
HOUSE BILL 2902

State of Washington

57th Legislature

2002 Regular Session

By Representatives Santos, McDermott and Kenney

Read first time 02/04/2002. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to local government utility authority; amending RCW
2 35.92.010 and 35.92.050; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The purpose of this act is to affirm the
5 authority of cities and towns to operate fire hydrants and streetlights
6 as part of their rate-based water and electric utilities, respectively.
7 The legislature finds that it has been the practice of most, if not
8 all, cities and towns, as well as water and sewer districts, to include
9 the operation of fire hydrants for fire and maintenance purposes and to
10 incorporate the cost of this operation as a normal part of the
11 utility's services and general rate structure. The legislature further
12 finds and declares that it has been the intent of the legislature that
13 cities and towns, just as water and sewer districts, have the right to
14 operate and maintain streetlights in the same manner as fire hydrants,
15 that is, as a normal part of the electric utility and a normal part of
16 that utility's general rate structure. The legislature therefore
17 affirms that authority.

1 **Sec. 2.** RCW 35.92.010 and 1991 c 347 s 18 are each amended to read
2 as follows:

3 A city or town may construct, condemn and purchase, purchase,
4 acquire, add to, alter, maintain and operate waterworks, including fire
5 hydrants as an integral utility service incorporated within general
6 rates, within or without its limits, for the purpose of furnishing the
7 city and its inhabitants, and any other persons, with an ample supply
8 of water for all purposes, public and private, including water power
9 and other power derived therefrom, with full power to regulate and
10 control the use, distribution, and price thereof: PROVIDED, That the
11 rates charged must be uniform for the same class of customers or
12 service. Such waterworks may include facilities for the generation of
13 electricity as a byproduct and such electricity may be used by the city
14 or town or sold to an entity authorized by law to distribute
15 electricity. Such electricity is a byproduct when the electrical
16 generation is subordinate to the primary purpose of water supply.

17 In classifying customers served or service furnished, the city or
18 town governing body may in its discretion consider any or all of the
19 following factors: The difference in cost of service to the various
20 customers; location of the various customers within and without the
21 city or town; the difference in cost of maintenance, operation, repair,
22 and replacement of the various parts of the system; the different
23 character of the service furnished various customers; the quantity and
24 quality of the water furnished; the time of its use; the achievement of
25 water conservation goals and the discouragement of wasteful water use
26 practices; capital contributions made to the system including, but not
27 limited to, assessments; and any other matters which present a
28 reasonable difference as a ground for distinction. No rate shall be
29 charged that is less than the cost of the water and service to the
30 class of customers served.

31 For such purposes any city or town may take, condemn and purchase,
32 purchase, acquire, and retain water from any public or navigable lake
33 or watercourse, surface or ground, and, by means of aqueducts or pipe
34 lines, conduct it to the city or town; and it may erect and build dams
35 or other works across or at the outlet of any lake or watercourse in
36 this state for the purpose of storing and retaining water therein up to
37 and above high water mark; and for all the purposes of erecting such
38 aqueducts, pipe lines, dams, or waterworks or other necessary
39 structures in storing and retaining water, or for any of the purposes

1 provided for by this chapter, the city or town may occupy and use the
2 beds and shores up to the high water mark of any such watercourse or
3 lake, and acquire the right by purchase, or by condemnation and
4 purchase, or otherwise, to any water, water rights, easements or
5 privileges named in this chapter, or necessary for any of said
6 purposes, and the city or town may acquire by purchase or condemnation
7 and purchase any properties or privileges necessary to be had to
8 protect its water supply from pollution. Should private property be
9 necessary for any such purposes or for storing water above high water
10 mark, the city or town may condemn and purchase, or purchase and
11 acquire such private property. For the purposes of waterworks which
12 include facilities for the generation of electricity as a byproduct,
13 nothing in this section may be construed to authorize a city or town
14 that does not own or operate an electric utility system to condemn
15 electric generating, transmission, or distribution rights or facilities
16 of entities authorized by law to distribute electricity, or to acquire
17 such rights or facilities without the consent of the owner.

18 **Sec. 3.** RCW 35.92.050 and 1985 c 445 s 9 are each amended to read
19 as follows:

20 A city or town may also construct, condemn and purchase, purchase,
21 acquire, add to, alter, maintain and operate works, plants, facilities
22 for the purpose of furnishing the city or town and its inhabitants, and
23 any other persons, with gas, electricity, and other means of power and
24 facilities for lighting, including streetlights as an integral utility
25 service incorporated within general rates, heating, fuel, and power
26 purposes, public and private, with full authority to regulate and
27 control the use, distribution, and price thereof, together with the
28 right to handle and sell or lease, any meters, lamps, motors,
29 transformers, and equipment or accessories of any kind, necessary and
30 convenient for the use, distribution, and sale thereof; authorize the
31 construction of such plant or plants by others for the same purpose,
32 and purchase gas, electricity, or power from either within or without
33 the city or town for its own use and for the purpose of selling to its
34 inhabitants and to other persons doing business within the city or town
35 and regulate and control the use and price thereof.

36 NEW SECTION. **Sec. 4.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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