

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5802

Chapter 238, Laws of 2000

(partial veto)

56th Legislature
2000 Regular Session

TELECOMMUNICATIONS--INSTALLATIONS

EFFECTIVE DATE: 6/8/00

Passed by the Senate March 8, 2000
YEAS 38 NAYS 10

BRAD OWEN
President of the Senate

Passed by the House March 9, 2000
YEAS 98 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved March 30, 2000, with the
exception of section 203, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SECOND SUBSTITUTE SENATE BILL 5802 as
passed by the Senate and the House of
Representatives on the dates hereon
set forth.

TONY M. COOK
Secretary

FILED

March 30, 2000 - 3:48 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5802

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Fairley, Hochstatter, Honeyford, Spanel and Franklin)

Read first time 03/08/2000.

1 AN ACT Relating to telecommunications contractors and
2 installations; amending RCW 19.28.065, 19.28.310, 19.28.340, and
3 19.28.005; adding new sections to chapter 19.28 RCW; creating a new
4 section; recodifying RCW 19.28.065, 19.28.070, 19.28.250, 19.28.310,
5 19.28.330, 19.28.340, 19.28.390, 19.28.630, 19.28.005, 19.28.015,
6 19.28.060, 19.28.120, 19.28.123, 19.28.125, 19.28.180, 19.28.190,
7 19.28.200, 19.28.210, 19.28.260, 19.28.300, 19.28.350, 19.28.360,
8 19.28.370, 19.28.510, 19.28.515, 19.28.520, 19.28.530, 19.28.540,
9 19.28.550, 19.28.560, 19.28.570, 19.28.580, 19.28.600, 19.28.610, and
10 19.28.620; prescribing penalties; and making an appropriation.

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

12 **"PROVISIONS APPLICABLE TO ELECTRICAL INSTALLATIONS**
13 **AND TELECOMMUNICATIONS INSTALLATIONS"**

14 NEW SECTION. **Sec. 1.** (1) RCW 19.28.065 (as recodified by this
15 act) through 19.28.390 (as recodified by this act) apply throughout
16 this chapter.

17 (2) RCW 19.28.065 (as recodified by this act) through 19.28.390 (as
18 recodified by this act) constitute the subchapter "provisions

1 applicable to electrical installations and telecommunications
2 installations."

3 NEW SECTION. **Sec. 2.** Section 1 of this act and RCW 19.28.065,
4 19.28.070, 19.28.250, 19.28.310, 19.28.330, 19.28.340, 19.28.390, and
5 19.28.630 are codified or recodified between RCW 19.28.065 (as
6 recodified by this act) and 19.28.390 (as recodified by this act).

7 **Sec. 3.** RCW 19.28.065 and 1988 c 81 s 4 are each amended to read
8 as follows:

9 There is hereby created an electrical board, consisting of ~~((ten))~~
10 fourteen members to be appointed by the governor with the advice of the
11 director of labor and industries as herein provided. It shall be the
12 purpose and function of the board to advise the director on all matters
13 pertaining to the enforcement of this chapter including, but not
14 limited to standards of electrical and telecommunications installation,
15 minimum inspection procedures, and the adoption of rules ~~((and~~
16 ~~regulations))~~ pertaining to the electrical inspection division:
17 PROVIDED, HOWEVER, That no rules ~~((or regulations))~~ shall be amended or
18 repealed until the electrical board has first had an opportunity to
19 consider any proposed amendments or repeals and had an opportunity to
20 make recommendations to the director relative thereto. The members of
21 the electrical board shall be selected and appointed as follows: One
22 member shall be an employee or officer of a corporation or public
23 agency generating or distributing electric power; one member must be an
24 employee or officer of a facilities-based telecommunications service
25 provider regulated by the Washington state utilities and transportation
26 commission; three members shall be licensed electrical contractors:
27 PROVIDED, That one of these members may be a representative of a trade
28 association in the electrical industry; one member shall be a licensed
29 telecommunications contractor; one member shall be an employee, or
30 officer, or representative of a corporation or firm engaged in the
31 business of manufacturing or distributing electrical and
32 telecommunications materials, equipment, or devices; one member shall
33 be a person with knowledge of the electrical industry, not related to
34 the electrical industry, to represent the public; three members shall
35 be certified electricians; ~~((and))~~ one member shall be a
36 telecommunications worker; one member shall be a licensed professional
37 electrical engineer qualified to do business in the state of Washington

1 and designated as a registered communications distribution designer;
2 and one nonvoting member must be a building official from an
3 incorporated city or town with an electrical inspection program
4 established under RCW 19.28.360 (as recodified by this act). The
5 regular term of each member shall be four years: PROVIDED, HOWEVER,
6 The original board shall be appointed on June 9, 1988, for the
7 following terms: The first term of the member representing a
8 corporation or public agency generating or distributing electric power
9 shall serve four years; two members representing licensed electrical
10 contractors shall serve three years; the member representing a
11 manufacturer or distributor of electrical equipment or devices shall
12 serve three years; the member representing the public and one member
13 representing licensed electrical contractors shall serve two years; the
14 three members selected as certified electricians shall serve for terms
15 of one, two, and three years, respectively; the member selected as the
16 licensed professional electrical engineer shall serve for one year. In
17 appointing the original board, the governor shall give due
18 consideration to the value of continuity in membership from predecessor
19 boards. Thereafter, the governor shall appoint or reappoint board
20 members for terms of four years and to fill vacancies created by the
21 completion of the terms of the original members. When new positions
22 are created, the governor may appoint the initial members to the new
23 positions to staggered terms of one to three years. The governor shall
24 also fill vacancies caused by death, resignation, or otherwise for the
25 unexpired term of such members by appointing their successors from the
26 same business classification. The same procedure shall be followed in
27 making such subsequent appointments as is provided for the original
28 appointments. The board, at this first meeting shall elect one of its
29 members to serve as chairman. Any person acting as the chief
30 electrical inspector shall serve as secretary of the board during his
31 or her tenure as chief state inspector. Meetings of the board shall be
32 held at least quarterly in accordance with a schedule established by
33 the board. Each member of the board shall receive compensation in
34 accordance with RCW 43.03.240 and shall be reimbursed for travel
35 expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be
36 paid out of the electrical license fund, upon vouchers approved by the
37 director of labor and industries.

1 **Sec. 4.** RCW 19.28.310 and 1997 c 58 s 844 are each amended to read
2 as follows:

3 (1) The department has the power, in case of serious noncompliance
4 with the provisions of this chapter, to revoke or suspend for such a
5 period as it determines, any electrical or telecommunications
6 contractor license or electrical or telecommunications contractor
7 administrator certificate issued under this chapter. The department
8 shall notify the holder of the license or certificate of the revocation
9 or suspension by certified mail. A revocation or suspension is
10 effective twenty days after the holder receives the notice. Any
11 revocation or suspension is subject to review by an appeal to the
12 board. The filing of an appeal stays the effect of a revocation or
13 suspension until the board makes its decision. The appeal shall be
14 filed within twenty days after notice of the revocation or suspension
15 is given by certified mail sent to the address of the holder of the
16 license or certificate as shown on the application for the license or
17 certificate, and shall be effected by filing a written notice of appeal
18 with the department, accompanied by a certified check for two hundred
19 dollars, which shall be returned to the holder of the license or
20 certificate if the decision of the department is not sustained by the
21 board. The hearing shall be conducted in accordance with chapter 34.05
22 RCW. If the board sustains the decision of the department, the two
23 hundred dollars shall be applied by the department to the payment of
24 the per diem and expenses of the members of the board incurred in the
25 matter, and any balance remaining after payment of per diem and
26 expenses shall be paid into the electrical license fund.

27 (2) The department shall immediately suspend the license or
28 certificate of a person who has been certified pursuant to RCW
29 74.20A.320 by the department of social and health services as a person
30 who is not in compliance with a support order (~~or a residential or~~
31 ~~visitation order~~). If the person has continued to meet all other
32 requirements for reinstatement during the suspension, reissuance of the
33 license or certificate shall be automatic upon the department's receipt
34 of a release issued by the department of social and health services
35 stating that the licensee is in compliance with the order.

36 **Sec. 5.** RCW 19.28.340 and 1935 c 169 s 16 are each amended to read
37 as follows:

1 Nothing contained in this chapter will be construed to relieve from
2 or lessen the responsibility or liability of any person for injury or
3 damage to person or property caused by or resulting from any defect of
4 any nature in any electrical or telecommunications work performed by
5 said person or in any electrical or telecommunications equipment owned,
6 controlled, installed, operated or used by him or her; nor shall the
7 state of Washington, or any officer, agent, or employee thereof incur
8 or be held as assuming any liability by reason or in consequence of any
9 permission, certificate of inspection, inspection or approval
10 authorized herein, or issued or given as herein provided, or by reason
11 of consequence of any things done or acts performed pursuant to any
12 provision of this chapter.

13 **"PROVISIONS APPLICABLE TO ELECTRICAL INSTALLATIONS"**

14 NEW SECTION. **Sec. 101.** RCW 19.28.005 (as recodified by this act)
15 through 19.28.630 (as recodified by this act) constitute the subchapter
16 "provisions applicable to electrical installations."

17 NEW SECTION. **Sec. 102.** RCW 19.28.005, 19.28.015, 19.28.060,
18 19.28.120, 19.28.123, 19.28.125, 19.28.180, 19.28.190, 19.28.200,
19 19.28.210, 19.28.260, 19.28.300, 19.28.350, 19.28.360, 19.28.370,
20 19.28.510, 19.28.515, 19.28.520, 19.28.530, 19.28.540, 19.28.550,
21 19.28.560, 19.28.570, 19.28.580, 19.28.600, 19.28.610, and 19.28.620
22 are recodified between RCW 19.28.005 (as recodified by this act) and
23 19.28.620 (as recodified by this act).

24 **Sec. 103.** RCW 19.28.005 and 1993 c 275 s 1 are each amended to
25 read as follows:

26 The definitions in this section apply throughout this (~~chapter~~)
27 subchapter.

28 (1) "Administrator" means a person designated by an electrical
29 contractor to supervise electrical work and electricians in accordance
30 with the rules adopted under this chapter.

31 (2) "Board" means the electrical board under RCW 19.28.065.

32 (3) "Chapter" or "subchapter" means (~~chapter 19.28 RCW~~) the
33 subchapter, if no chapter number is referenced.

34 (4) "Department" means the department of labor and industries.

1 (5) "Director" means the director of the department or the
2 director's designee.

3 (6) "Electrical construction trade" includes but is not limited to
4 installing or maintaining electrical wires and equipment that are used
5 for light, heat, or power and installing and maintaining remote
6 control, signaling, power limited, or communication circuits or
7 systems.

8 (7) "Electrical contractor" means a person, firm, partnership,
9 corporation, or other entity that offers to undertake, undertakes,
10 submits a bid for, or does the work of installing or maintaining wires
11 or equipment that convey electrical current.

12 (8) "Equipment" means any equipment or apparatus that directly
13 uses, conducts, or is operated by electricity but does not mean plug-in
14 household appliances.

15 (9) "Industrial control panel" means a factory-wired or user-wired
16 assembly of industrial control equipment such as motor controllers,
17 switches, relays, power supplies, computers, cathode ray tubes,
18 transducers, and auxiliary devices. The panel may include disconnect
19 means and motor branch circuit protective devices.

20 (10) "Journeyman electrician" means a person who has been issued a
21 journeyman electrician certificate of competency by the department.

22 (11) "Specialty electrician" means a person who has been issued a
23 specialty electrician certificate of competency by the department.

24 **"PROVISIONS APPLICABLE TO TELECOMMUNICATIONS INSTALLATIONS"**

25 NEW SECTION. **Sec. 201.** Sections 203 through 219 of this act
26 constitute the subchapter "provisions applicable to telecommunications
27 installations."

28 NEW SECTION. **Sec. 202.** Sections 202 through 219 of this act are
29 each added to chapter 19.28 RCW under subchapter heading "provisions
30 applicable to telecommunications installations."

31 ****NEW SECTION. Sec. 203. It is the intent of the legislature to***
32 ***maintain public safety and consumer protection while ensuring that***
33 ***businesses involved in telecommunications do not face unnecessary***
34 ***obstacles in the performance of their business activities. It is the***
35 ***further intent of the legislature that the delegation of authority to***

1 *the director and the board under chapter . . . , Laws of 2000 (this act)*
2 *be strictly limited to the minimum delegation necessary to administer*
3 *the clear and unambiguous directives under chapter . . . , Laws of 2000*
4 *(this act), and strict compliance with chapter 1, Laws of 2000*
5 *(Initiative Measure No. 695), when adopting any fees.*

6 *Therefore, the electrical board and the department are directed to*
7 *work cooperatively with all business sectors to ensure that this*
8 *chapter is administered in a responsive and efficient manner, that*
9 *administrative rules reflect the provisions of this section, and in*
10 *particular that small businesses do not face unnecessary obstacles in*
11 *the telecommunications marketplace.*

12 **Sec. 203 was vetoed. See message at end of chapter.*

13 NEW SECTION. **Sec. 204.** The definitions in this section apply
14 throughout this subchapter unless the context clearly requires
15 otherwise.

16 (1) "Telecommunications backbone cabling systems" means a system
17 that provides interconnections between telecommunications closets,
18 equipment rooms, and entrance facilities in the telecommunications
19 cabling system structure. Backbone cabling consists of the backbone
20 cables, intermediate and main cross-connects, mechanical terminations,
21 and patch cords or jumpers used for backbone to backbone cross-
22 connection. Backbone cabling also includes cabling between buildings.

23 (2) "Board" means the electrical board under RCW 19.28.065 (as
24 recodified by this act).

25 (3) "Department" means the department of labor and industries.

26 (4) "Director" means the director of the department or the
27 director's designee.

28 (5) "Telecommunications horizontal cabling systems" means the
29 portions of the telecommunications cabling system that extends from the
30 work area telecommunications outlet or connector to the
31 telecommunications closet. The horizontal cabling includes the
32 horizontal cables, the telecommunications outlet or connector in the
33 work area, the mechanical termination, and horizontal cross-connections
34 located in the telecommunications closet.

35 (6) "Telecommunications network demarcation point" means the point
36 or interconnection between the service provider's communications
37 cabling, terminal equipment, and protective apparatus and the
38 customer's premises telecommunications cabling system. The location of

1 this point for regulated carriers is determined by federal and state
2 regulations. The carrier should be contacted to determine the location
3 policies in effect in the area.

4 (7) "Telecommunications scope of work" means the work of a
5 telecommunications contractor. This includes the installation,
6 maintenance, and testing of telecommunications systems, equipment, and
7 associated hardware, pathway systems, and cable management systems,
8 which excludes cable tray and conduit raceway systems. The scope also
9 includes installation of open wiring systems of telecommunications
10 cables, surface nonmetallic raceways designated and used exclusively
11 for telecommunications, optical fiber innerduct raceway, underground
12 raceways designated and used exclusively for telecommunications and
13 installed for additions or extensions to existing telecommunications
14 systems not to exceed fifty feet inside the building, and incidental
15 short sections of circular or surface metal raceway, not to exceed ten
16 feet, for access or protection of telecommunications cabling and
17 installation of cable trays and ladder racks in telecommunications
18 service entrance rooms, spaces, or closets.

19 (8) A "telecommunications structured cabling system" is the
20 complete collective configuration of cabling and associated hardware at
21 a given site and installed to perform specific telecommunications
22 functions.

23 (9) "Telecommunications administrator" means a person designated by
24 a telecommunications contractor to supervise the installation of
25 telecommunications systems in accordance with rules adopted under this
26 chapter.

27 (10) "Telecommunications closet" means a room for housing
28 telecommunications equipment, cable terminations, and cross-connect
29 wiring that serve that particular floor. The closet is the recognized
30 transition point between the backbone and horizontal cabling systems.

31 (11) "Telecommunications contractor" means a person, firm,
32 partnership, corporation, or other entity that advertises, offers to
33 undertake, undertakes, submits a bid for, or does the work of
34 installing or maintaining telecommunications systems.

35 (12) "Telecommunications service entrance room or space" means a
36 room or space used as the building serving facility in which the
37 joining of inter-building and intra-building backbone facilities takes
38 place. The service entrance room may also house electronic equipment
39 serving any telecommunications function.

1 (13) "Telecommunications systems" means structured cabling systems
2 that begin at the demarcation point between the local service provider
3 and the customer's premises structured cabling system.

4 (a) Telecommunications systems encompass all forms of information
5 generation, processing, and transporting of signals conveyed
6 electronically or optically within or between buildings, including
7 voice, data, video, and audio.

8 (b) Telecommunications systems include structured cabling systems,
9 compatible connecting hardware, telecommunications equipment, premises
10 switching equipment, infrared, fiber optic, radio-frequency, and other
11 limited-energy interconnections associated with telecommunications
12 systems or appliances.

13 (c) Telecommunications systems do not include horizontal cabling
14 used for fire protection signaling systems, intrusion alarms, access
15 control systems, patient monitoring systems, energy management control
16 systems, industrial and automation control systems, HVAC/refrigeration
17 control systems, lighting control systems, and stand-alone amplified
18 sound or public address systems.

19 (d) Telecommunications systems may interface with other building
20 signal systems including security, alarms, and energy management at
21 cross-connection junctions within telecommunications closets or at
22 extended points of demarcation. Telecommunications systems do not
23 include the installation or termination of premises line voltage
24 service, feeder, or branch circuit conductors or equipment.

25 (14) "Telecommunications worker" means a person primarily and
26 regularly engaged in the installation and/or maintenance of
27 telecommunications systems, equipment, and infrastructure as defined in
28 this chapter.

29 (15) "Telecommunications workstation" means a building space where
30 the occupant normally interacts with telecommunications equipment. The
31 telecommunications outlet in the work area is the point at which end-
32 user equipment plugs into the building telecommunications utility
33 formed by the pathway, space, and building wiring system.

34 NEW SECTION. **Sec. 205.** (1) All installations of wires and
35 equipment defined as telecommunications systems are subject to the
36 requirements of this subchapter. Installations shall be in conformity
37 with approved methods of construction for safety to life and property.
38 The national electrical code, approved standards of the

1 telecommunications industries association, the electronic industries
2 association, the American national standards institute, and other
3 safety standards approved by the department shall be evidence of
4 approved methods of installation.

5 (2) This chapter may not limit the authority or power of any city
6 or town to enact and enforce under authority given by law in RCW
7 19.28.360 (as recodified by this act), any ordinance, or rule requiring
8 an equal, higher, or better standard of construction and an equal,
9 higher, or better standard of materials, devices, appliances, and
10 equipment than that required by this chapter.

11 NEW SECTION. **Sec. 206.** (1) It is unlawful for any person, firm,
12 partnership, corporation, or other entity to advertise, offer to do
13 work, submit a bid, engage in, conduct, or carry on the business of
14 installing or maintaining telecommunications systems without having a
15 telecommunications contractor license. Electrical contractors licensed
16 as general electrical (01) or specialty electrical (06) contractors
17 under chapter 19.28 RCW and their designated administrators qualify to
18 perform all telecommunications work defined in this chapter.
19 Telecommunications contractors licensed under this chapter are not
20 required to be registered under chapter 18.27 RCW. All
21 telecommunications licenses expire twenty-four calendar months
22 following the day of their issue. A telecommunications contractor
23 license is not required for a licensed specialty electrical contractor
24 to perform telecommunications installations or maintenance integral to
25 the equipment or occupancy limitations of their electrical specialty.
26 A telecommunications contractor license is not required for persons
27 making telecommunications installations or performing
28 telecommunications maintenance on their own property or for regularly
29 employed employees working on the premises of their employer, unless on
30 a new building intended for rent, sale, or lease.

31 (2) Application for a telecommunications contractor license shall
32 be made in writing to the department accompanied by the required fee.
33 The applications shall state:

34 (a) The name and address of the applicant. In the case of firms or
35 partnerships, the applications shall state the names of the individuals
36 composing the firm or partnership. In the case of corporations, the
37 applications shall state the names of the corporation's managing
38 officials;

1 (b) The location of the place of business of the applicant and the
2 name under which the business is conducted;

3 (c) The employer social security number or tax identification
4 number;

5 (d) Evidence of workers' compensation coverage for the applicant's
6 employees working in Washington, as follows:

7 (i) The applicant's industrial insurance account number issued by
8 the department;

9 (ii) The applicant's self-insurer number issued by the department;
10 or

11 (iii) For applicants domiciled in a state or province of Canada
12 subject to an agreement entered into under RCW 51.12.120(7), as
13 permitted by the agreement, filing a certificate of coverage issued by
14 the agency that administers the workers' compensation law in the
15 applicant's state or province of domicile certifying that the applicant
16 has secured the payment of compensation under the other state's or
17 province's workers' compensation law;

18 (e) The employment security department number; and

19 (f) The state excise tax registration number.

20 (3) The unified business identifier account number may be
21 substituted for the information required by subsection (2)(d), (e), and
22 (f) of this section if the applicant will not employ employees in
23 Washington.

24 (4) The department may verify the workers' compensation coverage
25 information provided by the applicant under subsection (2)(d) of this
26 section including, but not limited to, information regarding the
27 coverage of an individual employee of the applicant. If coverage is
28 provided under the laws of another state, the department may notify the
29 other state that the applicant is employing employees in Washington.

30 (5) To obtain a telecommunications contractor license the applicant
31 must designate an individual who currently possesses a
32 telecommunications administrator certificate. To obtain an
33 administrator's certificate an individual must pass an examination as
34 set forth in this chapter. Examination criteria will be determined by
35 the board.

36 (6) No examination may be required of any applicant for an initial
37 telecommunications administrator certificate qualifying under this
38 section. Applicants qualifying under this section shall be issued an
39 administrator certificate by the department upon making an application

1 and paying the required fee. Individuals must apply before July 1,
2 2001, to qualify for an administrator certificate without examination
3 under this section. The board shall certify to the department the
4 names of all persons entitled to this administrator certificate.

5 Prior to July 1, 2001, bona fide registered contractors under
6 chapter 18.27 RCW engaged in the business of installing or maintaining
7 telecommunications wiring in this state on or before the effective date
8 of this act may designate the following number of persons to receive a
9 telecommunications administrator certificate without examination:

10 (a) One owner or officer of a contractor, registered under chapter
11 18.27 RCW on or before the effective date of this act, currently
12 engaged in the business of installing telecommunications wiring;

13 (b) One employee, principal, or officer, with a minimum of two
14 years experience performing telecommunications installations, per
15 registered telecommunication contractor; and

16 (c) One employee for each one hundred employees, or fraction
17 thereof, with a minimum of two years experience performing
18 telecommunications installations.

19 (7) The application for a contractor license shall be accompanied
20 by a bond in the sum of four thousand dollars with the state of
21 Washington named as obligee in the bond, with good and sufficient
22 surety, to be approved by the department. The bond shall at all times
23 be kept in full force and effect, and any cancellation or revocation
24 thereof, or withdrawal of the surety therefrom, suspends the license
25 issued to the principal until a new bond has been filed and approved as
26 provided in this section. Upon approval of a bond, the department
27 shall, on the next business day, deposit the fee accompanying the
28 application in the electrical license fund and shall file the bond in
29 the office. The department shall, upon request, furnish to any person,
30 firm, partnership, corporation, or other entity a certified copy of the
31 bond upon the payment of a fee that the department shall set by rule.
32 The fee shall cover but not exceed the cost of furnishing the certified
33 copy. The bond shall be conditioned that the principal will pay for
34 all labor, including employee benefits, and material furnished or used
35 upon the work, taxes and contributions to the state of Washington, and
36 all damages that may be sustained by any person, firm, partnership,
37 corporation, or other entity due to a failure of the principal to make
38 the installation or maintenance in accordance with this chapter. In
39 lieu of the surety bond required by this section the applicant may file

1 with the department a cash deposit or other negotiable security
2 acceptable to the department. If the applicant has filed a cash
3 deposit, the department shall deposit the funds in a special trust
4 savings account in a commercial bank, mutual savings bank, or savings
5 and loan association and shall pay annually to the depositor the
6 interest derived from the account.

7 (8) Any person, firm, or corporation sustaining any damage or
8 injury by reason of the principal's breach of the conditions of the
9 bond required under this section may bring an action against the surety
10 named therein, joining in the action the principal named in the bond;
11 the action shall be brought in the superior court of any county in
12 which the principal on the bond resides or transacts business, or in
13 the county in which the work was performed as a result of which the
14 breach is alleged to have occurred; the action shall be maintained and
15 prosecuted as other civil actions. Claims or actions against the
16 surety on the bond shall be paid in full in the following order of
17 priority: (a) Labor, including employee benefits, (b) materials and
18 equipment used upon such work, (c) taxes and contributions due to the
19 state, (d) damages sustained by any person, firm, or corporation due to
20 the failure of the principal to make the installation in accordance
21 with this chapter, or any ordinance, building code, or regulation
22 applicable thereto. However, the total liability of the surety on any
23 bond may not exceed the sum of four thousand dollars, and the surety on
24 the bond may not be liable for monetary penalties. Any action shall be
25 brought within one year from the completion of the work in the
26 performance of which the breach is alleged to have occurred. The
27 surety shall mail a conformed copy of the judgment against the bond to
28 the department within seven days. In the event that a cash or
29 securities deposit has been made in lieu of the surety bond, and in the
30 event of a judgment being entered against the depositor and deposit,
31 the director shall upon receipt of a certified copy of a final
32 judgment, pay the judgment from the deposit.

33 (9) The department shall issue a telecommunications contractor
34 license to applicants meeting all of the requirements of this chapter
35 applicable to electrical and telecommunications installations. The
36 provisions of this chapter relating to the licensing of any person,
37 firm, partnership, corporation, or other entity including the
38 requirement of a bond with the state of Washington named as obligee and
39 the collection of a fee for that bond, are exclusive, and no political

1 subdivision of the state of Washington may require or issue any
2 licenses or bonds or charge any fee for the same or a similar purpose.

3 NEW SECTION. **Sec. 207.** (1) Each applicant for a
4 telecommunications contractor license shall designate a supervisory
5 employee or member of the firm to take the administrator's examination.
6 This person shall be designated as administrator under the contractor's
7 license and must be a full-time supervisory employee of the applicant.
8 No person may qualify as administrator for more than one contractor.
9 If the relationship of the administrator with the telecommunications
10 contractor is terminated, the contractor's license is void within
11 ninety days unless another administrator is qualified by the board.
12 However, if the administrator dies, the contractor's license is void
13 within one hundred eighty days unless another administrator is
14 qualified by the board.

15 (2) A certificate issued under this section is valid for two years
16 from the nearest birthdate of the administrator, unless revoked or
17 suspended, and is nontransferable. The certificate may be renewed for
18 a two-year period without examination by appropriate application unless
19 the certificate has been revoked, suspended, or not renewed within
20 ninety days after the expiration date. If the certificate is not
21 renewed before the expiration date, the individual shall pay twice the
22 usual fee. A person may take the administrator's test as many times as
23 necessary to pass, without limit.

24 (3) The administrator shall:

25 (a) Be a member of the firm or a supervisory employee and shall be
26 available during working hours to carry out the duties of an
27 administrator under this section;

28 (b) Ensure that all telecommunications work complies with the
29 telecommunication installation laws and rules;

30 (c) Ensure proper permits are required and inspections made;

31 (d) See that corrective notices issued by an inspecting authority
32 are complied with; and

33 (e) Notify the department in writing within ten days if the
34 administrator relationship is terminated with the telecommunications
35 contractor.

36 NEW SECTION. **Sec. 208.** It is the purpose and function of the
37 board to establish and administer written examinations for

1 telecommunications administrators' certificates. Examinations shall be
2 designed to reasonably ensure that telecommunications administrators'
3 certificate holders are competent to engage in and supervise the work
4 regulated under this subchapter and their respective licenses. The
5 examinations shall include questions to assure proper safety and
6 protection for the general public. The department, with the consent of
7 the board, is permitted to enter into a contract with a professional
8 testing agency to develop, administer, and score these examinations.
9 The fee for the examination may be set by the department in its
10 contract with the professional testing agency. The department, may
11 direct that the applicant pay the fee to the professional testing
12 agency. The fee shall cover but not exceed the costs of preparing and
13 administering the examination.

14 NEW SECTION. **Sec. 209.** (1) The director and the officials of all
15 incorporated cities and towns where electrical inspections are required
16 by local ordinances, allowed by RCW 19.28.360 (as recodified by this
17 act), may require by local ordinance the enforcement of this subchapter
18 in their respective jurisdictions. If an incorporated city or town
19 elects to enforce this subchapter, the city or town has the power and
20 shall enforce the provisions of this subchapter.

21 (2) The director, through the chief electrical inspector and other
22 inspectors appointed under RCW 19.28.070 (as recodified by this act),
23 shall enforce this chapter. Compliance enforcement may be performed by
24 contractor compliance inspectors appointed under chapter 18.27 RCW.
25 The expenses of the director and the salaries and expenses of state
26 inspectors incurred in carrying out the provisions of this chapter
27 shall be paid entirely out of the electrical license fund, on vouchers
28 approved by the director.

29 NEW SECTION. **Sec. 210.** Disputes arising under this chapter
30 regarding whether any city or town's telecommunications rules,
31 regulations, or ordinances are equal to the rules adopted by the
32 department shall be resolved by arbitration. The department shall
33 appoint two members of the board to serve on the arbitration panel, and
34 the city or town shall appoint two persons to serve on the arbitration
35 panel. These four persons shall choose a fifth person to serve. If
36 the four persons cannot agree on a fifth person, the presiding judge of
37 the superior court of the county in which the city or town is located

1 shall choose a fifth person. A decision of the arbitration panel may
2 be appealed to the superior court of the county in which the city or
3 town is located within thirty days after the date the panel issues its
4 final decision.

5 NEW SECTION. **Sec. 211.** (1) The director shall require permits and
6 require an inspector to inspect all installations of telecommunications
7 systems on the customer side of the network demarcation point for
8 projects greater than ten outlets. However:

9 (a) All projects penetrating fire barriers, passing through
10 hazardous locations and all backbone installations regardless of size
11 shall be inspected;

12 (b) All installations in single-family residences, duplex
13 residences, and horizontal cabling systems within apartment residential
14 units, including cooperatives and condominiums, do not require permits
15 or inspections;

16 (c) No permits or inspections may be required for installation or
17 replacement of cord and plug connected telecommunications equipment or
18 for patch cord and jumper cross-connected equipment;

19 (d) The chief electrical inspector may allow a building owner or
20 licensed electrical/telecommunications contractor to apply for annual
21 permitting and regularly scheduled inspection of telecommunications
22 installations made by licensed electrical/telecommunications
23 contractors or the building owner for large commercial and industrial
24 installations where:

25 (i) The building owner or licensed electrical/telecommunications
26 contractor has a full-time telecommunications maintenance staff or a
27 yearly maintenance contract with a licensed
28 electrical/telecommunications contractor;

29 (ii) The permit is purchased before beginning any
30 telecommunications work; and

31 (iii) The building owner or licensed electrical/telecommunications
32 contractor assumes responsibility for correcting all installation
33 deficiencies.

34 (2) Upon request, the department shall make the required inspection
35 within forty-eight hours. The forty-eight hour period excludes
36 holidays, Saturdays, and Sundays.

37 (3) A written report of the inspection, which plainly and clearly
38 states any corrections or changes required, shall be made by the

1 inspector. A copy of the report shall be furnished to the person or
2 entity doing the installation work, and a copy shall be filed by the
3 department.

4 (4) Whenever the installation of any telecommunications cabling and
5 associated hardware is not in accordance with this chapter, or is in
6 such a condition as to be dangerous to life or property, the person,
7 firm, partnership, corporation, or other entity owning, using, or
8 operating it shall be notified by the department and shall within
9 fifteen working days, or such further reasonable time as may upon
10 request be granted, make such repairs and changes as are required to
11 remove the danger to life or property and to make it conform to this
12 chapter. The director, through the inspector, is empowered to
13 disconnect or order the discontinuance of the telecommunications
14 cabling or electrical service to conductors or equipment that are found
15 to be in a dangerous or unsafe condition and not in accordance with
16 this chapter. Upon making a disconnection, the inspector shall attach
17 a notice stating that the conductors have been found dangerous to life
18 or property and are not in accordance with this chapter. It is
19 unlawful for any person to reconnect such defective conductors or
20 equipment without the approval of the department, and until the
21 conductors and equipment have been placed in a safe and secure
22 condition that complies with this chapter.

23 (5) The director, through the electrical inspector, has the right
24 during reasonable hours to enter into and upon any building or premises
25 in the discharge of his or her official duties related to permitting
26 activities for the purpose of making any inspection or test of the
27 installation of new or altered telecommunications systems contained in
28 or on the buildings or premises. No telecommunications cabling subject
29 to this chapter may be concealed until it has been approved by the
30 inspector making the inspection. At the time of the inspection, wiring
31 or equipment subject to this chapter must be sufficiently accessible to
32 permit the inspector to verify installation conformance with the
33 adopted codes and any other requirements of this chapter.

34 NEW SECTION. **Sec. 212.** (1) It is unlawful for any person, firm,
35 partnership, corporation, or other entity to install or maintain any
36 telecommunications cabling and associated hardware in violation of this
37 chapter. When the interpretation and application of the installation
38 or maintenance standards provided for in this chapter are in dispute or

1 in doubt, the board shall, upon application of any interested person,
2 firm, partnership, corporation, or other entity, determine the methods
3 of installation or maintenance of the cabling materials and hardware to
4 be used in the case submitted for its decision.

5 (2) Any person, firm, partnership, corporation, or other entity
6 desiring a decision of the board under this section shall, in writing,
7 notify the director of such desire and shall accompany the notice with
8 a certified check payable to the department in the sum of two hundred
9 dollars. The notice shall specify the ruling or interpretation desired
10 and the contention of the person, firm, partnership, corporation, or
11 other entity as to the proper interpretation or application on the
12 question on which a decision is desired. If the board determines that
13 the contention of the applicant for a decision was proper, the two
14 hundred dollars shall be returned to the applicant; otherwise it shall
15 be used in paying the expenses and per diem of the members of the board
16 in connection with the matter. Any portion of the two hundred dollars
17 not used in paying the per diem and expenses of the board in the case
18 shall be paid into the electrical license fund.

19 NEW SECTION. **Sec. 213.** Any person, firm, partnership,
20 corporation, or other entity violating any of the provisions of this
21 chapter may be assessed a penalty of not less than one hundred dollars
22 or more than ten thousand dollars per violation. The department, after
23 consulting with the board and receiving the board's recommendations,
24 shall set by rule a schedule of penalties for violating this chapter.
25 The department shall notify the person, firm, partnership, corporation,
26 or other entity violating any of these provisions of the amount of the
27 penalty and of the specific violation. The notice shall be sent by
28 certified mail, return receipt requested, to the last known address of
29 the assessed party. Penalties are subject to review by an appeal to
30 the board. The filing of an appeal stays the effect of the penalty
31 until the board makes its decision. The appeal shall be filed within
32 twenty days after notice of the penalty is given to the assessed party,
33 and shall be made by filing a written notice of appeal with the
34 department. The notice shall be accompanied by a certified check for
35 two hundred dollars, that shall be returned to the assessed party if
36 the decision of the department is not sustained by the board. If the
37 board sustains the decision of the department, the two hundred dollars
38 shall be applied by the department to the payment of the per diem and

1 expenses of the members of the board incurred in the matter, and any
2 balance remaining after payment of per diem and expenses shall be paid
3 into the electrical license fund. The hearing and review procedures
4 shall be conducted in accordance with chapter 34.05 RCW. The board
5 shall assign its hearings to an administrative law judge to conduct the
6 hearing and issue a proposed decision and order. The board shall be
7 allowed a minimum of twenty days to review a proposed decision and
8 shall issue its decision no later than the next regularly scheduled
9 board meeting.

10 NEW SECTION. **Sec. 214.** (1) At the time of licensing and
11 subsequent relicensing, the applicant shall furnish insurance or
12 financial responsibility in the form of an assigned account in the
13 amount of twenty thousand dollars for injury or damages to property,
14 fifty thousand dollars for injury or damage including death to any one
15 person, and one hundred thousand dollars for injury or damage including
16 death to more than one person, or financial responsibility to satisfy
17 these amounts.

18 (2) Failure to maintain insurance or financial responsibility
19 relative to the contractor's activities is cause to suspend or deny the
20 contractor's license.

21 (3)(a) Proof of financial responsibility authorized in this section
22 may be given by providing, in the amount required by subsection (1) of
23 this section, an assigned account acceptable to the department. The
24 assigned account shall be held by the department to satisfy any
25 execution on a judgment issued against the contractor for damage to
26 property or injury or death to any person occurring in the contractor's
27 contracting operation, according to the provisions of the assigned
28 account agreement. The department shall have no liability for payment
29 in excess of the amount of the assigned account.

30 (b) The assigned account filed with the director as proof of
31 financial responsibility shall be canceled three years after:

32 (i) The contractor's license has expired or been revoked;

33 (ii) The contractor has furnished proof of insurance as required by
34 subsection (1) of this section; or

35 (iii) No legal action has been instituted against the contractor or
36 on the account at the end of the three-year period.

37 (c) If a contractor chooses to file an assigned account as
38 authorized in this section, the contractor shall, on a contracting

1 project, notify each person with whom the contractor enters into a
2 contract or to whom the contractor submits a bid, that the contractor
3 has filed an assigned account in lieu of insurance and that recovery
4 from the account for any claim against the contractor for property
5 damage or personal injury or death occurring on the project requires
6 the claimant to obtain a court judgment.

7 NEW SECTION. **Sec. 215.** Individual worker certification is not
8 required for work under this subchapter. This subchapter does not
9 preclude any person performing telecommunications work from obtaining
10 a limited energy credit towards an electrical certificate of competency
11 if they otherwise meet the certification requirements under this
12 chapter that are applicable to electrical installations.

13 NEW SECTION. **Sec. 216.** No person, firm, or corporation engaging
14 in or conducting or carrying on the business of telecommunications
15 installation shall be entitled to commence or maintain any suit or
16 action in any court of this state pertaining to any such work or
17 business, without alleging and proving that such person, firm or
18 corporation held, at the time of commencing and performing such work,
19 an unexpired, unrevoked, and unsuspended license issued under this
20 subchapter; and no city or town requiring by ordinance or regulation a
21 permit for inspection or installation of such telecommunications
22 installation work, shall issue such permit to any person, firm or
23 corporation not holding such license.

24 NEW SECTION. **Sec. 217.** It is unlawful for any person, firm,
25 partnership, corporation, or other entity to install or maintain
26 telecommunications equipment not in accordance with this subchapter.
27 In cases where the interpretation and application of the installation
28 or maintenance standards under this subchapter are in dispute or in
29 doubt, the board shall, upon application of any interested person,
30 firm, partnership, corporation, or other entity, determine the methods
31 of installation or maintenance or the materials, devices, appliances,
32 or equipment to be used in the particular case submitted for its
33 decision.

34 NEW SECTION. **Sec. 218.** Any person, firm, partnership,
35 corporation, or other entity desiring a decision of the board pursuant

1 to section 217 of this act shall, in writing, notify the director of
2 such desire and shall accompany the notice with a certified check
3 payable to the department in the sum of two hundred dollars. The
4 notice shall specify the ruling or interpretation desired and the
5 contention of the person, firm, partnership, corporation, or other
6 entity as to the proper interpretation or application on the question
7 on which a decision is desired. If the board determines that the
8 contention of the applicant for a decision was proper, the two hundred
9 dollars shall be returned to the applicant; otherwise it shall be used
10 in paying the expenses and per diem of the members of the board in
11 connection with the matter. Any portion of the two hundred dollars not
12 used in paying the per diem and expenses of the board in the case shall
13 be paid into the electrical license fund.

14 NEW SECTION. **Sec. 219.** (1) The director may adopt rules, make
15 specific decisions, orders, and rulings, including demands and
16 findings, and take other necessary action for the implementation and
17 enforcement of this subchapter after consultation with the board and
18 receiving the board's recommendations. In the administration of this
19 subchapter the department shall not enter any controversy arising over
20 work assignments with respect to the trades involved in the
21 construction industry.

22 (2) Compliance with the rules adopted under subsection (1) of this
23 section is prima facie evidence of compliance with the subchapter.
24 Copies of all rules shall be maintained by the department and made
25 available upon request.

26 NEW SECTION. **Sec. 301.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 302.** The sum of one million four hundred eight
31 thousand dollars, or as much thereof as may be necessary, is
32 appropriated from the electrical license account to the department of
33 labor and industries for the biennium year ending June 30, 2001, to
34 carry out the purposes of this act.

Passed the Senate March 8, 2000.

Passed the House March 9, 2000.

Approved by the Governor March 30, 2000, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2000.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 203,
3 Second Substitute Senate Bill No. 5802 entitled:

4 "AN ACT Relating to telecommunications contractors and
5 installations;"

6 This bill requires that contractors and installers who work with
7 fiber optic cables and other telecommunications cabling be licensed and
8 bonded, and that their work be inspected.

9 Section 203 of the bill states that "[i]t is the further intent of
10 the legislature that the delegation of authority to the director and
11 the board under chapter , Laws of 2000 (this act) be strictly limited
12 to the minimum delegation necessary to administer the clear and
13 unambiguous directives under chapter , Laws of 2000 (this act)". This
14 language is vague and ambiguous, and the bill provides no definition of
15 "minimum delegation necessary."

16 I strongly believe that regulations should not be burdensome, and
17 should be as minimal and as streamlined as possible. However, I have
18 grave concerns about this language. The Department of Labor and
19 Industries, which is charged with implementing this law, will need
20 maximum flexibility to apply the law effectively in a rapidly changing
21 industry. How section 203 would limit the department's authority is
22 very unclear, and it could have led to unnecessary legal challenges.

23 For these reasons, I have vetoed section 203 of Second Substitute
24 Senate Bill No. 5802.

25 With the exception of section 203, Second Substitute Senate Bill
26 No. 5802 is approved."