Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Community & Economic Development Committee

2SSB 5383

Brief Description: Authorizing public utility districts and port districts to provide retail telecommunications services in unserved areas under certain conditions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wellman, Short, Hunt, King, Lovelett, Nguyen, Randall, Saldaña, Warnick, Wilson, C. and Wilson, L.).

Brief Summary of Second Substitute Bill

- Allows public utility districts (PUD) and port districts to provide retail telecommunications services to end users in unserved areas under certain conditions.
- Assigns duties and reporting requirements to the State Broadband Office related the provision of retail telecommunications services by PUDs and port districts in unserved areas.

Hearing Date: 3/17/21

Staff: Cassie Jones (786-7303).

Background:

Public Utility Districts and Port Districts - Telecommunications.
A public utility district (PUD) and a port district in existence on June 8, 2000, may construct, purchase, acquire, operate, and maintain telecommunications facilities within or without the district limits for purposes of internal telecommunications needs and for the provision of wholesale telecommunications services within the district. Public utility districts have limited

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authority to provide retail telecommunications services. Port districts do not have that authority.

Public Utility Districts - Retail Telecommunications Services.
A PUD has limited authority to provide retail telecommunications services.

Temporary Authority. A PUD that provides wholesale telecommunications services but not retail telecommunications service may provide retail telecommunications to the customers of an Internet service provider (ISP) if the ISP:

- was operating on telecommunications facilities of the PUD; and
- has ceased to provide access to the Internet to its customers.

The PUD may only provide the retail telecommunications if there are no other willing retail service providers. The PUD, within 30 days of the ISP ceasing to provide service, must initiate a process to find a replacement ISP to resume providing access to the Internet using the telecommunications facilities of the PUD. The PUD may provide the service for up to five months after the PUD begins the replacement search or until a replacement ISP is in operation, whichever is earlier.

Authority for Certain Public Utility Districts. A PUD that as of June 7, 2018, provides only water, sewer, and wholesale telecommunications services in a county with an area less than 500 square miles and is located west of the Puget Sound may provide retail Internet service on the PUD's broadband network located within the PUDs boundaries only when all of the existing providers of end-user Internet service on the PUD's broadband network cease to provide end-user service or inadequate end-user service. This authority expires five years after June 7, 2018.

State Broadband Office.
The purpose of the Governor's Statewide Broadband Office (Office) is to encourage, foster, develop, and improve affordable, quality broadband within the state to promote innovation, serve the growing needs of Washington's education, healthcare, and public safety systems, industries and business, governmental operations, and citizens, and improve broadband accessibility for unserved communities.

The Office's statutory speed goals are the following:

- by 2024, businesses and residences have access to minimum speeds of 25 megabits per second (Mbps) download and 3 Mbps upload;
- by 2026, communities have access to at least 1 gigabit per second symmetrical service at anchor institutions; and
- by 2028, businesses and residences have access to at least one provider with 150 Mbps symmetrical service.

The Office is required to report biennially to the Legislature on the its activities. The reports must include information and analysis on the current availability of broadband in the state and average speeds, an overview of incumbent broadband infrastructure within the state, a summary of the Office's activities coordinated with the Public Works Board, and suggested policies,

incentives, and legislation designed to achieve the state's broadband goals.

Summary of Second Substitute Bill:

Telecommunications Services - PUDs and Port Districts.
A PUD and a port district may provide retail telecommunications services to an end user in an unserved area if the PUD or port district receives notice from the Office that an existing provider has not submitted an objection and a broadband service plan relating to the same project area. Public utility districts are authorized to provide wholesale telecommunications services to an area currently served with electrical service in an adjoining county.

Prior to beginning a project to provide retail services, the PUD or port district must notify the Office of its intent to provide such services and post notice of its intent on its public website. The Office must post notices received from public utility districts or port districts on its public website. Any existing provider of broadband services in the proposed project area may, within 30 days of the PUD or port district posting its intent, submit the following in writing to the Office:

- a letter certifying that the project would result in overbuild; and
- a broadband service plan.

"Overbuild" means that the objecting service provider currently provides or has begun construction to provide the service, or can demonstrate that it obligated resources toward the completion of a feasibility study, before the PUD or port district provided notice of its intent, to begin construction within six months in the proposed project area with speeds of at least 100 Mbps download and 20 Mbps upload.

A broadband service plan must demonstrate that the existing service provider currently provides broadband service to end users within the unserved area at speeds equal to or greater than the Office's speed goals and outline how the existing service provider intends to provide and sustain broadband service to end users with speeds of at least 100 Mbps download and 20 Mbps upload within six months. A broadband service plan is confidential and exempt from public disclosure under the Public Records Act.

The Office may request additional information to authenticate an objection and must communicate with the PUD or port district whether it received an objection to a proposed project. Public utility districts and port districts may enter into mediation with service providers if an objection is submitted. The Office is required to notify an affected PUD or port district if a service provider does not fulfill its commitment (for reasons within its control) to provide services within six months and authorize the PUD or port district to commence work. A service provider that did not fulfill its commitment is prohibited from objecting to projects for the next 18 months.

A PUD or port district providing retail telecommunications services to an unserved area must operate an open access network.

"Unserved area" means areas of Washington in which households and businesses lack access to broadband service, as defined by the Office, except that the state's definition for broadband service may not be actual speeds less than 25 Mbps download and 3 Mbps upload.

State Broadband Office.
By December 31, 2023, the Office must submit a report to the Governor and the Legislature regarding the provision of retail telecommunications services to unserved areas by PUDs and port districts. The report must contain: (1) the number of PUDs and ports that are providing retail telecommunications services in unserved areas; (2) the number of and which existing service providers submitted plans and objections; (3) the number of and which existing service providers failed to fulfill their commitment to provider retail telecommunications services in unserved areas; and (4) any recommendations to improve the provision of retail telecommunications services in unserved areas.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.