

# FINAL BILL REPORT

## SHB 1854

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Synopsis as Enacted

**Brief Description:** Allowing cities and public utility districts to purchase energy, including the capability to produce energy, from the agency.

**Sponsors:** By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Crouse, Sullivan, Delvin, Blake, Bush and Grant).

**House Committee on Technology, Telecommunications & Energy**  
**Senate Committee on Natural Resources, Energy & Water**

### **Background:**

In the 1950s, the Legislature authorized formation of joint operating agencies that allowed cities and public utility districts to join together to develop electricity generation projects. In 1957, 17 public utilities formed the Washington Public Power Supply System. The first project was the Packwood Lake Hydroelectric Project.

During the 1970s, the joint operating agency began construction of three nuclear facilities, one of which is the Columbia Generating Station at Hanford, the only operating nuclear power plant generating electricity in the state. A joint operating agency is authorized to issue tax exempt revenue bonds to finance its projects. In the case of the first three nuclear power plants, revenue from the Bonneville Power Administration (BPA) was used to guarantee repayment of the revenue bonds through a system of net-billing. An IRS ruling in 1972 changed the tax exempt status of federal agencies and further net-billing agreements were prohibited.

The joint operating agency and others, as part of a regional program of expanding electricity generation, began construction of two additional nuclear facilities. Since the net-billing arrangement with BPA was not available, participants in the project signed participant agreements to finance the operation and construction of plants four and five.

Construction on plants four and five was halted in the early 1980s. In 1983 the Washington Supreme Court (Court) invalidated the 29 participant agreements between the joint operating agency and these publicly-owned utilities. The Court found that these utilities had authority to purchase electricity from the joint operating agency but did not have the authority to contract for the capacity of a facility. Contracting for capacity has the effect of guaranteeing payment of a project that may or may not produce any electricity.

Currently the joint operating agency, known as Energy Northwest, has 17 members (three cities and 14 public utility districts). Energy Northwest has recently developed two wind power generation sites, a solar power demonstration site, and is exploring generation using biomass, fuel cells, and ocean wave power.

**Summary:**

Cities and public utility districts (PUDs) may purchase electric power from a joint operating agency that the city or district requires for its present and future output.

For those projects using only qualified alternative resources as the fuel source, the contract to purchase power may include the capability to produce electricity as well as the actual output of the facility. It may also include provisions that require the city or PUD to make payment whether or not the project is completed or operating. The contract may also provide that the contract payments are not subject to reduction and shall not be conditioned on the performance or nonperformance of the operating agency or any city or PUD under the contract.

**Votes on Final Passage:**

House 91 0  
Senate 48 0 (Senate amended)  
House 97 0 (House concurred)

**Effective:** July 27, 2003