

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1581

Chapter 101, Laws of 1991

52nd Legislature
1991 Regular Session

UTILITIES--OPERATIONS EXEMPT FROM REGULATION--BURDEN OF PROOF ON
UTILITY

EFFECTIVE DATE: 7/28/91

Passed by the House March 12, 1991
Yeas 95 Nays 1

JOE KING
**Speaker of the
House of Representatives**

Passed by the Senate April 18, 1991
Yeas 43 Nays 3

JOEL PRITCHARD
President of the Senate

Approved May 9, 1991

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1581** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 9, 1991 - 11:40 a.m.

Secretary of State
State of Washington

HOUSE BILL 1581

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

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; amending RCW
3 80.04.015; and adding a new section to chapter 80.28 RCW.

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 Until July 1, 1994, in any proceeding instituted under this section
2 to determine whether a person or corporation owning, controlling,
3 operating, or managing a water system is subject to commission
4 regulation, and where the person or corporation has failed or refused
5 to provide sufficient information or documentation to enable the
6 commission to make such a determination, the burden shall be on such
7 person or corporation to prove that the person's or corporation's
8 operations or acts are not subject to commission regulation.

9 NEW SECTION. Sec. 2. A new section is added to chapter 80.28 RCW
10 to read as follows:

11 The commission's jurisdiction over the rates, charges, practices,
12 acts or services of any water company shall include any aspect of line
13 extension, service installation, or service connection. If the charges
14 for such services are not set forth by specific amount in the company's
15 tariff filed with the commission pursuant to RCW 80.28.050, the
16 commission shall determine the fair, just, reasonable, and sufficient
17 charge for such extension, installation, or connection. In any such
18 proceeding in which there is no specified tariffed rate, the burden
19 shall be on the company to prove that its proposed charges are fair,
20 just, reasonable, and sufficient.

Passed the House March 12, 1991.

Passed the Senate April 18, 1991.

Approved by the Governor May 9, 1991.

Filed in Office of Secretary of State May 9, 1991.