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**SUBSTITUTE HOUSE BILL 1975**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Energy & Utilities (originally sponsored by Representatives DeBolt, Morris, Benson and Sullivan)

Read first time 02/27/97.

1 AN ACT Relating to the ownership of coal-fired thermal electric  
2 generating facilities placed in operation before July 1, 1975; amending  
3 RCW 35.92.052 and 54.44.020; and declaring an emergency.

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

5 **Sec. 1.** RCW 35.92.052 and 1992 c 11 s 1 are each amended to read  
6 as follows:

7 (1) Except as provided in subsection (3) of this section, cities of  
8 the first class which operate electric generating facilities and  
9 distribution systems shall have power and authority to participate and  
10 enter into agreements for the use or undivided ownership of high  
11 voltage transmission facilities and capacity rights in those facilities  
12 and for the undivided ownership of any type of electric generating  
13 plants and facilities, including, but not limited to, nuclear and other  
14 thermal power generating plants and facilities and transmission  
15 facilities including, but not limited to, related transmission  
16 facilities, to be called "common facilities"; and for the planning,  
17 financing, acquisition, construction, operation, and maintenance with:  
18 (a) Each other; (b) electrical companies which are subject to the  
19 jurisdiction of the Washington utilities and transportation commission

1 or the regulatory commission of any other state, to be called  
2 "regulated utilities"; (c) rural electric cooperatives, including  
3 generation and transmission cooperatives in any state; (d) municipal  
4 corporations, utility districts, or other political subdivisions in any  
5 state; and (e) any agency of the United States authorized to generate  
6 or transmit electrical energy. It shall be provided in such agreements  
7 that each city shall use or own a percentage of any common facility  
8 equal to the percentage of the money furnished or the value of property  
9 supplied by it for the acquisition and construction of or additions or  
10 improvements to the facility and shall own and control or provide for  
11 the use of a like percentage of the electrical transmission or output.

12 (2) A city using or owning common facilities under this section may  
13 issue revenue bonds or other obligations to finance the city's share of  
14 the use or ownership of the common facilities.

15 ~~((+2+))~~ (3) Cities of the first class shall have the power and  
16 authority to participate and enter into agreements for the use or  
17 undivided ownership of a coal-fired thermal electric generating plant  
18 and facility placed in operation before July 1, 1975, including related  
19 common facilities, and for the planning, financing, acquisition,  
20 construction, operation, and maintenance of the plant and facility. It  
21 shall be provided in such agreements that each city shall use or own a  
22 percentage of any common facility equal to the percentage of the money  
23 furnished or the value of property supplied by the city for the  
24 acquisition and construction of or additions or improvements to the  
25 facility and shall own and control or provide for the use of a like  
26 percentage of the electrical transmission or output of the facility.  
27 Cities may enter into agreements under this subsection with each other,  
28 with regulated utilities, with rural electric cooperatives, with  
29 utility districts, with electric companies subject to the jurisdiction  
30 of the regulatory commission of any other state, and with any power  
31 marketer subject to the jurisdiction of the federal energy regulatory  
32 commission.

33 (4) The agreement must provide that each participant shall defray  
34 its own interest and other payments required to be made or deposited in  
35 connection with any financing undertaken by it to pay its percentage of  
36 the money furnished or value of property supplied by it for the  
37 planning, acquisition, and construction of any common facility, or any  
38 additions or betterments. The agreement shall provide a uniform method

1 of determining and allocating operation and maintenance expenses of a  
2 common facility.

3 ~~((+3))~~ (5) Each city participating in the ownership, use, or  
4 operation of a common facility shall pay all taxes chargeable to its  
5 share of the common facility and the electric energy generated under  
6 any applicable statutes and may make payments during preliminary work  
7 and construction for any increased financial burden suffered by any  
8 county or other existing taxing district in the county in which the  
9 common facility is located, under agreement with such county or taxing  
10 district.

11 ~~((+4))~~ (6) In carrying out the powers granted in this section,  
12 each such city shall be severally liable only for its own acts and not  
13 jointly or severally liable for the acts, omissions, or obligations of  
14 others. No money or property supplied by any such city for the  
15 planning, financing, acquisition, construction, operation, or  
16 maintenance of, or addition or improvement to any common facility shall  
17 be credited or otherwise applied to the account of any other  
18 participant therein, nor shall the undivided share of any city in any  
19 common facility be charged, directly or indirectly, with any debt or  
20 obligation of any other participant or be subject to any lien as a  
21 result thereof. No action in connection with a common facility shall  
22 be binding upon any city unless authorized or approved by resolution or  
23 ordinance of its governing body.

24 ~~((+5))~~ (7) Any city acting jointly outside the state of  
25 Washington, by mutual agreement with any participant under authority of  
26 this section, shall not acquire properties owned or operated by any  
27 public utility district, by any regulated utility, or by any public  
28 utility owned by a municipality without the consent of the utility  
29 owning or operating the property, and shall not participate in any  
30 condemnation proceeding to acquire such properties.

31 **Sec. 2.** RCW 54.44.020 and 1975-'76 2nd ex.s. c 72 s 2 are each  
32 amended to read as follows:

33 ~~((In addition to the powers heretofore conferred upon))~~ (1) Except  
34 as provided in subsection (2) of this section, cities of the first  
35 class, public utility districts organized under chapter 54.08 RCW, and  
36 joint operating agencies organized under chapter 43.52 RCW, any such  
37 cities and public utility districts which operate electric generating  
38 facilities or distribution systems and any joint operating agency shall

1 have power and authority to participate and enter into agreements with  
2 each other and with electrical companies which are subject to the  
3 jurisdiction of the Washington utilities and transportation commission  
4 or the public utility commissioner of Oregon, hereinafter called  
5 "regulated utilities", and with rural electric cooperatives, including  
6 generation and transmission cooperatives for the undivided ownership of  
7 any type of electric generating plants and facilities, including, but  
8 not limited to nuclear and other thermal power generating plants and  
9 facilities and transmission facilities including, but not limited to,  
10 related transmission facilities, hereinafter called "common  
11 facilities", and for the planning, financing, acquisition,  
12 construction, operation and maintenance thereof. It shall be provided  
13 in such agreements that each city, public utility district, or joint  
14 operating agency shall own a percentage of any common facility equal to  
15 the percentage of the money furnished or the value of property supplied  
16 by it for the acquisition and construction thereof and shall own and  
17 control a like percentage of the electrical output thereof.

18 (2) Cities of the first class, public utility districts organized  
19 under chapter 54.08 RCW, and joint operating agencies organized under  
20 chapter 43.52 RCW, shall have the power and authority to participate  
21 and enter into agreements for the undivided ownership of a coal-fired  
22 thermal electric generating plant and facility placed in operation  
23 before July 1, 1975, including related common facilities, and for the  
24 planning, financing, acquisition, construction, operation, and  
25 maintenance of the plant and facility. It shall be provided in such  
26 agreements that each city, public utility district, or joint operating  
27 agency shall own a percentage of any common facility equal to the  
28 percentage of the money furnished or the value of property supplied by  
29 the city, district, or agency, for the acquisition and construction of  
30 the facility and shall own and control a like percentage of the  
31 electrical output thereof. Cities of the first class, public utility  
32 districts, and joint operating agencies may enter into agreements under  
33 this subsection with each other, with regulated utilities, with rural  
34 electric cooperatives, with electric companies subject to the  
35 jurisdiction of the regulatory commission of any other state, and with  
36 any power marketer subject to the jurisdiction of the federal energy  
37 regulatory commission.

38 (3) Each participant shall defray its own interest and other  
39 payments required to be made or deposited in connection with any

1 financing undertaken by it to pay its percentage of the money furnished  
2 or value of property supplied by it for the planning, acquisition and  
3 construction of any common facility, or any additions or betterments  
4 thereto. The agreement shall provide a uniform method of determining  
5 and allocating operation and maintenance expenses of the common  
6 facility.

7 (4) Each city, public utility district, joint operating agency,  
8 regulated utility, and cooperatives participating in the ownership or  
9 operation of a common facility shall pay all taxes chargeable to its  
10 share of the common facility and the electric energy generated thereby  
11 under applicable statutes as now or hereafter in effect, and may make  
12 payments during preliminary work and construction for any increased  
13 financial burden suffered by any county or other existing taxing  
14 district in the county in which the common facility is located,  
15 pursuant to agreement with such county or taxing district.

16 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and takes effect  
19 immediately.

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