18 complaint regarding the reasonableness of the rates, terms,
19 conditions, or service provided, the person or entity may file a
20 complaint with the district commission.

21 (6) A public utility district shall not exercise powers of
22 eminent domain to acquire telecommunications facilities or
23 contractual rights held by any other person or entity to
24 telecommunications facilities.

25 ((+6+)) (7) Except as otherwise specifically provided, a public
26 utility district may exercise any of the powers granted to it under
27 this title and other applicable laws in carrying out the powers
28 authorized under this section. Nothing in chapter 81, Laws of 2000
29 limits any existing authority of a public utility district under this
30 title.

31 (8) If a dominant internet service provider, using
32 telecommunications facilities of a public utility district that
33 provides wholesale telecommunications services but does not provide
34 retail telecommunications services, ceases to provide access to the
35 internet to its end-use customers, the public utility district may
36 provide access to the internet to the end-use customers of the
37 dominant internet service provider in order for end-use customers to
38 maintain access to the internet until a replacement internet service
39 provider is, or providers are, in operation. Within thirty days of a
40 dominant internet service provider ceasing to provide access to the

1 internet, the public utility district must initiate a process to find
2 a replacement internet service provider or providers to resume
3 providing access to the internet using telecommunication facilities
4 of a public utility district. Until a replacement internet service
5 provider is, or providers are, in operation, the district commission
6 may establish a rate for providing access to the internet and charge
7 customers to cover expenses necessary to provide access to the
8 internet.

9 NEW SECTION. Sec. 4. A new section is added to chapter 54.16
10 RCW to read as follows:

11 (1) A public utility district may provide any retail
12 telecommunications service or services in either of the following
13 ways:

14 (a) By a majority vote of the district commission on a
15 resolution; or

16 (b) On petition to the district commission signed by registered
17 voters equal to no less than ten percent of the qualified electors of
18 the county based on the total vote cast in the last general county
19 election held in an even-numbered year, the district commission must
20 conduct a hearing to consider whether the district must undertake the
21 provision of broadband services to end users and customers. If the
22 district commission determines that the district will undertake the
23 provision of broadband services to end users and customers, then the
24 provision of broadband services must be approved by a majority vote
25 of the district commission on a resolution.

26 (2) Prior to constructing, purchasing, acquiring, developing,
27 financing, leasing, licensing, handling, providing, adding to,
28 contracting for, interconnecting, altering, improving, repairing,
29 operating, or maintaining telecommunications facilities for the
30 provision of retail telecommunications services, a public utility
31 district must develop a written implementation plan describing how
32 the district intends to provide retail telecommunications services
33 under RCW 54.16.330.

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