AN ACT Relating to the provision of telecommunications services by public entities; amending RCW 54.16.005, 54.16.330, 53.08.005, 53.08.370, and 35A.80.010; adding a new section to chapter 35.92 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that there are areas of the state that are not being served with telecommunications or broadband services. The legislature further finds that many public utility districts in the state maintain telecommunications facilities in these underserved or unserved areas but are restricted from providing telecommunications services directly to retail, end-use customers. In an effort to reach those areas of the state that are unserved or underserved, it is the intent of the legislature to grant public utility districts the authority to provide retail telecommunications services, including broadband, with the expectation that these services will be subject to the same telecommunications taxes, fees, and surcharges that are applicable to other telecommunications providers in the state.
Sec. 2. RCW 54.16.005 and 2000 c 81 s 2 are each amended to read as follows:

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

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

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

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

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

(5) "Public agency" has the same meaning as defined in RCW 39.34.020.

(6) "Retail telecommunications services" means the sale or lease of telecommunications services or facilities directly to public agencies, individuals, nonprofit organizations, libraries, schools, institutions of higher education, or other public or private entities.

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

(1) A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or outside of the district's limits for the following purposes:

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

(b) For the provision of wholesale telecommunications services within or adjacent to the district and by contract with another public utility district; and
(c) For the provision of retail telecommunications services within
or adjacent to the district.

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

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

(3) A public utility district providing wholesale or retail
telecommunications services shall not be required to but may establish
a separate utility system or function for such purpose. In either
case, a public utility district providing wholesale or retail
telecommunications services shall separately account for any revenues
and expenditures for those services according to standards established
by the state auditor pursuant to its authority in chapter 43.09 RCW and
consistent with the provisions of this title. Any revenues received
from the provision of wholesale or retail telecommunications services
must be dedicated to costs incurred to build and maintain any
telecommunications facilities constructed, installed, or acquired to
provide such services, including payments on debt issued to finance
such services, until such time as any bonds or other financing
instruments executed after June 8, 2000, and used to finance such
telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail
telecommunications services, all telecommunications services rendered
to the district for the district's internal telecommunications needs
shall be allocated or charged at its true and full value. A public
utility district may not charge its nontelecommunications operations
rates that are preferential or discriminatory compared to those it
charges entities purchasing wholesale or retail telecommunications
services.
If a person or entity receiving retail telecommunications services from a public utility district under this chapter has a complaint regarding the reasonableness of the rates, terms, conditions, or service provided, the person or entity may file a complaint with the public utility district.

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

Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

Sec. 4. RCW 53.08.005 and 2000 c 81 s 6 are each amended to read as follows:

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

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

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

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

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

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

(6) "Public agency" has the same meaning as defined in RCW 39.34.020.
(7) "Retail telecommunications services" means the sale of telecommunications services or facilities directly to public agencies, individuals, nonprofit organizations, libraries, schools, institutions of higher education, or other public or private entities.

Sec. 5. RCW 53.08.370 and 2000 c 81 s 7 are each amended to read as follows:

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

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

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

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

(3) When a rural port district establishes a separate utility function for the provision of wholesale or retail telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale or retail telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to the utility function that includes the provision of wholesale or retail telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as
any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

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

(5) If a person or entity receiving retail telecommunications services from a rural port district under this chapter has a complaint regarding the reasonableness of the rates, terms, conditions, or service provided, the person or entity may file a complaint with the rural port district.

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

(6) Except as otherwise specifically provided, a rural port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a rural port district under this title.

NEW SECTION. Sec. 6. A new section is added to chapter 35.92 RCW to read as follows:

A city or town may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or facilities for the purpose of furnishing the city or town and its inhabitants with telecommunications services. The city or town has full authority to regulate and control the use, distribution, and price of the service.

Sec. 7. RCW 35A.80.010 and 1988 c 127 s 2 are each amended to read as follows:

(1) A code city may provide utility service within and without its limits and exercise all powers to the extent authorized by general law
for any class of city or town. The cost of such improvements may be
financed by procedures provided for financing local improvement
districts in chapters 35.43 through 35.54 RCW and by revenue and
refunding bonds as authorized by chapters 35.41, 35.67 and 35.89 RCW
and Title 85 RCW. A code city may protect and operate utility services
as authorized by chapters 35.88, 35.91, 35.92, and 35.94 RCW and may
acquire and damage property in connection therewith as provided by
chapter 8.12 RCW and shall be governed by the regulations of the
department of ecology as provided in RCW 90.48.110.

(2) For the purposes of this section, "utility service" may include
water, sewer, solid waste, electricity, or telecommunications services.

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