State of Washington        62nd Legislature          2011 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Kilmer, Kastama, Shin, Hatfield, Zarelli, Conway, and Hewitt)

READ FIRST TIME 02/21/11.

AN ACT Relating to private infrastructure development; amending RCW 80.04.010, 80.04.110, 80.04.160, 80.04.250, 80.04.500, 80.28.010, 80.28.020, 80.28.030, 80.28.040, 80.28.050, 80.28.060, 80.28.080, 80.28.090, 80.28.100, 80.28.110, 80.28.120, 80.28.130, 80.28.185, 80.28.240, 80.28.270, 80.28.275, 7.60.025, and 36.94.110; adding new sections to chapter 80.28 RCW; adding a new section to chapter 80.04 RCW; creating new sections; and providing a contingent effective date.

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

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

Sec. 2. RCW 80.04.010 and 1995 c 243 s 2 are each amended to read as follows:
As used in this title, unless specifically defined otherwise or
unless the context indicates otherwise:

(1) "Automatic location identification" means a system by which
information about a caller's location, including the seven-digit number
or ten-digit number used to place a 911 call or a different seven-digit
number or ten-digit number to which a return call can be made from the
public switched network, is forwarded to a public safety answering
point for display.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) "Private switch automatic location identification service"
means a service that enables automatic location identification to be
provided to a public safety answering point for 911 calls originating
from station lines served by a private switch system.
"Radio communications service company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide radio communications service, radio paging, or cellular communications service for hire, sale, or resale.

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

"Noncompetitive telecommunications service" means any service which has not been classified as competitive by the commission.

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

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

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

"Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state.(Provided, That).
(b) For purposes of commission jurisdiction, "water company" does not include any water system serving less than one hundred customers where the average annual gross revenue per customer does not exceed three hundred dollars per year, which revenue figure may be increased annually by the commission by rule adopted pursuant to chapter 34.05 RCW to reflect the rate of inflation as determined by the implicit price deflator of the United States department of commerce. The measurement of customers or revenues must include all portions of water companies having common ownership or control, regardless of location or corporate designation.

(c) "Control" is defined by the commission by rule and does not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

(d) "Water company" also includes, for auditing purposes only, nonmunicipal water systems which are referred to the commission pursuant to an administrative order from the department, or the city or county as provided in RCW 80.04.110. However, water companies exempt from commission regulation are subject to the provisions of chapter 19.86 RCW. A water company cannot be removed from regulation except with the approval of the commission. Water companies subject to regulation may petition the commission for removal from regulation if the number of customers falls below one hundred or the average annual revenue per customer falls below three hundred dollars. The commission is authorized to maintain continued regulation if it finds that the public interest so requires.

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

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

(26) "Local exchange company" means a telecommunications company providing local exchange telecommunications service.
(27) "Department" means the department of health.
(28) "Service" is used in this title in its broadest and most inclusive sense.
(29)(a) "Wastewater company" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees, or receivers that owns or proposes to develop and own a system of sewerage that is designed for a peak flow of twenty-seven thousand to one hundred thousand gallons per day if treatment is by a large on-site sewerage system, or to serve one hundred or more customers.
(b) For purposes of commission jurisdiction, wastewater company does not include (i) municipal, county, or other publicly owned systems of sewerage; or (ii) wastewater companies service to customers outside of an urban growth area as defined in RCW 36.70A.030.
(30) "System of sewerage" means collection, treatment, and disposal facilities and services for sewerage, or storm or surface water run-off.

NEW SECTION. Sec. 3. A new section is added to chapter 80.28 RCW to read as follows:
(1) A wastewater company may not own or develop a system of sewerage for the purpose of providing service for compensation without first having obtained from the commission a certificate declaring that the public convenience and necessity requires such service.
(2) Issuance of the certificate of public convenience and necessity must be determined on, but not limited to, the following factors:
(a) A comprehensive business plan detailing the design, construction, operation, and maintenance of the proposed service system;
(b) Demonstration of sufficient financial resources to properly operate and maintain the proposed system, and to replace and upgrade capital assets;
(c) The need to develop a new stand alone system instead of connecting to an existing system;
(d) A statement of prior experience, if any, in such field by the petitioner, set out in an affidavit or declaration;
(e) A certification from the municipal corporation that it is not willing and able to provide the sewerage services being proposed; and
(f) A certification from the municipal corporation that the company's proposed service is consistent with the locally approved general sewer plan.

(3) The commission may, after providing notice and an opportunity for public comment, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

(4) No certificate may be transferred to any private or nonprofit entity unless authorized by the commission.

(5)(a) Prior to the commission approving a wastewater company to provide new service or extend existing service, the wastewater company must file and continuously maintain in effect, a bond, or equivalent surety as determined by the commission, with the commission to ensure that there are sufficient funds to:

(i) Design, construct, operate, and maintain the proposed system;

(ii) Replace and upgrade capital assets as required by federal or state law, department of health, or department of ecology order; and

(iii) Allow additional connections to the system, if approved by the department of health or the department of ecology.

(b) The bond, or its equivalent, is payable under this section to the commission upon:

(i) A finding under sections 5(1), 13(3), or 14(3) of this act; or

(ii) Notice that the company does not intend to renew the bond or its equivalent surety or has failed to renew the bond or its equivalent surety.

(c) The commission must hold the payment in trust until an acquiring wastewater company is designated under section 5 of this act or a receiving entity is designated under section 13(3) or 14(3) of this act, at which point the funds will be made available to the company or entity to expend as directed by the commission.

(6) For purposes of issuing certificates under this chapter, the commission may adopt rules to implement this section.

(7) A wastewater company must obtain commission approval before expanding an existing system beyond the approved capacity set forth in its certificate or acquiring new systems, either by construction or purchase.
NEW SECTION. Sec. 4. A new section is added to chapter 80.04 RCW to read as follows:

(1) Every wastewater company subject to regulation by the commission must, on or before the date specified by the commission for filing annual reports under RCW 80.04.080, pay to the commission a regulatory fee.

(2) The commission must assess such regulatory fees in amounts sufficient for the commission to recover the commission's actual and reasonable costs of supervising and regulating wastewater companies.

(3) Any payment of a fee assessed under this section made after the due date must include a late fee of two percent of the amount due.

(4) Delinquent fees accrue interest at the rate of one percent per month.

(5) The provisions of RCW 80.04.030, 80.04.040, and 80.04.050 apply to regulatory fees for wastewater companies.

(6) The commission is authorized and empowered to adopt and issue rules and regulations to implement this section, including establishing the methodologies and procedures for developing, assessing, and collecting fees under this section.

NEW SECTION. Sec. 5. A new section is added to chapter 80.28 RCW to read as follows:

(1) If the commission determines, after providing notice and opportunity for a hearing in the manner required for complaints under RCW 80.04.110, that a wastewater company is unfit to provide wastewater service on any system of sewerage under its ownership, the commission may order the transfer of any such system or systems to a capable wastewater company.

(2) In determining whether a wastewater company is unfit to provide wastewater service on a system of sewerage in consultation with the department of health or the department of ecology as appropriate to the agencies' jurisdiction, the commission may consider the company's technical and managerial expertise to operate the system of sewerage, the company's financial soundness and the company's willingness and ability to make ongoing investments necessary to maintain compliance with statutory and regulatory standards for the safety, adequacy, efficiency, and reasonableness of the service provided.
(3) Before ordering the transfer of a system of sewerage owned by a wastewater company that is unfit to provide service, the commission must first determine that:

(a) Alternatives to the transfer are impractical or not economically feasible;

(b) The acquiring wastewater company is willing and able to acquire the system or systems of sewerage, financially sound, and has the technical and managerial expertise to own and operate the system or systems of sewerage in compliance with applicable statutory and regulatory standards; and

(c) Rates paid by existing customers served by the acquiring wastewater company will not increase unreasonably because of the acquisition of the system of sewerage, or because of expenditures that may be necessary to assure compliance with applicable statutory and regulatory standards for the safety, adequacy, efficiency, and reasonableness of the service provided.

(4) The sale price for the unfit wastewater company's system or systems of sewerage assets must be determined by agreement between the unfit wastewater company and the acquiring capable wastewater company subject to a finding by the commission that the agreed price is reasonable. A price is deemed reasonable if it does not exceed the original cost of plant in service, minus accumulated depreciation, minus contributions in aid to construction. If the unfit wastewater company and the acquiring capable wastewater company are unable to agree on the sale price or the commission finds that the agreed sale price is not reasonable, the acquiring capable wastewater company may institute a condemnation proceeding in superior court in the manner provided by chapter 8.04 RCW to determine the compensation to be paid by the acquiring capable wastewater company for the failed system or systems of sewerage assets.

(5) The capable wastewater company acquiring an unfit wastewater company's system or systems shall have the same limited immunity from liability as wastewater companies assuming substandard systems as set forth in RCW 80.28.275.

(6) The commission must provide copies of the notice required by subsection (1) of this section to the department of health or the department of ecology, as appropriate to the agencies' jurisdiction, and all proximate public entities providing wastewater utility service.
Any capable wastewater company approved by the commission to acquire the system or systems of sewerage of an unfit wastewater company must submit to the commission, for approval, a financial plan, including a timetable, for bringing the acquired system of sewerage assets into compliance with applicable statutory and regulatory standards. The capable wastewater company must also provide a copy of the plan to the department of health or the department of ecology, as appropriate to the agencies' jurisdiction, and other state or local agency as the commission may direct. The commission must give the department of health or the department of ecology, as appropriate to the agencies' jurisdiction, adequate opportunity to comment on the plan and must consider any comments submitted in deciding whether or not to approve the plan.

The legislature grants to any private entity the power of eminent domain, for exercise only under the circumstances described in this section. However, a private entity must obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use. This subsection does not limit eminent domain authority granted by any other provision of law.

NEW SECTION. Sec. 6. A new section is added to chapter 80.28 RCW to read as follows:

(1) The commission may petition the court pursuant to chapter 7.60 RCW to place a wastewater company in receivership. The petition must include the names of one or more qualified candidates for receiver who have consented to assume operation of the system of sewerage. The petition must also include a list of interested and qualified individuals, municipal corporations, and wastewater companies with experience in providing wastewater service and a history of satisfactory operation of a system of sewerage. If no other entity is willing and able to be named as receiver, the court must appoint the county or other municipal corporation whose geographic boundaries include, in whole or in part, the system of sewerage at issue. The municipal corporation may designate one of its agencies or divisions to operate the system, or it may contract with another entity to operate...
the system. The department of health or department of ecology, whichever has jurisdiction, must provide regulatory oversight for managing the sewerage system.

(2) In any petition for receivership under subsection (1) of this section, the commission must recommend the court grant the receiver full authority to act in the best interests of the customers served by the system of sewerage. The receiver must assess the capability, in conjunction with the department of health or ecology, whichever has jurisdiction, and local government, for the system to operate in compliance with health and safety standards, and must report to the court and the commission its recommendations for the company's future operation of the system, including the formation of a water-sewer district or other public entity, or ownership by another existing wastewater company capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate official allege an immediate and serious danger to residents constituting an emergency, the court must set the matter for hearing within three days and may appoint a temporary receiver ex parte upon the strength of such petition and affidavit pending a full evidentiary hearing, which must be held within fourteen days after receipt of the petition.

(4) If the court imposes a bond upon a receiver, the amount must reasonably relate to the level of operating revenue generated by, and the capital value of, the wastewater company. Any receiver appointed pursuant to this section may not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders, subject to the provisions of law governing clean water as referenced by the commission by rule.

(5) The court must authorize the receiver to impose reasonable assessments on the customers of the system of sewerage to recover expenditures for improvements necessary for the public health and safety.

(6) The commission must develop a plan for transfer of the system of sewerage to a new operator. The commission must develop the plan after notice to, and an opportunity to participate by, the receiver, the municipal corporations whose geographic boundaries, in whole or in part, include the system of sewerage at issue, and the public. The
commission must complete the plan no later than twelve months after
appointment of a receiver.

(a) If the commission finds that no private entity is able or
willing to take over the system of sewerage and decides the system of
sewerage should be taken over by a municipal corporation whose
geographic boundaries include the system of sewerage at issue, in whole
or in part, the commission must issue an order to that effect, and the
municipal corporation shall promptly institute negotiations to purchase
the system. If within six months of the commission's order the
negotiations fail or otherwise do not result in a purchase, the
municipal corporation must promptly institute an action in eminent
domain to acquire the system. The court must terminate the
receivership once the purchase is complete.

(b) If the commission decides the system of sewerage should be
taken over by a private entity, such as an individual or business, the
commission must issue an order to that effect, and that private entity
must promptly institute negotiations to purchase the system. If within
six months of the commission's order the negotiations fail or otherwise
do not result in a purchase, the private entity must promptly exercise
the power of eminent domain granted by subsection (9) of this section
to acquire the system. The court must terminate the receivership once
the purchase is complete.

(7) Other than pursuant to subsection (6)(a) and (b) of this
section, the court may not terminate the receivership, and order the
return of the system to the owners, unless the commission approves that
action. The court may impose reasonable conditions upon the return of
the system to the owner, including the posting of a bond or other
security, routine performance and financial audits, employment of
qualified operators and other staff or contracted services, compliance
with financial viability requirements, or other measures sufficient to
ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, an
eminent domain action is commenced to acquire the system of sewerage,
the court shall oversee any appraisal of the system conducted under
Title 7 RCW to assure that the appraised value properly reflects any
reduced value because of the necessity to make improvements to the
system. The court must have the authority to approve the appraisal,
and to modify it based on any information provided at an evidentiary

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hearing. The court's determination of the proper value of the system, based on the appraisal, is final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value.

(9) The legislature grants any municipal corporation, and any private entity the power of eminent domain, under the circumstances described in this section. However, a private entity must obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use. This subsection does not limit eminent domain authority granted by any other provision of law.

Sec. 7. RCW 80.04.110 and 1995 c 376 s 12 are each amended to read as follows:

(1) (a) Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, or by the public counsel section of the office of the attorney general, or its successor, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of ((law)) this title, Title 81 RCW, or of any order or rule of the commission((: PROVIDED, That)).

(b) No complaint ((shall)) may be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, wastewater company, or telecommunications company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water, wastewater company services, or telecommunications service, or at least twenty-five percent of the consumers or purchasers of the company's service((: PROVIDED, FURTHER, That)).

(c) When two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in
competition in any locality or localities in the state, either may make
complaint against the other or others that the rates, charges, rules,
regulations or practices of such other or others with or in respect to
which the complainant is in competition, are unreasonable,
unremunerative, discriminatory, illegal, unfair or intending or tending
to oppress the complainant, to stifle competition, or to create or
encourage the creation of monopoly, and upon such complaint or upon
complaint of the commission upon its own motion, the commission ((shall have)) has power, after notice and hearing as in other cases, to, by
its order, subject to appeal as in other cases, correct the abuse
complained of by establishing such uniform rates, charges, rules,
regulations or practices in lieu of those complained of, to be observed
by all of such competing public service corporations in the locality or
localities specified as ((shall be)) is found reasonable, remunerative,
nondiscriminatory, legal, and fair or tending to prevent oppression or
monopoly or to encourage competition, and upon any such hearing it
((shall be)) is proper for the commission to take into consideration
the rates, charges, rules, regulations and practices of the public
service corporation or corporations complained of in any other locality
or localities in the state.

(2) All matters upon which complaint may be founded may be joined
in one hearing, and no motion ((shall)) may be entertained against a
complaint for misjoinder of complaints or grievances or misjoinder of
parties; and in any review of the courts of orders of the commission
the same rule shall apply and pertain with regard to the joinder of
complaints and parties as herein provided((PROVIDED,)). However,
all grievances to be inquired into ((shall)) must be plainly set forth
in the complaint. No complaint ((shall)) may be dismissed because of
the absence of direct damage to the complainant.

(3) Upon the filing of a complaint, the commission ((shall)) must
cause a copy thereof to be served upon the person or corporation
complained of, which ((shall)) must be accompanied by a notice fixing
the time when and place where a hearing will be had upon such
complaint. The time fixed for such hearing ((shall)) may not be less
than ten days after the date of the service of such notice and
complaint, excepting as herein provided. The commission ((shall)) must
enter its final order with respect to a complaint filed by any entity
or person other than the commission within ten months from the date of

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filing of the complaint, unless the date is extended for cause. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission. Such rules may include the requirement that a complainant use informal processes before filing a formal complaint.

(4) (a) The commission (shall) may, as appropriate, audit a nonmunicipal water system upon receipt of an administrative order from the department, or the city or county in which the water system is located, finding that the water delivered by a system does not meet state board of health standards adopted under RCW 43.20.050(2)(a) or standards adopted under chapters 70.116 and 70.119A RCW, and the results of the audit (shall) must be provided to the requesting department, city, or county. However, the number of nonmunicipal water systems referred to the commission in any one calendar year shall not exceed twenty percent of the water companies subject to commission regulation as defined in RCW 80.04.010.

(b) Every nonmunicipal water system referred to the commission for audit under this section shall pay to the commission an audit fee in an amount, based on the system's twelve-month audited period, equal to the fee required to be paid by regulated companies under RCW 80.24.010.

(5) Any customer or purchaser of service from a water system or company that is subject to commission regulation may file a complaint with the commission if he or she has reason to believe that the water delivered by the system to the customer does not meet state drinking water standards under chapter 43.20 or 70.116 RCW. The commission (shall) must investigate such a complaint, and (shall) must request that the state department of health or local health department of the county in which the system is located test the water for compliance with state drinking water standards, and provide the results of such testing to the commission. The commission may decide not to investigate the complaint if it determines that the complaint has been filed in bad faith, or for the purpose of harassment of the water system or company, or for other reasons has no substantial merit. The water system or company (shall) must bear the expense for the testing. After the commission has received the complaint from the customer and during the pendency of the commission investigation, the water system or company (shall) may not take any steps to terminate service to the customer or to collect any amounts alleged to be owed to
the company by the customer. The commission may issue an order or take any other action to ensure that no such steps are taken by the system or company. The customer may, at the customer's option and expense, obtain a water quality test by a licensed or otherwise qualified water testing laboratory, of the water delivered to the customer by the water system or company, and provide the results of such a test to the commission. If the commission determines that the water does not meet state drinking water standards, it must exercise its authority over the system or company as provided in this title, and may, where appropriate, order a refund to the customer on a pro rata basis for the substandard water delivered to the customer, and must order reimbursement to the customer for the cost incurred by the customer, if any, in obtaining a water quality test.

Sec. 8. RCW 80.04.160 and 1961 c 14 s 80.04.160 are each amended to read as follows:

The commission is hereby authorized and empowered to adopt, promulgate and issue rules and regulations covering the transmission and delivery of messages and conversations, and the furnishing and supply of gas, electricity, wastewater company services, and water, and any and all services concerning the same, or connected therewith; and generally such rules as pertain to the comfort and convenience of the public concerning the subjects treated of in this title. Such rules and regulations must be promulgated and issued by the commission on its own motion, and must be served on the public service company affected thereby as other orders of the commission are served. Any public service company affected thereby, and deeming such rules and regulations, or any of them, improper, unjust, unreasonable, or contrary to law, may within twenty days from the date of service of such order upon it file objections thereto with the commission, specifying the particular grounds of such objections. The commission must, upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. The commission has, and it is hereby given, power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings. However, no person desiring to be present at such hearing may
be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of the commission.

Sec. 9. RCW 80.04.250 and 1991 c 122 s 2 are each amended to read as follows:

(1) The commission (shall have) has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state and (shall) must exercise such power whenever it shall deem such valuation or determination necessary or proper under any of the provisions of this title. In determining what property is used and useful for providing electric, gas, wastewater company services, or water service, the commission may include the reasonable costs of construction work in progress to the extent that the commission finds that inclusion is in the public interest.

(2) The commission (shall have) has the power to make revaluations of the property of any public service company from time to time.

(3) The commission (shall) must, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice (shall) must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

Sec. 10. RCW 80.04.500 and 1985 c 450 s 13 are each amended to read as follows:

Nothing in this title (shall) authorizes the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any telecommunications line, gas plant, electrical plant, system of sewerage, or water system owned and operated by any city or town, or to make or enforce any order relating
to the safety of any telecommunications line, electrical plant, system of sewerage, or water system owned and operated by any city or town, but all other provisions enumerated herein ((shall)) apply to public utilities owned by any city or town.

Sec. 11. RCW 80.28.010 and 2008 c 299 s 35 are each amended to read as follows:

(1) All charges made, demanded or received by any gas company, electrical company, wastewater company, or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient. Reasonable charges necessary to cover the cost of administering the collection of voluntary donations for the purposes of supporting the development and implementation of evergreen community management plans and ordinances under RCW 80.28.300 ((shall)) must be deemed as prudent and necessary for the operation of a utility.

(2) Every gas company, electrical company, wastewater company, and water company ((shall)) must furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company, wastewater company, or water company, affecting or pertaining to the sale or distribution of its product or service, ((shall)) must be just and reasonable.

(4) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of ((community, trade, and economic development)) commerce, which administers federally funded energy assistance programs. The grantee ((shall)) must determine that
the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and ((shall) must) provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15th and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer ((shall) is not ((be)) eligible for protections under this chapter until the past due bill is paid. The plan ((shall) may) not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer ((shall)) must contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(5) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;
(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(6) A payment plan implemented under this section is consistent with RCW 80.28.080.

(7) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(8) Every gas company, electrical company, wastewater company, and water company (shall) must construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public.

(9) An agreement between the customer and the utility, whether oral or written, (shall) does not waive the protections afforded under this chapter.

(10) In establishing rates or charges for water service, water companies as defined in RCW 80.04.010 may consider the achievement of water conservation goals and the discouragement of wasteful water use practices.
Sec. 12. RCW 80.28.020 and 1961 c 14 s 80.28.020 are each amended to read as follows:

Whenever the commission shall find, after a hearing had upon its own motion, or upon complaint, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company, wastewater company, or water company, for gas, electricity, wastewater company services, or water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission (shall) must determine the just, reasonable, or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and (shall) must fix the same by order.

Sec. 13. RCW 80.28.030 and 1989 c 207 s 4 are each amended to read as follows:

(1) Whenever the commission (shall) finds, after such hearing, that the illuminating or heating power, purity or pressure of gas, the efficiency of electric lamp supply, the voltage of the current supplied for light, heat or power, the quality of wastewater company services, or the purity, quality, volume, and pressure of water, supplied by any gas company, electrical company, wastewater company, or water company, as the case may be, is insufficient, impure, inadequate or inefficient, it (shall) must order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, in the operation of the services and facilities of wastewater companies, or in the storage, distribution or supply of water, or in the methods employed by such gas company, electrical company, wastewater company, or water company, as will in its judgment be efficient, adequate, just and reasonable. Failure of a water company to comply with state board of health standards adopted under RCW 43.20.050(2)(a) or department standards adopted under chapter 70.116 RCW for purity, volume, and pressure (shall be) is prima facie evidence that the water supplied is insufficient, impure, inadequate, or inefficient. Failure of a wastewater company to comply with standards and permit conditions adopted and implemented under chapter
70.118B or 90.48 RCW for treatment and disposal of sewerage, is prima
facie evidence that the system of sewerage is insufficient, inadequate,
or inefficient.

(2) In ordering improvements in the storage, distribution, or
supply of water, the commission ((shall)) must consult and coordinate
with the department of health. In the event that a water company fails
to comply with an order of the commission ((in a timely fashion))
within the deadline specified in the order, the commission may request
that the department petition the superior court of Thurston county to
place the company in receivership pursuant to chapter 7.60 RCW.

(3) In ordering improvements to the system of sewerage, the
commission must consult and coordinate with the department of health or
the department of ecology, as appropriate to the agencies' jurisdiction. In the event that a wastewater company fails to comply
with an order of the commission within the deadline specified in the
order, the commission may petition the superior court of Thurston
county to place the company in receivership pursuant to chapter 7.60
RCW.

Sec. 14. RCW 80.28.040 and 1989 c 207 s 5 are each amended to read
as follows:

(1) Whenever the commission ((shall)) finds, after hearing, that
any rules, regulations, measurements or the standard thereof,
practices, acts or services of any such gas company, electrical
company, wastewater company, or water company are unjust, unreasonable,
improper, insufficient, inefficient or inadequate, or that any service
which may be reasonably demanded is not furnished, the commission
((shall)) must fix the reasonable rules, regulations, measurements or
the standard thereof, practices, acts or service to be thereafter
furnished, imposed, observed and followed, and ((shall)) must fix the
same by order or rule.

(2) In ordering improvements to the service of any water company,
the commission ((shall)) must consult and coordinate with the
department of health. In the event that a water company fails to
comply with an order of the commission within the deadline specified in
the order, the commission may request that the department petition the
superior court of Thurston county to place the company in receivership
pursuant to chapter 7.60 RCW.
(3) In ordering improvements to the service of any system of sewerage, the commission must consult and coordinate with the department of health or the department of ecology, as appropriate to the agencies' jurisdiction. In the event that a wastewater company fails to comply with an order of the commission within the deadline specified in the order, the commission may petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

Sec. 15. RCW 80.28.050 and 1961 c 14 s 80.28.050 are each amended to read as follows:

Every gas company, electrical company, wastewater company, and water company must file with the commission and must print and keep open to public inspection schedules in such form as the commission may prescribe, showing all rates and charges made, established or enforced, or to be charged or enforced, all forms of contract or agreement, all rules and regulations relating to rates, charges or service, used or to be used, and all general privileges and facilities granted or allowed by such gas company, electrical company, wastewater company, or water company.

Sec. 16. RCW 80.28.060 and 2008 c 181 s 402 are each amended to read as follows:

(1) Unless the commission otherwise orders, no change may be made in any rate or charge or in any form of contract or agreement or in any rule or regulation relating to any rate, charge or service, or in any general privilege or facility which shall have been filed and published by a gas company, electrical company, wastewater company, or water company in compliance with the requirements of RCW 80.28.050 except after thirty days' notice to the commission and publication for thirty days, which notice must plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect and all proposed changes must be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Proposed changes may be suspended by the commission within thirty days or before the stated effective date of the proposed change, whichever is later. The commission, for good
cause shown, may allow changes without requiring the thirty days' notice by duly filing, in such manner as it may direct, an order specifying the changes so to be made and the time when it ((shall)) takes effect. All such changes ((shall)) must be immediately indicated upon its schedules by the company affected. When any change is made in any rate or charge, form of contract or agreement, or any rule or regulation relating to any rate or charge or service, or in any general privilege or facility, the effect of which is to increase any rate or charge, then in existence, attention ((shall)) must be directed on the copy filed with the commission to such increase by some character immediately preceding or following the item in such schedule, such character to be in form as designated by the commission.

(2) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

Sec. 17. RCW 80.28.080 and 1985 c 427 s 2 are each amended to read as follows:

(1)(a) Except as provided otherwise in this subsection, no gas company, electrical company, wastewater company, or water company ((shall)) may charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time, nor ((shall)) may any such company directly or indirectly refund or remit in any manner or by any device any portion of the rates or charges so specified, or furnish its product at free or reduced rates except to its employees and their families, and its officers, attorneys, and agents; to hospitals, charitable and eleemosynary institutions and persons engaged in charitable and eleemosynary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes((PROVIDED, That the term)).

For the purposes of this subsection (1):

(i) "Employees" ((as used in this paragraph shall)) includes
furloughed, pensioned and superannuated employees, persons who have
become disabled or infirm in the service of any such company; and (the
term)

(ii) "Families((r))" ((as used in this paragraph, shall)) includes
the families of those persons named in this proviso, the families of
persons killed or dying in the service, also the families of persons
killed, and the surviving spouse prior to remarriage, and the minor
children during minority of persons who died while in the service of
any of the companies named in this (Paragraph: PROVIDED FURTHER,
That)) subsection (1).

(b) Water companies may furnish free or at reduced rates water for
the use of the state, or for any project in which the state is
interested((: AND PROVIDED FURTHER, That)).

(c) Gas companies, electrical companies, wastewater companies, and
water companies may charge the defendant for treble damages awarded in
lawsuits successfully litigated under RCW 80.28.240.

(2) No gas company, electrical company, wastewater company, or
water company ((shall)) may extend to any person or corporation any
form of contract or agreement or any rule or regulation or any
privilege or facility except such as are regularly and uniformly
extended to all persons and corporations under like circumstances.

Sec. 18. RCW 80.28.090 and 1961 c 14 s 80.28.090 are each amended
to read as follows:

No gas company, electrical company, wastewater company, or water
company ((shall)) may make or grant any undue or unreasonable
preference or advantage to any person, corporation, or locality, or to
any particular description of service in any respect whatsoever, or
subject any particular person, corporation or locality or any
particular description of service to any undue or unreasonable
prejudice or disadvantage in any respect whatsoever.

Sec. 19. RCW 80.28.100 and 1961 c 14 s 80.28.100 are each amended
to read as follows:

No gas company, electrical company, wastewater company, or water
company ((shall)) may, directly or indirectly, or by any special rate,
rebate, drawback or other device or method, charge, demand, collect or
receive from any person or corporation a greater or less compensation
for gas, electricity, wastewater company services, or water, or for any
service rendered or to be rendered, or in connection therewith, except
as authorized in this chapter, than it charges, demands, collects or
receives from any other person or corporation for doing a like or
contemporaneous service with respect thereto under the same or
substantially similar circumstances or conditions.

Sec. 20. RCW 80.28.110 and 1990 c 132 s 5 are each amended to read
as follows:

Every gas company, electrical company, wastewater company, or water
compny, engaged in the sale and distribution of gas, electricity or
water or the provision of wastewater company services, ((shall)) must,
upon reasonable notice, furnish to all persons and corporations who may
apply therefor and be reasonably entitled thereto, suitable facilities
for furnishing and furnish all available gas, electricity, wastewater
company services, and water as demanded, except that a water company
((shall)) may not furnish water contrary to the provisions of water
system plans approved under chapter 43.20 or 70.116 RCW and wastewater
companies may not provide services contrary to the approved general
sewer plan.

Sec. 21. RCW 80.28.120 and 1961 c 14 s 80.28.120 are each amended
to read as follows:

Every gas, water, wastewater, or electrical company owning,
operating or managing a plant or system for the distribution and sale
of gas, water or electricity, or the provision of wastewater company
services to the public for hire ((shall be)) is, and ((be)) is held to
be, a public service company as to such plant or system and as to all
gas, water, wastewater company services, or electricity distributed or
furnished therefrom, whether such gas, water, wastewater company
services, or electricity be sold wholesale or retail or be distributed
wholly to the general public or in part as surplus gas, water,
wastewater company services, or electricity to manufacturing or
industrial concerns or to other public service companies or
municipalities for redistribution. Nothing in this title ((shall)) may
be construed to prevent any gas company, electrical company or water
company from continuing to furnish its product or the use of its lines,
equipment or service under any contract or contracts in force on June
7, 1911, at the rates fixed in such contract or contracts. However, the commission has power, in its discretion, to direct by order that such contract or contracts be terminated by the company party thereto and thereupon such contract or contracts must be terminated by such company as and when directed by such order.

Sec. 22. RCW 80.28.130 and 1961 c 14 s 80.28.130 are each amended to read as follows:

Whenever the commission finds, after hearing had upon its own motion or upon complaint, that repairs or improvements, to, or changes in, any gas plant, electrical plant, system of sewerage, or water system ought to be made, or that any additions or extensions should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for manufacturing, distributing or supplying gas, electricity, wastewater company services, or water, the commission may enter an order directing that such reasonable repairs, improvements, changes, additions or extensions of such gas plant, electrical plant, system of sewerage, or water system be made.

Sec. 23. RCW 80.28.185 and 1989 c 207 s 6 are each amended to read as follows:

The commission may develop and enter into an agreement with a county to carry out the regulatory functions of this chapter with regard to water companies or wastewater companies located within the boundary of that county. The duration of the agreement, the duties to be performed, and the remuneration to be paid by the commission are subject to agreement by the commission and the county.

Sec. 24. RCW 80.28.240 and 1989 c 11 s 30 are each amended to read as follows:

(1) A utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to:

(a) Divert, or cause to be diverted, utility services by any means whatsoever;

(b) Make, or cause to be made, any connection or reconnection with
property owned or used by the utility to provide utility service
without the authorization or consent of the utility;

(c) Prevent any utility meter or other device used in determining
the charge for utility services from accurately performing its
measuring function by tampering or by any other means;

(d) Tamper with any property owned or used by the utility to
provide utility services; or

(e) Use or receive the direct benefit of all or a portion of the
utility service with knowledge of, or reason to believe that, the
diversion, tampering, or unauthorized connection existed at the time of
the use or that the use or receipt was without the authorization or
consent of the utility.

(2) In any civil action brought under this section, the utility may
recover from the defendant as damages three times the amount of actual
damages, if any, plus the cost of the suit and reasonable attorney's
fees, plus the costs incurred on account of the bypassing, tampering,
or unauthorized reconnection, including but not limited to costs and
expenses for investigation, disconnection, reconnection, service calls,
and expert witnesses.

(3) Any damages recovered under this section in excess of the
actual damages sustained by the utility may be taken into account by
the utilities and transportation commission or other applicable rate-
making agency in establishing utility rates.

(4) As used in this section:

(a) "Customer" means the person in whose name a utility service is
provided;

(b) "Divert" means to change the intended course or path of
electricity, gas, or water without the authorization or consent of the
utility;

(c) "Person" means any individual, partnership, firm, association,
or corporation or government agency;

(d) "Reconnection" means the commencement of utility service to a
customer or other person after service has been lawfully disconnected
by the utility;

(e) "Tamper" means to rearrange, injure, alter, interfere with, or
otherwise prevent from performing the normal or customary function;

(f) "Utility" means any electrical company, gas company, wastewater
company, or water company as those terms are defined in RCW 80.04.010, and includes any electrical, gas, system of sewerage, or water system operated by any public agency; and

(g) "Utility service" means the provision of electricity, gas, water, wastewater company services, or any other service or commodity furnished by the utility for compensation.

Sec. 25. RCW 80.28.270 and 1991 c 101 s 2 are each amended to read as follows:

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

Sec. 26. RCW 80.28.275 and 1994 c 292 s 9 are each amended to read as follows:

A water company or a wastewater company assuming responsibility for a water system or system of sewerage that is not in compliance with state or federal requirements ((for public drinking water systems)), and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements ((for public drinking water systems)), which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the water company or wastewater company has submitted and is complying with a plan and schedule of improvements approved by the department of health or the department of ecology, as appropriate to the agencies' jurisdiction. This immunity ((shall)) expires on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith and is subject to the
provisions of law governing clean water as referenced by the commission by rule.

Sec. 27. RCW 7.60.025 and 2010 c 212 s 4 are each amended to read as follows:

(1) A receiver may be appointed by the superior court of this state in the following instances, but except in any case in which a receiver's appointment is expressly required by statute, or any case in which a receiver's appointment is sought by a state agent whose authority to seek the appointment of a receiver is expressly conferred by statute, or any case in which a receiver's appointment with respect to real property is sought under (b)(ii) of this subsection, a receiver shall be appointed only if the court additionally determines that the appointment of a receiver is reasonably necessary and that other available remedies either are not available or are inadequate:

(a) On application of any party, when the party is determined to have a probable right to or interest in property that is a subject of the action and in the possession of an adverse party, or when the property or its revenue-producing potential is in danger of being lost or materially injured or impaired. A receiver may be appointed under this subsection (1)(a) whether or not the application for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment or other relief;

(b) Provisionally, during the pendency of any action to foreclose upon any lien against or for forfeiture of any interest in real or personal property, or after notice of a trustee's sale has been given under RCW 61.24.040, or after notice of forfeiture has been given under RCW 61.30.040, on application of any person, when the interest in the property that is the subject of foreclosure or forfeiture of the person seeking the receiver's appointment is determined to be probable and either:

(i) The property or its revenue-producing potential is in danger of being lost or materially injured or impaired; or

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action, the notice of trustee's sale or notice of forfeiture is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property;
(c) After judgment, in order to give effect to the judgment;
(d) To dispose of property according to provisions of a judgment
dealing with its disposition;
(e) To the extent that property is not exempt from execution, at
the instance of a judgment creditor either before or after the issuance
of any execution, to preserve or protect it, or prevent its transfer;
(f) If and to the extent that property is subject to execution to
satisfy a judgment, to preserve the property during the pendency of an
appeal, or when an execution has been returned unsatisfied, or when an
order requiring a judgment debtor to appear for proceedings
supplemental to judgment has been issued and the judgment debtor fails
to submit to examination as ordered;
(g) Upon an attachment of real or personal property when the
property attached is of a perishable nature or is otherwise in danger
of waste, impairment, or destruction, or where the abandoned property's
owner has absconded with, secreted, or abandoned the property, and it
is necessary to collect, conserve, manage, control, or protect it, or
to dispose of it promptly, or when the court determines that the nature
of the property or the exigency of the case otherwise provides cause
for the appointment of a receiver;
(h) In an action by a transferor of real or personal property to
avoid or rescind the transfer on the basis of fraud, or in an action to
subject property or a fund to the payment of a debt;
(i) In an action against any person who is not an individual if the
object of the action is the dissolution of that person, or if that
person has been dissolved, or if that person is insolvent or is not
generally paying the person's debts as those debts become due unless
they are the subject of bona fide dispute, or if that person is in
imminent danger of insolvency;
(j) In accordance with RCW 7.08.030 (4) and (6), in cases in which
a general assignment for the benefit of creditors has been made;
(k) In quo warranto proceedings under chapter 7.56 RCW;
(l) As provided under RCW 11.64.022;
(m) In an action by the department of licensing under RCW
18.35.220(3) with respect to persons engaged in the business of
dispensing of hearing aids, RCW 18.85.430 in the case of persons
engaged in the business of a real estate broker, associate real estate
broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

(n) In an action under RCW 18.44.470 or 18.44.490 in the case of persons engaged in the business of escrow agents;

(o) Upon a petition with respect to a nursing home in accordance with and subject to receivership provisions under chapter 18.51 RCW;

(p) Under RCW 19.40.071(3), in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(q) Under RCW 19.100.210(1), in an action by the attorney general or director of financial institutions to restrain any actual or threatened violation of the franchise investment protection act;

(r) In an action by the attorney general or by a prosecuting attorney under RCW 19.110.160 with respect to a seller of business opportunities;

(s) In an action by the director of financial institutions under RCW 21.20.390 in cases involving actual or threatened violations of the securities act of Washington or under RCW 21.30.120 in cases involving actual or threatened violations of chapter 21.30 RCW with respect to certain businesses and transactions involving commodities;

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under RCW 24.03.271, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

(u) In any action in which the dissolution of any public or private entity is sought, in any action involving any dispute with respect to the ownership or governance of such an entity, or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests;

(v) Under RCW 25.05.215, in aid of a charging order with respect to a partner's interest in a partnership;

(w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030, in the case of a bank or trust company or, under and subject to RCW 32.24.070 through 32.24.090, in the case of a mutual savings bank;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW applicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW;

(ff) Under RCW 64.34.364(10), in an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

(hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment
or performance of municipal bonds issued with respect to facilities
used to abate, control, or prevent pollution;
   (ii) Upon the application of the department of social and health
services under RCW 74.42.580, in cases involving nursing homes;
   (jj) Upon the application of the utilities and transportation
commission under RCW 80.28.040, with respect to a water company or
wastewater company that has failed to comply with an order of such
commission within the time deadline specified therein;
   (kk) Under RCW 87.56.065, in connection with the dissolution of an
irrigation district;
   (ll) Upon application of the attorney general or the department of
licensing, in any proceeding that either of them are authorized by
statute to bring to enforce Title 18 or 19 RCW; the securities act of
Washington, chapter 21.20 RCW; the Washington commodities act, chapter
21.30 RCW; the land development act, chapter 58.19 RCW; or under
chapter 64.36 RCW relating to the regulation of timeshares;
   (mm) Upon application of the director of financial institutions in
any proceeding that the director of financial institutions is
authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or
   (nn) In such other cases as may be provided for by law, or when, in
the discretion of the court, it may be necessary to secure ample
justice to the parties.

(2) The superior courts of this state shall appoint as receiver of
property located in this state a person who has been appointed by a
federal or state court located elsewhere as receiver with respect to
the property specifically or with respect to the owner's property
generally, upon the application of the person or of any party to that
foreign proceeding, and following the appointment shall give effect to
orders, judgments, and decrees of the foreign court affecting the
property in this state held by the receiver, unless the court
determines that to do so would be manifestly unjust or inequitable.
The venue of such a proceeding may be any county in which the person
resides or maintains any office, or any county in which any property
over which the receiver is to be appointed is located at the time the
proceeding is commenced.

(3) At least seven days' notice of any application for the
appointment of a receiver (shall) must be given to the owner of
property to be subject thereto and to all other parties in the action,
and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also ((shall)) must be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) The order appointing a receiver in all cases ((shall)) must reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

(5) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

Sec. 28. RCW 36.94.110 and 1967 c 72 s 11 are each amended to read as follows:

After adoption of the sewerage and/or water general plan, all municipal corporations and private utilities within the plan area ((shall)) must abide by and adhere to the plan for the future development of their systems. A municipal corporation or private utility, including a wastewater company as defined in RCW 80.04.010, may petition for amendments to the plan. Whenever the governing authority of any county or counties or any municipal corporation deems it to be for the public interest to amend the sewerage and/or water general plan for such county or counties, notice shall be filed with the board or boards of county commissioners. Upon such notice, the board or boards ((shall)) must initiate consideration of any amendment
requested relating to the plan and proceed as provided in this chapter for the adoption of an original plan.

**NEW SECTION. Sec. 29.** (1) The commission is authorized to adopt rules, including establishing the methodologies and procedures for developing, assessing, and collecting fees, to implement this act before July 1, 2012, to ensure that this act is implemented on its effective date.

(2) The commission is authorized to collect payments from wastewater companies and other private entities that have notified the commission of their willingness to cover the costs of the rule making. The commission must issue a notice of intent to adopt rules, which will include a request that wastewater companies or other private entities notify the commission of their intent to participate in the cost recovery mechanism. Upon receipt of the statements of intent to participate in the cost recovery mechanism, the commission must proportionately divide among the companies or private entities the anticipated cost of the rule making and send the parties an invoice. Upon receipt of sufficient funds to pay for the rule making, the commission must commence the rule-making process. The commission is not required to engage in rule making until it has collected sufficient payments to cover the projected costs of the rule making. The commission must provide a refund for any overpayment of the costs at the conclusion of the rule making. Between the conclusion of the rule making and June 30, 2013, the commission may collect from applicants for a certificate of public convenience and necessity a portion of the costs of rule making and provide proportionate refunds to the parties that had previously paid for the costs of rule making.

**NEW SECTION. Sec. 30.** Nothing in this act supersedes federal, state, or local government requirements to obtain a wastewater discharge permit or a large on-site sewerage system operating permit or other permits or licenses required by law in the state of Washington.

**NEW SECTION. Sec. 31.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
NEW SECTION. Sec. 32. Except for section 29 of this act, this act takes effect July 1, 2012, if the utilities and transportation commission receives legislative approval, pursuant to RCW 43.135.055, of the regulatory fees proposed by the utilities and transportation commission to recover its costs in implementing this act.

NEW SECTION. Sec. 33. The utilities and transportation commission must provide written notice as to whether the contingency in section 32 of this act occurs to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the commission.

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