

SENATE BILL REPORT

SB 5034

As of February 6, 2011

Title: An act relating to private infrastructure development.

Brief Description: Concerning private infrastructure development.

Sponsors: Senators Kilmer, Kastama, Shin, Hatfield, Zarelli, Conway and Hewitt.

Brief History:

Committee Activity: Economic Development, Trade & Innovation: 2/02/11.

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TRADE & INNOVATION

Staff: Jack Brummel (786-7428)

Background: Wastewater systems in the state range from single home septic systems to large urban systems serving over one million customers. The Department of Health (DOH) regulates onsite wastewater systems. Most of these onsite systems are built and operated by private individuals and organizations. Large wastewater systems are operated by local government entities such as counties, cities, sewer and water districts, and public utility districts. Large wastewater systems are regulated by the Department of Ecology.

The state Growth Management Act requires certain counties to designate urban growth areas and requires certain counties and cities to adopt comprehensive plans that include the provision of water and wastewater systems.

The Utilities and Transportation Commission (UTC) regulates utilities and transportation services in the state to ensure fair pricing, availability, reliability, and safety. The UTC does not regulate wastewater utilities.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed First Substitute): A wastewater company is defined as an entity that owns, or will develop and own, a system of sewerage serving 100 or more customers or having specific peak daily flow characteristics. A system of sewerage is defined as the facilities and services for sewage or storm or surface run-off.

For purposes of the jurisdiction of the UTC, wastewater companies do not include publicly-owned wastewater systems or those serving customers outside of an urban growth area.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A UTC certification process is established for wastewater companies. The UTC is to issue rules and regulations and establish fees to cover the costs of the program.

A UTC process is established for transferring ownership of unfit wastewater companies to capable wastewater companies. The UTC may petition a court to place a failed wastewater company into receivership, and the new operator may be a municipal corporation if a private entity is not able or willing to take over the system of sewerage.

The general regulatory laws of the UTC, applicable to gas, electrical, and water companies, are applied to wastewater companies.

Municipal corporations or private utilities, including wastewater companies, may petition for amendments to county sewerage and/or water general plans.

The UTC is authorized to collect payments from wastewater companies to cover the costs of rulemaking.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 30, 2011.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2012, except for section 29 authorizing rulemaking which takes effect ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We try to drive growth into urban growth areas under the Growth Management Act, but the capacity of local governments to make investments is limited. This bill allows development projects to move forward. If public money is not available for infrastructure, we need alternatives to pay for the infrastructure. You need money from somewhere to get good infill and effective growth management outcomes. A regulated industry will foot the bill here; the state just needs to make it possible for the private sector to help the situation. Without this we don't have sustainable smart growth and we get sprawl.

CON: The UTC experience with small water companies has caused concerns because of the problems when a system fails. We've put every regulatory system we can think of in the bill, but we are still concerned because even with these regulations on private water systems we have failures. The bill does allow screening of applicants and other safety net provisions. Costs are recoverable under the bill.

OTHER: The DOH deals with small systems of 10-370 homes, and they have difficulty with ongoing operations and maintenance. Large on-site programs have ownership restrictions.

Persons Testifying: PRO: Senator Kilmer, prime sponsor; Craig Goodwin, Northwest Cascade; Rick Slunaker, AGC of WA.

CON: Ann Rendahl, Chris Rose, UTC.

OTHER: Denise Lahmann, DOH.