

FINAL BILL REPORT

2SSB 5034

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Synopsis as Enacted

Brief Description: Concerning private infrastructure development.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Kilmer, Kastama, Shin, Hatfield, Zarelli, Conway and Hewitt).

Senate Committee on Economic Development, Trade & Innovation

Senate Committee on Environment, Water & Energy

House Committee on Local Government

House Committee on Environment

House Committee on General Government Appropriations & Oversight

Background: Wastewater systems collect, treat and dispose of sewage or surface water run-off. They range in size from on-site sewage systems (OSS) serving single homes to large urban systems serving thousands of customers. OSS, which are regulated by the Department of Health, are generally installed and operated by private individuals and organizations. Large wastewater systems, which are regulated by the Department of Ecology, are installed and operated by local government entities, including cities, counties, and special purpose districts.

The state Growth Management Act requires certain counties to designate urban growth areas (UGAs) and plan for provision of urban services, including wastewater services.

The Utilities and Transportation Commission (UTC) regulates utilities and transportation services to ensure fair pricing, availability, reliability, and safety. The UTC has jurisdiction over companies providing electricity and natural gas, certain telecommunications service, water, solid waste collection, commercial ferry service, transportation of household goods, certain auto transportation service, and transportation of petroleum via pipeline.

Some UTC-regulated entities, including natural gas companies, certain auto transportation companies, solid waste collection companies, household goods carriers, and commercial ferries must obtain certificates of public convenience and necessity (certificates) from the UTC to lawfully operate in the state. Factors that the UTC may review in issuing certificates vary. With respect to some services, the UTC may consider an applicant's financial resources and prior experience in the field. Certificates issued by the UTC may include conditions, including operating parameters and service rates, set by the agency.

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.

The UTC does not regulate companies operating wastewater systems.

Summary: Certain wastewater companies may not provide sewerage services for compensation without first obtaining certificates from the UTC. Wastewater companies subject to UTC jurisdiction are entities owning or proposing to develop and own sewerage systems (facilities and services to collect, treat, and dispose of sewage or storm or surface run-off) that are designed:

- for a peak daily flow of 27,000 to 100,000 gallons if treatment is by large OSS, or
- to serve 100 or more customers.

Excluded from UTC jurisdiction are publicly-owned wastewater systems and wastewater company service to customers outside of a UGA.

The UTC must consider specified factors when determining whether to issue certificates, including business plans, sufficiency of financial resources, need to develop systems instead of connecting to existing systems, prior experience, unwillingness of municipalities to provide sewerage services, and consistency with local sewer plans. Companies must file and maintain bonds or equivalent sureties with the UTC to ensure sufficient funding.

The UTC may set fees to cover program costs.

The UTC may determine that a wastewater company is unfit to provide service and order transfer of its systems to a capable and willing company. The UTC may petition the Thurston County Superior Court to place a failed wastewater company into receivership. A system owned by a failed company may be taken over by another company or a municipality in eminent domain proceedings.

General laws applicable to several UTC-regulated utilities 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 may adopt rules to implement the act, and collect payments from wastewater companies and other private entities that have notified the UTC of their willingness to cover rulemaking costs. The UTC is not required to engage in rulemaking until it has collected sufficient payments to cover rulemaking costs.

Votes on Final Passage:

Senate	46	1	
House	95	0	(House amended)
Senate	45	2	(Senate concurred)

Effective: July 1, 2012.
July 22, 2011 (Section 29).