

SENATE BILL REPORT

SB 5261

As Passed Senate, February 8, 2017

Title: An act relating to irrigation district authority.

Brief Description: Concerning irrigation district authority.

Sponsors: Senator Warnick.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/31/17, 2/01/17 [DP].

Floor Activity:

Passed Senate: 2/08/17, 46-2.

Brief Summary of Bill

- Allows irrigation districts to enter into contracts or agreements with private commercial or industrial entities that construct or operate electric power generation or transmission facilities or acquire electric power for their own use or resale.
- Provides limitations on an irrigation district's liability when entering into contracts or agreements with investor-owned utilities or private commercial or industrial entities.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Carlyle, Ranking Minority Member; Brown, Hobbs, Honeyford, Ranker, Short and Wellman.

Staff: Kimberly Cushing (786-7421)

Background: Irrigation districts (districts) have broad authority to provide: irrigation facilities and services; drainage systems; domestic water; electric energy generation, purchasing, and distribution; fire hydrants; sewerage systems; residential energy conservation program assistance; and street lighting. Districts are governed by an elected board of directors.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Electric Power Generation and Transmission. Districts have the authority to:

- purchase and sell electric power to residents in the district;
- acquire, construct, and lease dams, canals, plants, transmissions lines, and other power equipment to generate and transmit electrical energy to operate district pumping plants and irrigation systems and to sell to district residents for irrigation and domestic use; and
- construct, finance, acquire, own, operate, and maintain hydroelectric facilities, alone or jointly with specified entities, with the use of their irrigation facilities and sell the electric energy generated to municipal or quasi-municipal corporations or cooperatives in the business of distributing electricity, investor-owned utilities (IOUs), and other districts.

District Contracts. Districts may contract or enter into agreements with the following entities: federal government, states, municipalities, public utility districts, other districts, joint operating agencies, rural electric cooperatives, mutual corporations or associations, or IOUs.

Summary of Bill: Contracts with Private Commercial or Industrial Entities. Districts may contract or enter into agreements with private commercial or industrial entities that:

- construct or operate electric power generation or transmission facilities, or
- acquire electric power for their own use or resale.

A district may contract with a private commercial or industrial entity for several purposes, including to:

- jointly construct, finance, acquire, own, lease, operate, improve, repair, and maintain hydroelectric facilities, irrigation water, domestic water, and drainage and sewerage works; or
- sell electric energy generated at a district's solely or jointly-owned hydroelectric facilities.

Additional Contract Powers. Districts may contract or enter into agreements to develop or own electric power generating or transmitting facilities, which may include facilities that generate power by water, solar power, thermal power, or batteries. Also, districts may enter into contracts or agreements in order to develop or own—or develop and own—water storage, pumping, and transmission facilities.

Limitations on District Liability. If a district enters into a contract or agreement to create a legal entity or an undertaking with an IOU or private commercial or industrial entity, the district is severally liable only for its own acts, not jointly or severally liable for the acts, omission, or obligations of the others.

When a district supplies money or property for planning, financing, acquisition, construction, operation, or maintenance of any common facility, it may not be credited or applied to the account of an IOU or private commercial or industrial entity. Also, a district's undivided shares in a common facility may not be charged with any debt or obligation of an IOU or private commercial or industrial entity or subject to a lien.

An action in connection with a common facility may not be binding on a district unless it is authorized or approved by the district's board.

Technical Changes. Subsections and internal references are added for clarification.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Irrigation districts are special purpose districts that operate and maintain infrastructure for the economic background of eastern Washington. Districts have taken the ground and turned it into prime farmland. They also have the potential to generate power. This bill may open up private investments in power generation facilities. These facilities are very expensive and have previously been built with federal or state dollars. This encourages private and public investments in hydroelectric facilities. Columbia Basin Hydropower, an agent and representative for three irrigation districts, currently operates and maintains hydropower facilities and is looking at additional potential sites. Hydropower is environmentally friendly. Large scale projects are necessary to make it worthwhile. Private sector entities are interested in participating. The bill protects the interests of land owners in the district and the district's credit.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Mike Schwisow, Washington State Water Resources Association.

Persons Signed In To Testify But Not Testifying: No one.