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SENATE BILL 6808

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State of Washington

61st Legislature

2010 Regular Session

By Senators Kilmer, Shin, Delvin, and Kastama

Read first time 01/29/10. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to private infrastructure development; amending RCW  
2 80.04.010, 90.46.030, 90.46.040, and 36.94.110; and creating a new  
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the critical  
6 importance of infrastructure to the development of industrial,  
7 commercial, and residential properties and finds that infill  
8 development is often limited by the lack of infrastructure. The  
9 legislature further finds that in many areas, public funding to extend  
10 infrastructure is not available. It is the purpose of this act to  
11 allow private utilities to provide infrastructure needed for economic  
12 development in a manner that minimizes development sprawl.

13 **Sec. 2.** RCW 80.04.010 and 1995 c 243 s 2 are each amended to read  
14 as follows:

15 As used in this title, unless specifically defined otherwise or  
16 unless the context indicates otherwise:

17 (1) "Automatic location identification" means a system by which  
18 information about a caller's location, including the seven-digit number

1 or ten-digit number used to place a 911 call or a different seven-digit  
2 number or ten-digit number to which a return call can be made from the  
3 public switched network, is forwarded to a public safety answering  
4 point for display.

5 (2) "Automatic number identification" means a system that allows  
6 for the automatic display of the seven-digit or ten-digit number used  
7 to place a 911 call.

8 (3) "Commission" means the utilities and transportation commission.

9 (4) "Commissioner" means one of the members of such commission.

10 (5) "Competitive telecommunications company" means a  
11 telecommunications company which has been classified as such by the  
12 commission pursuant to RCW 80.36.320.

13 (6) "Competitive telecommunications service" means a service which  
14 has been classified as such by the commission pursuant to RCW  
15 80.36.330.

16 (7) "Corporation" includes a corporation, company, association or  
17 joint stock association.

18 (8) "Person" includes an individual, a firm or partnership.

19 (9) "Gas plant" includes all real estate, fixtures and personal  
20 property, owned, leased, controlled, used or to be used for or in  
21 connection with the transmission, distribution, sale or furnishing of  
22 natural gas, or the manufacture, transmission, distribution, sale or  
23 furnishing of other type gas, for light, heat or power.

24 (10) "Gas company" includes every corporation, company,  
25 association, joint stock association, partnership and person, their  
26 lessees, trustees or receiver appointed by any court whatsoever, and  
27 every city or town, owning, controlling, operating or managing any gas  
28 plant within this state.

29 (11) "Electric plant" includes all real estate, fixtures and  
30 personal property operated, owned, used or to be used for or in  
31 connection with or to facilitate the generation, transmission,  
32 distribution, sale or furnishing of electricity for light, heat, or  
33 power for hire; and any conduits, ducts or other devices, materials,  
34 apparatus or property for containing, holding or carrying conductors  
35 used or to be used for the transmission of electricity for light, heat  
36 or power.

37 (12) "Electrical company" includes any corporation, company,  
38 association, joint stock association, partnership and person, their

1 lessees, trustees or receivers appointed by any court whatsoever (other  
2 than a railroad or street railroad company generating electricity  
3 solely for railroad or street railroad purposes or for the use of its  
4 tenants and not for sale to others), and every city or town owning,  
5 operating or managing any electric plant for hire within this state.  
6 "Electrical company" does not include a company or person employing a  
7 cogeneration facility solely for the generation of electricity for its  
8 own use or the use of its tenants or for sale to an electrical company,  
9 state or local public agency, municipal corporation, or quasi municipal  
10 corporation engaged in the sale or distribution of electrical energy,  
11 but not for sale to others, unless such company or person is otherwise  
12 an electrical company.

13 (13) "LATA" means a local access transport area as defined by the  
14 commission in conformance with applicable federal law.

15 (14) "Private telecommunications system" means a telecommunications  
16 system controlled by a person or entity for the sole and exclusive use  
17 of such person, entity, or affiliate thereof, including the provision  
18 of private shared telecommunications services by such person or entity.  
19 "Private telecommunications system" does not include a system offered  
20 for hire, sale, or resale to the general public.

21 (15) "Private shared telecommunications services" includes the  
22 provision of telecommunications and information management services and  
23 equipment within a user group located in discrete private premises in  
24 building complexes, campuses, or high-rise buildings, by a commercial  
25 shared services provider or by a user association, through privately  
26 owned customer premises equipment and associated data processing and  
27 information management services and includes the provision of  
28 connections to the facilities of a local exchange and to interexchange  
29 telecommunications companies.

30 (16) "Private switch automatic location identification service"  
31 means a service that enables automatic location identification to be  
32 provided to a public safety answering point for 911 calls originating  
33 from station lines served by a private switch system.

34 (17) "Radio communications service company" includes every  
35 corporation, company, association, joint stock association,  
36 partnership, and person, their lessees, trustees, or receivers  
37 appointed by any court, and every city or town making available

1 facilities to provide radio communications service, radio paging, or  
2 cellular communications service for hire, sale, or resale.

3 (18) "Telecommunications company" includes every corporation,  
4 company, association, joint stock association, partnership and person,  
5 their lessees, trustees or receivers appointed by any court whatsoever,  
6 and every city or town owning, operating or managing any facilities  
7 used to provide telecommunications for hire, sale, or resale to the  
8 general public within this state.

9 (19) "Noncompetitive telecommunications service" means any service  
10 which has not been classified as competitive by the commission.

11 (20) "Facilities" means lines, conduits, ducts, poles, wires,  
12 cables, cross-arms, receivers, transmitters, instruments, machines,  
13 appliances, instrumentalities and all devices, real estate, easements,  
14 apparatus, property and routes used, operated, owned or controlled by  
15 any telecommunications company to facilitate the provision of  
16 telecommunications service.

17 (21) "Telecommunications" is the transmission of information by  
18 wire, radio, optical cable, electromagnetic, or other similar means.  
19 As used in this definition, "information" means knowledge or  
20 intelligence represented by any form of writing, signs, signals,  
21 pictures, sounds, or any other symbols.

22 (22) "Water system" includes all real estate, easements, fixtures,  
23 personal property, dams, dikes, head gates, weirs, canals, reservoirs,  
24 flumes or other structures or appliances operated, owned, used or to be  
25 used for or in connection with or to facilitate the supply, storage,  
26 distribution, sale, furnishing, diversion, carriage, apportionment or  
27 measurement of water for power, irrigation, reclamation, waste water,  
28 manufacturing, municipal, domestic or other beneficial uses for hire.

29 (23)(a) "Water company" includes every corporation, company,  
30 association, joint stock association, partnership and person, their  
31 lessees, trustees or receivers appointed by any court whatsoever, and  
32 every city or town owning, controlling, operating, or managing any  
33 water system for hire within this state(~~(: PROVIDED, That)~~).

34 (b) For purposes of commission jurisdiction (~~(it shall)~~), "water  
35 company" does not include any water system serving less than one  
36 hundred customers where the average annual gross revenue per customer  
37 does not exceed three hundred dollars per year, which revenue figure  
38 may be increased annually by the commission by rule adopted pursuant to

1 chapter 34.05 RCW to reflect the rate of inflation as determined by the  
2 implicit price deflator of the United States department of commerce(~~(+~~  
3 ~~AND PROVIDED FURTHER, That such~~)). The measurement of customers or  
4 revenues ((shall)) under this subsection must include all portions of  
5 water companies having common ownership or control, regardless of  
6 location or corporate designation.

7 (c) "Control" as used ((herein shall be)) in this subsection is  
8 defined by the commission by rule and ((shall)) does not include  
9 management by a satellite agency as defined in chapter 70.116 RCW if  
10 the satellite agency is not an owner of the water company.

11 (d) "Water company" also includes, for auditing purposes only,  
12 nonmunicipal water systems which are referred to the commission  
13 pursuant to an administrative order from the department, or the city or  
14 county as provided in RCW 80.04.110. (~~However,~~)

15 (e) Water companies exempt from commission regulation ((shall be))  
16 are subject to the provisions of chapter 19.86 RCW. A water company  
17 cannot be removed from regulation except with the approval of the  
18 commission. Water companies subject to regulation may petition the  
19 commission for removal from regulation if the number of customers falls  
20 below one hundred or the average annual revenue per customer falls  
21 below three hundred dollars. The commission is authorized to maintain  
22 continued regulation if it finds that the public interest so requires.

23 (24) "Cogeneration facility" means any machinery, equipment,  
24 structure, process, or property, or any part thereof, installed or  
25 acquired for the primary purpose of the sequential generation of  
26 electrical or mechanical power and useful heat from the same primary  
27 energy source or fuel.

28 (25) "Public service company" includes every gas company,  
29 electrical company, telecommunications company, and water company.  
30 Ownership or operation of a cogeneration facility does not, by itself,  
31 make a company or person a public service company.

32 (26) "Local exchange company" means a telecommunications company  
33 providing local exchange telecommunications service.

34 (27) "Department" means the department of health.

35 (~~The term~~) (28) "Service" is used in this title in its broadest  
36 and most inclusive sense.

1       **Sec. 3.** RCW 90.46.030 and 2006 c 279 s 5 are each amended to read  
2 as follows:

3       (1)(a) The department of health (~~shall~~) must, in coordination  
4 with the department of ecology, adopt a single set of standards,  
5 procedures, and guidelines on or before August 1, 1993, for the  
6 industrial and commercial use of reclaimed water.

7       (b) Standards adopted under this section are superseded by any  
8 rules adopted by the department of ecology pursuant to RCW 90.46.015 as  
9 they relate to the industrial and commercial use of reclaimed water.

10       (2) Unless the department of ecology adopts rules pursuant to RCW  
11 90.46.015 that relate to the industrial and commercial use of reclaimed  
12 water specifying otherwise, the department of health may issue a  
13 reclaimed water permit for industrial and commercial uses of reclaimed  
14 water to the generator of reclaimed water who may then distribute the  
15 water, subject to provisions in the permit governing the location,  
16 rate, water quality, and purposes of use. Permits issued after the  
17 adoption of rules under RCW 90.46.015 must be consistent with the  
18 adopted rules.

19       (3) The department of health in consultation with the advisory  
20 committee established in RCW 90.46.050, (~~shall~~) must develop  
21 recommendations for a fee structure for permits issued under subsection  
22 (2) of this section. Fees shall be established in amounts to fully  
23 recover, and not exceed, expenses incurred by the department of health  
24 in processing permit applications and modifications, monitoring and  
25 evaluating compliance with permits, and conducting inspections and  
26 supporting the reasonable overhead expenses that are directly related  
27 to these activities. Permit fees may not be used for research or  
28 enforcement activities. The department of health (~~shall~~) may not  
29 issue permits under this section until a fee structure has been  
30 established.

31       (4) A permit under this section for use of reclaimed water may be  
32 issued only to:

33       (a) A municipal, quasi-municipal, or other governmental entity;

34       (b) A private utility as defined in RCW 36.94.010; or

35       (c) The holder of a waste discharge permit issued under chapter  
36 90.48 RCW.

37       (5) The authority and duties created in this section are in  
38 addition to any authority and duties already provided in law with

1 regard to sewage and wastewater collection, treatment, and disposal for  
2 the protection of health and safety of the state's waters. Nothing in  
3 this section limits the powers of the state or any political  
4 subdivision to exercise such authority.

5 (6) Unless the department of ecology adopts rules pursuant to RCW  
6 90.46.015 that relate to the industrial and commercial use of reclaimed  
7 water specifying otherwise, the department of health may implement the  
8 requirements of this section through the department of ecology by  
9 execution of a formal agreement between the departments. Upon  
10 execution of such an agreement, the department of ecology may issue  
11 reclaimed water permits for industrial and commercial uses of reclaimed  
12 water by issuance of permits under chapter 90.48 RCW, and may establish  
13 and collect fees as required for permits issued under chapter 90.48  
14 RCW.

15 (7) Unless the department of ecology adopts rules pursuant to RCW  
16 90.46.015 that relate to the industrial and commercial use of reclaimed  
17 water specifying otherwise, and before deciding whether to issue a  
18 permit under this section to a private utility, the department of  
19 health may request information of the utilities and transportation  
20 commission regarding a private utility or require information of a  
21 private utility that is reasonable and necessary to determine whether  
22 the private utility has the financial and other resources to ensure the  
23 reliability, continuity, and supervision of the reclaimed water  
24 facility.

25 **Sec. 4.** RCW 90.46.040 and 2009 c 456 s 3 are each amended to read  
26 as follows:

27 (1) The department of ecology (~~shall~~) must, in coordination with  
28 the department of health, adopt a single set of standards, procedures,  
29 and guidelines, on or before August 1, 1993, for land applications of  
30 reclaimed water.

31 (2) Standards adopted under this section are superseded by any  
32 rules adopted by the department of ecology pursuant to RCW 90.46.015 as  
33 they relate to the land application of reclaimed water.

34 (3) The department of ecology may request information of the  
35 utilities and transportation commission regarding a private utility or  
36 require information of a private utility that is reasonable and

1 necessary to determine whether the private utility has the financial  
2 and other resources to assure the reliability, continuity, and  
3 supervision of a reclaimed water facility.

4 **Sec. 5.** RCW 36.94.110 and 1967 c 72 s 11 are each amended to read  
5 as follows:

6 After adoption of the sewerage and/or water general plan, all  
7 municipal corporations and private utilities within the plan area  
8 (~~shall~~) must abide by and adhere to the plan for the future  
9 development of their systems. A municipal corporation or private  
10 utility may petition for amendments to the plan. Whenever the  
11 governing authority of any county or counties or any municipal  
12 corporation deems it to be for the public interest to amend the  
13 sewerage and/or water general plan for such county or counties, notice  
14 shall be filed with the board or boards of county commissioners. Upon  
15 such notice, the board or boards (~~shall~~) must initiate consideration  
16 of any amendment requested relating to the plan and proceed as provided  
17 in this chapter for the adoption of an original plan.

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