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**Technology, Energy & Communications  
Committee**

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**HB 1711**

**Brief Description:** Regarding the provision of telecommunications services by public entities.

**Sponsors:** Representatives McCoy, Hasegawa, Rolfes and Walsh.

**Brief Summary of Bill**

- Authorizes public utility districts (PUDs) and rural port districts to provide retail telecommunications services to customers within or adjacent to their district.
- Authorizes PUDs and rural port districts to provide wholesale telecommunications services in areas adjacent to their district.
- Authorizes cities and towns to provide telecommunications services to their residents.

**Hearing Date:** 2/1/11

**Staff:** Kara Durbin (786-7133).

**Background:**

Wholesale Telecommunication Services Offered by Public Utility Districts or Rural Port Districts

Public utility districts (PUDs) are municipal corporations authorized to provide electricity, water, and sewer service. In 2000, the Legislature authorized PUDs and rural port districts to acquire and operate telecommunications facilities for the following purposes: (1) to serve their own internal telecommunications needs; (2) to provide wholesale telecommunications services within their district limits; and (3) to provide wholesale telecommunications services to other PUDs by contract.

Currently, 14 PUDs and three rural port districts in the state provide wholesale telecommunications services.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

PUDs and rural port districts must ensure their rates, terms, and conditions for wholesale telecommunications services are not unduly or unreasonably discriminatory or preferential. In addition, PUDs and rural port districts must keep separate accountings of revenues and expenditures for their wholesale telecommunications activities and may establish a separate utility function to provide wholesale telecommunications services. Revenues from the wholesale activities must be used to pay off the costs incurred in building and maintaining the telecommunications facilities.

The Washington Utilities and Transportation Commission is authorized to review petitions brought by customers concerning a PUD's or rural port district's wholesale telecommunications rates, terms, and conditions.

#### Telecommunications Services Offered by Municipalities

There are several classifications of cities and towns under Washington law: (1) first class cities; (2) second class cities; (3) code cities; (4) unclassified cities; and (5) towns.

Generally, the powers of municipal corporations are limited to those powers that are: (1) expressly granted by statute or by the constitution; (2) necessarily implied in or incident to powers expressly granted; and (3) essential to the declared purposes and objects of the municipal corporation. However, this general rule does not apply to first class cities and code cities. These municipalities have "home rule powers," which do not need express or implied statutory authority to enact local legislation.

According to a 2003 Attorney General Opinion, first class cities and code cities may provide telecommunications services as part of their "home rule powers," except as may be limited by specific statutory language governing particular services. Second class cities and towns, however, do not have the authority to provide telecommunication services.

#### **Summary of Bill:**

A public utility district (PUD) or rural port district may provide retail telecommunications services in areas that are within or adjacent to the district. In addition, a PUD or rural port district may provide wholesale telecommunications services in areas that are adjacent to its district.

Retail telecommunications services is defined as the sale or lease of telecommunications services or facilities to public agencies, individuals, non-profit organizations, libraries, schools, institutions of higher education, or other public or private entities.

Any PUD or rural port district offering retail telecommunications services must ensure their rates, terms, and conditions for retail telecommunications services are not unduly or unreasonably discriminatory or preferential. In addition, PUDs and rural port districts must keep separate accountings of revenues and expenditures for their retail telecommunications activities and may establish a separate utility function. Revenues generated from the retail telecommunications activities must be used to pay off the costs incurred in building and maintaining the telecommunications facilities.

If a person or entity receiving retail telecommunications services from a PUD or rural port district has a complaint regarding the reasonable of the rates, terms, conditions, or service provided, the person or entity may file a complaint with their PUD or rural port district.

A city or town may construct, purchase, lease, operate, and maintain telecommunications services or facilities in order to provide its inhabitants with telecommunications services. The city or town has full authority to regulate and control the use, distribution, and price of the service.

A definition of "utility service" is added with respect to code cities. This definition includes telecommunications services as well as water, sewer, solid waste and electricity.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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