



## New Laws Allow WA PUDs, Ports, to be Internet Service Providers

*Legislation will enable public entities, including PUDs, to help bridge the digital divide in Washington State*

**Olympia** – Two new laws aimed at helping bridge the digital divide in Washington State will take effect July 25, 2021. The legislation passed in the 2021 legislative session and signed into law will enable public entities, including not-for-profit, community-owned public utility districts to provide retail broadband service to end-users, creating another pathway to connect Washington citizens and communities to essential broadband service.

The Washington PUD Association supported the legislation ([House Bill 1336](#) and [Senate Bill 5383](#)) in the 2021 legislative session. “Broadband service is no longer a luxury. This was demonstrated by the pandemic when our ability to educate our children, connect with services including healthcare, and telecommute was dependent on broadband service,” said George Caan, Executive Director of the Washington PUD Association. “Unfortunately, there are areas of the state that do not have access to broadband service that is necessary to meet citizens’ needs. The new laws will enable public entities including Public Utility Districts, to respond to the broadband needs of the communities they serve.”

“Washington State will finally allow PUDs to provide broadband directly to the public—just like electricity or water,” said Rep. Drew Hansen (D-Bainbridge Island), the sponsor of the Public Broadband Act (HB1336). “The PUDs were critical to enacting my Public Broadband Act, and I look forward to working with PUDs across the state to bring public broadband to more people.”

The new laws expand existing PUD broadband authority. Since 2000, PUDs have had the authority to offer wholesale telecommunications services (RCW 54.16.330). Since then, PUDs have invested over \$509 million in broadband infrastructure. With wholesale telecommunications authority, PUDs were able to build the pipeline to help connect communities, with customers relying on private providers for end-use service. If customers did not have a private provider that could meet their needs, their options were limited or non-existent. The legislation creates a public option. Of the Association’s 27 member PUDs, 15 PUDs currently provide wholesale telecommunications services.

“Under the new law, individual PUDs will consider the needs of their customers when deciding whether to provide retail telecommunications service,” said Caan. “PUDs are community-owned, so each PUD operates differently and is responsive to the needs of their community. The decision regarding retail telecommunications service will be made by locally elected PUD Boards of Commissioners. Some communities are already well-served and those PUDs would not need to become a service provider even with retail authority; the same way that not every PUD provides electric, water, or wastewater service now.”



Caan added that many PUDs already offer open access networks, a wholesale network that ensures service providers may use network services and facilities under conditions that are not discriminatory or preferential between providers, to encourage competition in their community. “This is a model that works well in some communities. Many PUDs have worked closely with Independent Service Providers (ISPs) over the last 20 years in public-private partnerships and will continue to do so.”

While the expanded public option for retail broadband service will help facilitate greater access, access to funding to build infrastructure is equally important. The new laws will enable PUDs and port districts to access federal funding that is contingent on being able to provide retail service to end users, a key point brought up in testimony by PUDs in support of the legislation. “Funding for infrastructure is critical to increasing broadband access and meeting Washington’s goal of 150 Mbps download and upload by 2028,” said Caan. “Federal and State funding is integral to supporting infrastructure investments.” In addition to federal broadband funding programs, the State of Washington allocated \$411 million for loans and grants in the 2021-23 biennium for both private and public providers to build the systems necessary to increase access to service that meets the needs of citizens and communities.

#### **Fast facts on laws related to PUDs:**

- House Bill 1336 authorizes certain public entities (public utility districts, port districts, towns, second-class cities and counties) to provide retail broadband service in addition to wholesale service. Senate Bill 5383 authorizes more restrictive retail broadband authority for public utility districts and port districts to provide service in unserved areas only. Both bills were signed into law, however if there is a conflict between the provisions of the laws, the act that was filed last by the Secretary of State, which was House Bill 1336, takes precedence.
- The laws take effect July 25, 2021.
- PUDs must report feasibility and planning information to the State Office of Broadband and to their governing bodies prior to providing service.
- The State Office of Broadband must report to the Governor and legislature on retail services provided by PUDs and ports in unserved areas of the state.

#### **Above Article Courtesy of the Washington PUD Association (WPUDA).**

*WPUDA was established in 1936. Its mission is to support, protect and enhance its members’ ability to conserve the power and water resources for the benefit of the people of the State of Washington and provide not-for-profit, locally controlled utility services. Visit [www.wpuda.org](http://www.wpuda.org) for more information.*