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HOUSE BILL 1581

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State of Washington

52nd Legislature

1991 Regular Session

By Representatives Grant, Miller and Rasmussen; by request of Utilities & Transportation Commission.

Read first time February 4, 1991. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to placing the burden of proof on utilities to show  
2 that certain operations are not subject to regulation; and amending RCW  
3 80.04.015.

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

5 **Sec. 1.** RCW 80.04.015 and 1986 c 11 s 1 are each amended to read  
6 as follows:

7 Whether or not any person or corporation is conducting business  
8 subject to regulation under this title, or has performed or is  
9 performing any act requiring registration or approval of the commission  
10 without securing such registration or approval, shall be a question of  
11 fact to be determined by the commission. Whenever the commission  
12 believes that any person or corporation is engaged in any activity  
13 without first complying with the requirements of this title, it may  
14 institute a special proceeding requiring such person or corporation to  
15 appear before the commission at a location convenient for witnesses and

1 the production of evidence and produce information, books, records,  
2 accounts, and other memoranda, and give testimony under oath as to the  
3 activities being conducted. The commission may consider any and all  
4 facts that may indicate the true nature and extent of the operations or  
5 acts and may subpoena such witnesses and documents as it deems  
6 necessary.

7 After investigation, the commission is authorized and directed to  
8 issue the necessary order or orders declaring the activities to be  
9 subject to, or not subject to, the provisions of this title. In the  
10 event the activities are found to be subject to the provisions of this  
11 title, the commission shall issue such orders as may be necessary to  
12 require all parties involved in the activities to comply with this  
13 title, and with respect to services found to be reasonably available  
14 from alternative sources, to issue orders to cease and desist from  
15 providing jurisdictional services pending full compliance.

16 In proceedings under this section, no person or corporation may be  
17 excused from testifying or from producing any information, book,  
18 document, paper, or account before the commission when ordered to do  
19 so, on the ground that the testimony or evidence, information, book,  
20 document, or account required may tend to incriminate him or her or  
21 subject him or her to penalty or forfeiture specified in this title;  
22 but no person or corporation may be prosecuted, punished, or subjected  
23 to any penalty or forfeiture specified in this title for or on account  
24 of any account, transaction, matter, or thing concerning which he or  
25 she shall under oath have testified or produced documentary evidence in  
26 proceedings under this section: PROVIDED, That no person so testifying  
27 may be exempt from prosecution or punishment for any perjury committed  
28 by him or her in such testimony: PROVIDED FURTHER, That the exemption  
29 from prosecution in this section extends only to violations of this  
30 title.

1        In any proceeding instituted under this section to determine  
2 whether a person or corporation owning, controlling, operating, or  
3 managing a water system is subject to commission regulation, the burden  
4 shall be on such person or corporation to prove that the person's or  
5 corporation's operations or acts are exempt from commission regulation.