
SUBSTITUTE SENATE BILL 6692

State of Washington

61st Legislature

2010 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Pridemore, Hargrove, Ranker, and Haugen)

READ FIRST TIME 02/01/10.

1 AN ACT Relating to allowing certain counties to participate and
2 enter into ownership agreements for electric generating facilities
3 powered by biomass; and amending RCW 36.140.010 and 54.44.020.

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

5 **Sec. 1.** RCW 36.140.010 and 2009 c 281 s 1 are each amended to read
6 as follows:

7 (1) Any county legislative authority of a county where a public
8 utility district owns and operates a plant or system for the
9 generation, transmission, and distribution of electric energy for sale
10 within the county may construct, purchase, acquire, operate, and
11 maintain a facility within the county to generate electricity from
12 biomass energy that is a renewable resource under RCW 19.285.030 or
13 from biomass energy that is produced from lignin in spent pulping
14 liquors or liquors derived from algae and other sources. The county
15 legislative authority has the authority to regulate and control the
16 use, distribution, sale, and price of the electricity produced from the
17 biomass facility authorized under this section.

18 (2) For the purposes of this section:

1 (a) "County legislative authority" means the board of county
2 commissioners or the county council; and

3 (b) "Public utility district" means a municipal corporation formed
4 under chapter 54.08 RCW.

5 **Sec. 2.** RCW 54.44.020 and 2008 c 198 s 3 are each amended to read
6 as follows:

7 (1) Except as provided in subsections (2) and (3) of this section,
8 cities of the first class, public utility districts organized under
9 chapter 54.08 RCW, and joint operating agencies organized under chapter
10 43.52 RCW, any such cities and public utility districts which operate
11 electric generating facilities or distribution systems and any joint
12 operating agency shall have power and authority to participate and
13 enter into agreements with each other and with electrical companies
14 which are subject to the jurisdiction of the Washington utilities and
15 transportation commission or the public utility commissioner of Oregon,
16 hereinafter called "regulated utilities", and with rural electric
17 cooperatives, including generation and transmission cooperatives for
18 the undivided ownership of any type of electric generating plants and
19 facilities, including, but not limited to, nuclear and other thermal
20 power generating plants and facilities and transmission facilities
21 including, but not limited to, related transmission facilities,
22 hereinafter called "common facilities", and for the planning,
23 financing, acquisition, construction, operation and maintenance
24 thereof. It shall be provided in such agreements that each city,
25 public utility district, or joint operating agency shall own a
26 percentage of any common facility equal to the percentage of the money
27 furnished or the value of property supplied by it for the acquisition
28 and construction thereof and shall own and control a like percentage of
29 the electrical output thereof.

30 (2) Cities of the first class, public utility districts organized
31 under chapter 54.08 RCW, and joint operating agencies organized under
32 chapter 43.52 RCW, shall have the power and authority to participate
33 and enter into agreements for the undivided ownership of a coal-fired
34 thermal electric generating plant and facility placed in operation
35 before July 1, 1975, including related common facilities, and for the
36 planning, financing, acquisition, construction, operation, and
37 maintenance of the plant and facility. It shall be provided in such

1 agreements that each city, public utility district, or joint operating
2 agency shall own a percentage of any common facility equal to the
3 percentage of the money furnished or the value of property supplied by
4 the city, district, or agency, for the acquisition and construction of
5 the facility, and shall own and control a like percentage of the
6 electrical output thereof. Cities of the first class, public utility
7 districts, and joint operating agencies may enter into agreements under
8 this subsection with each other, with regulated utilities, with rural
9 electric cooperatives, with electric companies subject to the
10 jurisdiction of the regulatory commission of any other state, and with
11 any power marketer subject to the jurisdiction of the federal energy
12 regulatory commission.

13 (3)(a) Except as provided in subsections (1) and (2) of this
14 section, cities of the first class, counties with biomass facilities
15 authorized under RCW 36.140.010, public utility districts organized
16 under chapter 54.08 RCW, any cities that operate electric generating
17 facilities or distribution systems, any joint operating agency
18 organized under chapter 43.52 RCW, or any separate legal entity
19 comprising two or more thereof organized under chapter 39.34 RCW shall,
20 either directly or as co-owners of a separate legal entity, have power
21 and authority to participate and enter into agreements described in (b)
22 and (c) of this subsection with each other, and with any of the
23 following, either directly or as co-owners of a separate legal entity:

- 24 (i) Any public agency, as that term is defined in RCW 39.34.020;
25 (ii) Electrical companies that are subject to the jurisdiction of
26 the Washington utilities and transportation commission or the
27 regulatory commission of any state; and
28 (iii) Rural electric cooperatives and generation and transmission
29 cooperatives or any wholly owned subsidiaries of either rural electric
30 cooperatives or generation and transmission cooperatives.

31 (b) Except as provided in (b)(i)(B) of this subsection (3),
32 agreements may provide for:

- 33 (i)(A) The undivided ownership, or indirect ownership in the case
34 of a separate legal entity, of common facilities that include any type
35 of electric generating plant (~~((powered by))~~) generating an eligible
36 renewable resource, as defined in RCW 19.285.030, and transmission
37 facilities including, but not limited to, related transmission

1 facilities, and for the planning, financing, acquisition, construction,
2 operation, and maintenance thereof;

3 (B) For counties with biomass facilities authorized under RCW
4 36.140.010, the provisions in (b)(i)(A) of this subsection (3) are
5 limited to the purposes of RCW 36.140.010; and

6 (ii) The formation, operation, and ownership of a separate legal
7 entity that may own the common facilities.

8 (c) Agreements must provide that each city, county, public utility
9 district, or joint operating agency:

10 (i) Owns a percentage of any common facility or a percentage of any
11 separate legal entity equal to the percentage of the money furnished or
12 the value of property supplied by it for the acquisition and
13 construction thereof; and

14 (ii) Owns and controls, or has a right to own and control in the
15 case of a separate legal entity, a like percentage of the electrical
16 output thereof.

17 (d) Any entity in which a public utility district participates,
18 either directly or as co-owner of a separate legal entity, in
19 constructing or developing a common facility pursuant to this
20 subsection shall comply with the provisions of chapter 39.12 RCW.

21 (4) Each participant shall defray its own interest and other
22 payments required to be made or deposited in connection with any
23 financing undertaken by it to pay its percentage of the money furnished
24 or value of property supplied by it for the planning, acquisition and
25 construction of any common facility, or any additions or betterments
26 thereto. The agreement shall provide a uniform method of determining
27 and allocating operation and maintenance expenses of the common
28 facility.

29 (5) Each city, county acting under RCW 36.140.010, public utility
30 district, joint operating agency, regulated utility, and cooperatives
31 participating in the direct or indirect ownership or operation of a
32 common facility described in subsections (1) through (3) of this
33 section shall pay all taxes chargeable to its share of the common
34 facility and the electric energy generated thereby under applicable
35 statutes as now or hereafter in effect, and may make payments during
36 preliminary work and construction for any increased financial burden
37 suffered by any county or other existing taxing district in the county

1 in which the common facility is located, pursuant to agreement with
2 such county or taxing district.

--- END ---