

CHAPTER 110

[Substitute House Bill 1744]

TELECOMMUNICATIONS—STREAMLINED REGULATION OF SMALL COMPANIES

AN ACT Relating to streamlined regulation of small telecommunications companies; amending RCW 80.36.135; adding a new section to chapter 80.04 RCW; adding a new section to chapter 80.08 RCW; adding a new section to chapter 80.12 RCW; and adding a new section to chapter 80.16 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 80.04 RCW to read as follows:

(1)(a) Except as provided in (b) of this subsection, the following do not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington: RCW 80.04.080, 80.04.300 through 80.04.350, and, except for RCW 80.03.140, chapters 80.08, 80.12, and 80.16 RCW.

(b) Nothing in this subsection (1) shall affect the commission's authority over the rates, service, accounts, valuations, estimates, or determinations of costs, as well as the authority to determine whether any expenditure is fair, reasonable, and commensurate with the service, material, supplies, or equipment received.

(c) For purposes of this subsection, the number of access lines served by a local exchange company includes the number of access lines served in this state by any affiliate of that local exchange company.

(2) Any local exchange company for which an exemption is provided under this section shall not be required to file reports or data with the commission, except each such company shall file with the commission an annual report that consists of its annual balance sheet and results of operations, both presented on a Washington state jurisdictional basis. This requirement may be satisfied by the filing of information or reports and underlying studies filed with exchange carrier entities or regulatory agencies if the jurisdictionally separated results of operations for Washington state can be obtained from the information or reports. This subsection shall not be applied to exempt a local exchange company from an obligation to respond to data requests in an adjudicative proceeding in which it is a party.

(3) The commission may, in response to customer complaints or on its own motion and after notice and hearing, establish additional reporting requirements for a specific local exchange company.

NEW SECTION. Sec. 2. A new section is added to chapter 80.08 RCW to read as follows:

Subject to section 1(1) of this act, this chapter does not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington.

NEW SECTION. Sec. 3. A new section is added to chapter 80.12 RCW to read as follows:

Subject to section 1(1) of this act, this chapter does not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington.

NEW SECTION. Sec. 4. A new section is added to chapter 80.16 RCW to read as follows:

Subject to section 1(1) of this act, this chapter does not apply to a local exchange company that serves less than two percent of the access lines in the state of Washington.

Sec. 5. RCW 80.36.135 and 1989 c 101 s 1 are each amended to read as follows:

(1) The legislature declares that:

(a) Changes in technology and the structure of the telecommunications industry may produce conditions under which traditional rate of return, rate base regulation of telecommunications companies may not in all cases provide the most efficient and effective means of achieving the public policy goals of this state as declared in RCW 80.36.300, this section, and RCW 80.36.145. The commission should be authorized to employ an alternative form of regulation if that alternative is better suited to achieving those policy goals.

(b) Because of the great diversity in the scope and type of services provided by telecommunications companies, alternative regulatory arrangements that meet the varying circumstances of different companies and their ratepayers may be desirable.

(2) Subject to the conditions set forth in this chapter and RCW 80.04.130, the commission may regulate telecommunications companies subject before July 23, 1989, to traditional rate of return, rate base regulation by authorizing an alternative form of regulation. The commission may determine the manner and extent of any alternative forms of regulation as may in the public interest be appropriate. In addition to the public policy goals declared in RCW 80.36.300, the commission shall consider, in determining the appropriateness of any proposed alternative form of regulation, whether it will:

- (a) Reduce regulatory delay and costs;
- (b) Encourage innovation in services;
- (c) Promote efficiency;
- (d) Facilitate the broad dissemination of technological improvements to all classes of ratepayers;
- (e) Enhance the ability of telecommunications companies to respond to competition;

(f) Ensure that telecommunications companies do not have the opportunity to exercise substantial market power absent effective competition or effective regulatory constraints; and

(g) Provide fair, just, and reasonable rates for all ratepayers. The commission shall make written findings of fact as to each of the above-stated policy goals in ruling on any proposed alternative form of regulation.

(3) A telecommunications company or ~~company~~ subject to traditional rate of return, rate base regulation may petition the commission to ~~(regulate the company under)~~ ~~establish~~ an alternative form of regulation. The company ~~or companies~~ shall submit with ~~(its)~~ the petition ~~(its)~~ a plan for an alternative form of regulation. The plan shall contain ~~(the company's)~~ a proposal for transition to the alternative form of regulation. The commission shall review and may modify or reject the ~~(company's)~~ proposed plan. The commission also may initiate consideration of alternative forms of regulation for a company or companies on its own motion. The commission may approve the plan or

modified plan and authorize its implementation, if it finds, after notice and hearing, that the plan or modified plan:

- (a) Is in the public interest;
 - (b) Is necessary to respond to such changes in technology and the structure of the intrastate telecommunications industry as are in fact occurring;
 - (c) Is better suited to achieving the policy goals set forth in RCW 80.36.500 and this section than the traditional rate of return, rate base regulation;
 - (d) Ensures that ratepayers will benefit from any efficiency gains and cost savings arising out of the regulatory change and will afford ratepayers the opportunity to benefit from improvements in productivity due to technological change;
 - (e) Will not result in a degradation of the quality or availability of efficient telecommunications services;
 - (f) Will produce fair, just, and reasonable rates for telecommunications services; and
 - (g) Will not unduly or unreasonably prejudice or disadvantage any particular customer class.
- (4) Not later than sixty days from the entry of the commission's order, the company or companies affected by the order may file with the commission an election not to proceed with the alternative form of regulation as authorized by the commission. If (the) a company elects to appeal to the courts the final order of the commission authorizing an alternative form of regulation, it shall not change its election to proceed or not proceed after the appeal is concluded. The pendency of a petition by (the) a company for judicial review of the final order shall not serve to extend the sixty-day period.
- (5) The commission may waive such regulatory requirements under Title 80 RCW for a telecommunications company subject to an alternative form of regulation as may be appropriate to facilitate the implementation of this section: PROVIDED, That the commission may not grant the authority to price list services except as provided in RCW 80.36.300 through 80.36.370, the regulatory flexibility act, nor may it waive any statutory requirements or grants of legal rights to any person contained in this chapter and chapter 80.04 RCW as amended, except as otherwise expressly provided. The commission may waive different regulatory requirements for different companies or services if such different treatment is in the public interest.
- (6) Upon petition by any person, or upon its own motion, the commission may rescind its approval of an alternative form of regulation if, after notice and hearing, it finds that the conditions set forth in subsection (3) of this section can no longer be satisfied. The commission or any person may file a complaint alleging that the rates charged by a telecommunications company under an alternative form of regulation are unfair, unjust, unreasonable, unduly discriminatory, or are otherwise not consistent with the requirements of this act: PROVIDED, That the complainant shall bear the burden of proving the allegations in the complaint.

Passed the House February 22, 1995.
Passed the Senate April 7, 1995.
Approved by the Governor April 19, 1995.
Filed in Office of Secretary of State April 19, 1995.

CHAPTER 111

[Substitute House Bill 1777]

SCHOOL BOND LIABILITIES—DISCLOSURE OF USE OF PROCEEDS

AN ACT Relating to the disclosure of proceeds from a school bond levy; and amending RCW 28A.555.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.555.020 and 1990 c 33 s 481 are each amended to read as follows:

Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW 28A.555.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district. The resolution adopted by the board of directors shall specify the purposes of the debt financing measure, including the specific buildings to be constructed or remodelled and any additional specific purposes as authorized by RCW 28A.510.010. If the debt financing measure anticipates the receipt of state financing assistance under chapter 28A.525 RCW, the board resolution also shall describe the specific anticipated purpose of the state assistance. If the school board subsequently determines that state or local circumstances should cause any alteration to the specific expenditures from the debt financing or of the state assistance, the board shall first conduct a public hearing to consider those circumstances and to receive public testimony. If the board then determines that any such alterations are in the best interests of the district, it may adopt a new resolution or amend the original resolution at a public meeting held subsequent to the meeting at which public testimony was received.

Passed the House March 14, 1995.
Passed the Senate April 7, 1995.
Approved by the Governor April 19, 1995.
Filed in Office of Secretary of State April 19, 1995.

ESHB 1741

C 2 L 95 E2

Providing moneys for wine and wine grape research.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and Mastin).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Agriculture & Agricultural Trade & Development

Background: The operating budget for the 1995-97 biennium dedicates \$525,000 of the appropriation made to Washington State University (WSU) to wine and wine grape research. The dedicated portion of the appropriation lapses unless this bill is enacted.

Summary: The legislature provides its intent to fund wine and wine grape research at WSU during the 1995-97 biennium.

Votes on Final Passage:

House 89 5

First Special Session

House 83 11

Senate 47 0

Effective: August 24, 1995

SHB 1744

C 110 L 95

Regulating small telecommunications companies.

By House Committee on Energy & Utilities (originally sponsored by Representatives Huff, Kessler, Casada and Campbell).

House Committee on Energy & Utilities
Senate Committee on Energy, Telecommunications & Utilities

Background: Local exchange companies (LECs) provide local telephone service within their exchange boundaries. Washington currently has 21 LECs, which are regulated by the Washington Utilities and Transportation Commission (WUTC). The smallest 17 companies each serve less than 2 percent of the switched access (telephone) lines in the state.

Annual Reports and Budgets: All LECs, regardless of size and like other utilities whose rates and service are regulated by the WUTC, are required by statute to file detailed annual reports and budgets with the WUTC. The WUTC may require additional information and, after a notice and hearing, may reject any item of a budget. Unless an LEC is making expenditures in response to an emergency, the statutory budget provisions apply. An LEC proceeding with a rejected expenditure may not count that

expenditure as an operating expense or as part of the fair value of company property that is used and useful in serving the public, except upon proof that the expenditure is used and useful.

The WUTC may adopt budget rules and may exempt companies in whole or in part from those budget rules.

Securities: As a "public service company," an LEC may issue: (1) evidence of interest or ownership such as stocks and stock certificates; and (2) evidence of indebtedness such as bonds and notes. State law specifies the purposes for which these issuances may be used.

Prior to issuing evidence of interest or ownership or evidence of indebtedness, the public service company must file with the WUTC a description of the issuance and its purposes, terms of financing, and a statement of why the issuance is in the public interest. The WUTC may require a public service company to account for the disposition of all proceeds of the sale of all such issuances and it may adopt rules and regulations to insure the proper disposition of these proceeds.

Transfers of Property: As with other "public service companies," an LEC may sell, lease, assign, or otherwise dispose of all or any part of its franchises, properties, or facilities that are necessary in the performance of its duties to the public only with the authorization of the WUTC. No LEC may merge or consolidate any of its franchises, properties, or facilities with other public service companies without the authorization of the WUTC. Similarly, no LEC may purchase, acquire, or become the owner of franchises, properties, facilities, or capital stocks or bonds of another public service company without prior authorization of the WUTC. The WUTC may adopt rules and regulations to administer these requirements.

Affiliated Interests: As a "public service company," an LEC may enter into: (1) a contract or arrangement with an affiliated interest for providing such things as management, supervisory construction, engineering, accounting, legal, or financial services; or (2) a contract or arrangement with an affiliated interest providing for the sale, lease, or exchange of property only with approval of the WUTC. An affiliated interest essentially is a company or person holding 5 percent or more of the voting securities in the company.

Alternative Forms of Regulation: Telecommunications companies are regulated under a "rate of return" system. Under certain circumstances, telecommunications companies can be regulated in ways other than the traditional "rate of return" regulation. For example, a telecommunications company may petition the WUTC to be regulated under an "alternative form of regulation."

A telecommunications company may submit a petition to the WUTC proposing a plan for an alternative form of regulation. Prior to approving the plan, the WUTC must consider a number of factors. These factors include the extent to which the proposed form of regulation will reduce regulatory delay and costs, encourage innovation in services, promote efficiency, enhance the company's abil-

SHB 1756

ity to respond to competition, provide fair, just, and reasonable rates for all rate payers, and prevent companies from exercising substantial market power in the absence of competition or regulation. The WUTC also can initiate consideration of an alternative form of regulation for a telecommunications company. A company has 60 days to elect not to proceed with the alternative form of regulation as authorized by the WUTC.

Summary: Annual Reports and Budgets: Any LEC that serves less than 2 percent of the access lines in the state (including access lines served by any affiliate of the LEC) is exempt from the detailed annual reporting and budgeting requirements which currently apply to all public service companies. These smaller LECs are not required to submit reports or data to the WUTC except for annual balance sheets and results of operations in Washington State that are separated by jurisdiction. Existing information or reports that are separated by jurisdiction may be sufficient to meet these requirements. In response to customer complaints or on its own, after notice and hearing, the WUTC may establish additional reporting requirements for a specific LEC.

Securities, Transfers of Property, and Affiliated Interests: Any LEC that serves less than 2 percent of the access lines in the state (including access lines served by any affiliate of the LEC) is exempt from authorization and reporting requirements relating to issuance of securities, transfers of property and affiliated interests. In the case of securities, the state of Washington is not obligated to pay or guarantee stock, stock certificates, bonds, or other evidence of ownership or indebtedness issued by an LEC.

Alternative Form of Regulation: A group of telecommunications companies may petition the WUTC to establish an alternative form of regulation.

Votes on Final Passage:

House 98 0
Senate 39 0

Effective: July 23, 1995

SHB 1756

C 313 L 95

Changing provisions relating to dependent children.

By House Committee on Children & Family Services (originally sponsored by Representatives Veloria, Cooke, Cody, Lambert, Thibaudeau, Patterson and Costa).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: If a child is found dependent by the court, the child may be placed with a relative or in a foster care home. Court hearings related to the child's dependency are closed to the general public and the judge may allow a

relative caring for the child or the child's foster parent to attend and provide information about the child to the court.

Summary: The court is required to allow relatives or foster parents caring for a dependent child to attend court proceedings and provide the court with information and evidence about the child to the court, unless the court states on the record why the person should not be allowed to attend.

Votes on Final Passage:

House 98 0
Senate 43 0 (Senate amended)
House 93 0 (House concurred)

Effective: July 23, 1995

HB 1761

C 69 L 95

Clarifying physical conditions for determining the output of major energy projects.

By Representatives Casada, Hankins, Patterson, Crouse, Huff, Carlson, Morris, Mielke, Mitchell and Kessler.

House Committee on Energy & Utilities
Senate Committee on Energy, Telecommunications & Utilities

Background: In 1970, the Legislature created the Energy Facility Site Evaluation Council (EFSEC) to coordinate the evaluation, siting, and licensing of major non-hydroelectric energy facilities. EFSEC has rulemaking authority.

For facilities falling within its jurisdiction, EFSEC: (1) evaluates the impacts of energy facility proposals; (2) recommends to the Governor whether to approve an energy facility application; (3) imposes conditions on approved projects to ensure safe construction and operation and to minimize adverse impacts; (4) monitors construction, operation, and eventual decommissioning of energy facilities; and (5) enforces compliance with site certification conditions.

Thermal power plants (electricity-generating facilities using fuel, such as gas-fired combined-cycle combustion turbines) of at least 250 megawatts are within EFSEC's jurisdiction.

In 1981, voters approved Initiative No. 394, the Washington State Energy Financing Voter Approval Act. Under the act, a local government is prohibited from selling bonds to finance the construction or acquisition of major electrical generating facilities, which are facilities intended to generate more than 250 megawatts of electricity, unless the voters of the local government approve a ballot proposition authorizing the expenditure of the funds. Provisions are made for the preparation of a cost-effectiveness study of the project by an independent consultant and preparation of a special voters' pamphlet on the proposal that is distrib-