
SUBSTITUTE HOUSE BILL 1253

State of Washington

69th Legislature

2025 Regular Session

By House Environment & Energy (originally sponsored by Representatives Ybarra and Doglio)

READ FIRST TIME 01/31/25.

1 AN ACT Relating to expanding the ability of consumer-owned
2 utilities to enter into joint use agreements; and amending RCW
3 35.92.052, 54.44.020, 54.16.090, and 43.52.300.

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

5 **Sec. 1.** RCW 35.92.052 and 1997 c 230 s 1 are each amended to
6 read as follows:

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

1 transportation commission or the regulatory commission of any other
2 state, to be called "regulated utilities"; (c) rural electric
3 cooperatives, including generation and transmission cooperatives in
4 any state; (d) municipal corporations, utility districts, or other
5 political subdivisions in any state; ~~((and))~~ (e) any agency of the
6 United States authorized to generate or transmit electrical energy;
7 and (f) any other persons or entities. Agreements under this section
8 include, but are not limited to, joint venture agreements and limited
9 liability company agreements. It shall be provided in such agreements
10 that each city shall use or own a percentage of any common facility
11 at least equal to the percentage of the money furnished or the value
12 of property supplied by it for the acquisition and construction of or
13 additions or improvements to the facility and shall own and control
14 or provide for the use of a like percentage of the electrical
15 transmission or output.

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

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

37 ~~(4))~~ The agreement must provide that each participant shall
38 defray its own interest and other payments required to be made or
39 deposited in connection with any financing undertaken by it to pay
40 its percentage of the money furnished or value of property supplied

1 by it for the planning, acquisition, and construction of any common
2 facility, or any additions or betterments. The agreement shall
3 provide a uniform method of determining and allocating operation and
4 maintenance expenses of a common facility.

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

13 ~~((+6))~~ (5) In carrying out the powers granted in this section,
14 each such city shall be severally liable only for its own acts and
15 not jointly or severally liable for the acts, omissions, or
16 obligations of others. No money or property supplied by any such city
17 for the planning, financing, acquisition, construction, operation, or
18 maintenance of, or addition or improvement to any common facility
19 shall be credited or otherwise applied to the account of any other
20 participant therein, nor shall the ~~((undivided))~~ share of any city in
21 any common facility be charged, directly or indirectly, with any debt
22 or obligation of any other participant or be subject to any lien as a
23 result thereof. No action in connection with a common facility shall
24 be binding upon any city unless authorized or approved by resolution
25 or ordinance of its governing body.

26 ~~((+7))~~ (6) Any city acting jointly outside the state of
27 Washington, by mutual agreement with any participant under authority
28 of this section, shall not acquire properties owned or operated by
29 any public utility district, by any regulated utility, or by any
30 public utility owned by a municipality without the consent of the
31 utility owning or operating the property, and shall not participate
32 in any condemnation proceeding to acquire such properties.

33 **Sec. 2.** RCW 54.44.020 and 2010 c 167 s 2 are each amended to
34 read as follows:

35 (1) Except as provided in ~~((subsections))~~ subsection (2) ~~((and~~
36 ~~+3))~~ of this section, cities of the first class, ~~((public utility~~
37 ~~districts organized under chapter 54.08 RCW, and joint operating~~
38 ~~agencies organized under chapter 43.52 RCW, any such cities and))~~
39 public utility districts organized under chapter 54.08 RCW, which

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

26 (2) ~~((Cities of the first class, public utility districts~~
27 ~~organized under chapter 54.08 RCW, and joint operating agencies~~
28 ~~organized under chapter 43.52 RCW, shall have the power and authority~~
29 ~~to participate and enter into agreements for the undivided ownership~~
30 ~~of a coal-fired thermal electric generating plant and facility placed~~
31 ~~in operation before July 1, 1975, including related common~~
32 ~~facilities, and for the planning, financing, acquisition,~~
33 ~~construction, operation, and maintenance of the plant and facility.~~
34 ~~It shall be provided in such agreements that each city, public~~
35 ~~utility district, or joint operating agency shall own a percentage of~~
36 ~~any common facility equal to the percentage of the money furnished or~~
37 ~~the value of property supplied by the city, district, or agency, for~~
38 ~~the acquisition and construction of the facility, and shall own and~~
39 ~~control a like percentage of the electrical output thereof. Cities of~~
40 ~~the first class, public utility districts, and joint operating~~

1 agencies may enter into agreements under this subsection with each
2 other, with regulated utilities, with rural electric cooperatives,
3 with electric companies subject to the jurisdiction of the regulatory
4 commission of any other state, and with any power marketer subject to
5 the jurisdiction of the federal energy regulatory commission.

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

18 (i) Any public agency, as that term is defined in RCW 39.34.020;

19 (ii) Electrical companies that are subject to the jurisdiction of
20 the Washington utilities and transportation commission or the
21 regulatory commission of any state; (~~and~~)

22 (iii) Rural electric cooperatives and generation and transmission
23 cooperatives or any wholly owned subsidiaries of either rural
24 electric cooperatives or generation and transmission cooperatives;
25 and

26 (iv) Any other persons or entities.

27 (b) Except as provided in (b)(i)(B) of this subsection (~~(3))~~
28 (2), agreements including, but not limited to, joint venture
29 agreements and limited liability company agreements, may provide for:

30 (i) (A) The (~~undivided~~) development, use, or ownership, or
31 indirect ownership in the case of a separate legal entity, of common
32 facilities that include any type of electric generating plant
33 generating an eligible renewable resource, as defined in RCW
34 19.285.030, energy storage facilities, and transmission facilities
35 including, but not limited to, related transmission facilities, and
36 for the planning, financing, acquisition, construction, operation,
37 and maintenance thereof;

38 (B) For counties with a biomass facility authorized under RCW
39 36.140.010, the provisions in (b)(i)(A) of this subsection (~~(3))~~
40 (2) are limited to the purposes of RCW 36.140.010; and

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

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

5 (i) Owns a percentage of any common facility or a percentage of
6 any separate legal entity equal to the percentage of the money
7 furnished or the value of property supplied by it for the acquisition
8 and construction thereof; and

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

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

16 ~~((4))~~ (3) Each participant shall defray its own interest and
17 other payments required to be made or deposited in connection with
18 any financing undertaken by it to pay its percentage of the money
19 furnished or value of property supplied by it for the planning,
20 acquisition and construction of any common facility, or any additions
21 or betterments thereto. The agreement shall provide a uniform method
22 of determining and allocating operation and maintenance expenses of
23 the common facility.

24 ~~((5))~~ (4) Each city, county acting under RCW 36.140.010, public
25 utility district, joint operating agency, regulated utility, and
26 cooperatives participating in the direct or indirect ownership or
27 operation of a common facility described in subsections (1) ~~((through~~
28 ~~(3))~~ and (2) of this section shall pay all taxes chargeable to its
29 share of the common facility and the electric energy generated
30 thereby under applicable statutes as now or hereafter in effect, and
31 may make payments during preliminary work and construction for any
32 increased financial burden suffered by any county or other existing
33 taxing district in the county in which the common facility is
34 located, pursuant to agreement with such county or taxing district.

35 **Sec. 3.** RCW 54.16.090 and 1969 c 106 s 7 are each amended to
36 read as follows:

37 A district may enter into any contract or agreement with the
38 United States, or any state, municipality, or other utility district,
39 or any department of those entities, or with any cooperative, mutual,

1 consumer-owned utility, or with any investor-owned utility or with an
2 association of any of such utilities, for carrying out any of the
3 powers authorized by this title.

4 It may acquire by gift, devise, bequest, lease, or purchase, real
5 and personal property necessary or convenient for its purposes, or
6 for any local district therein.

7 It may make contracts, employ engineers, attorneys, and other
8 technical or professional assistance; print and publish information
9 or literature; advertise or promote the sale and distribution of
10 electricity or water and do all other things necessary to carry out
11 the provisions of this title.

12 It may advance funds, jointly fund or jointly advance funds for
13 surveys, plans, investigations, or studies as set forth in RCW
14 54.16.010, including costs of investigations, design and licensing of
15 properties and rights of the type described in RCW 54.16.020,
16 including the cost of technical and professional assistance, and for
17 the advertising and promotion of the sale and distribution of
18 electricity or water.

19 In accordance with RCW 54.44.020, districts that operate electric
20 generating facilities or distribution systems shall have power and
21 authority to participate and enter into agreements with each other
22 and with electrical companies which are subject to the jurisdiction
23 of the Washington utilities and transportation commission or the
24 regulatory commission of any other state, and with rural electric
25 cooperatives, including generation and transmission cooperatives,
26 with any other person or entities for the development, use, and
27 ownership of any type of electric generating plants and facilities
28 including, but not limited to, nuclear and other thermal power
29 generating plants and facilities, renewable energy facilities, energy
30 storage facilities, and transmission facilities including, but not
31 limited to, related transmission facilities, hereinafter called
32 "common facilities," and for the planning, financing, acquisition,
33 construction, operation and maintenance thereof. Agreements under
34 this section include, but are not limited to, joint venture
35 agreements and limited liability company agreements. It shall be
36 provided in such agreements that each district shall own a percentage
37 of any common facility equal to the percentage of the money furnished
38 or the value of property supplied by it for the acquisition and
39 construction thereof and shall own and control a like percentage of
40 the electrical output thereof.

1 **Sec. 4.** RCW 43.52.300 and 1977 ex.s. c 184 s 4 are each amended
2 to read as follows:

3 An operating agency formed under RCW 43.52.360 shall have
4 authority:

5 (1) To generate, produce, transmit, deliver, exchange, purchase
6 or sell electric energy and to enter into contracts for any or all
7 such purposes.

8 (2) To construct, condemn, purchase, lease, acquire, add to,
9 extend, maintain, improve, operate, develop and regulate plants,
10 works and facilities for the generation and/or transmission of
11 electric energy, either within or without the state of Washington,
12 and to take, condemn, purchase, lease and acquire any real or
13 personal, public or private property, franchise and property rights,
14 including but not limited to state, county and school lands and
15 properties, for any of the purposes herein set forth and for any
16 facilities or works necessary or convenient for use in the
17 construction, maintenance or operation of any such works, plants and
18 facilities; provided that an operating agency shall not be authorized
19 to acquire by condemnation any plants, works and facilities owned and
20 operated by any city or district, or by a privately owned public
21 utility. An operating agency shall be authorized to contract for and
22 to acquire by lease or purchase from the United States or any of its
23 agencies, any plants, works or facilities for the generation and
24 transmission of electricity and any real or personal property
25 necessary or convenient for use in connection therewith.

26 (3) To negotiate and enter into contracts with the United States
27 or any of its agencies, with any state or its agencies, with Canada
28 or its agencies or with any district or city of this state, for the
29 lease, purchase, construction, extension, betterment, acquisition,
30 operation and maintenance of all or any part of any electric
31 generating and transmission plants and reservoirs, works and
32 facilities or rights necessary thereto, either within or without the
33 state of Washington, and for the marketing of the energy produced
34 therefrom. Such negotiations or contracts shall be carried on and
35 concluded with due regard to the position and laws of the United
36 States in respect to international agreements.

37 (4) To negotiate and enter into contracts for the purchase, sale,
38 exchange, transmission or use of electric energy or falling water
39 with any person, firm or corporation, including political

1 subdivisions and agencies of any state, of Canada, or of the United
2 States, at fair and nondiscriminating rates.

3 (5) To apply to the appropriate agencies of the state of
4 Washington, the United States or any thereof, and to Canada and/or to
5 any other proper agency for such permits, licenses or approvals as
6 may be necessary, and to construct, maintain and operate works,
7 plants and facilities in accordance with such licenses or permits,
8 and to obtain, hold and use such licenses and permits in the same
9 manner as any other person or operating unit.

10 (6) To establish rates for electric energy sold or transmitted by
11 the operating agency. When any revenue bonds or warrants are
12 outstanding the operating agency shall have the power and shall be
13 required to establish and maintain and collect rates or charges for
14 electric energy, falling water and other services sold, furnished or
15 supplied by the operating agency which shall be fair and
16 nondiscriminatory and adequate to provide revenues sufficient for the
17 payment of the principal and interest on such bonds or warrants and
18 all payments which the operating agency is obligated to set aside in
19 any special fund or funds created for such purposes, and for the
20 proper operation and maintenance of the public utility owned by the
21 operating agency and all necessary repairs, replacements and renewals
22 thereof.

23 (7) To act as agent for the purchase and sale at wholesale of
24 electricity for any city or district whenever requested so to do by
25 such city or district.

26 (8) To contract for and to construct, operate and maintain
27 fishways, fish protective devices and facilities and hatcheries as
28 necessary to preserve or compensate for projects operated by the
29 operating agency.

30 (9) To construct, operate and maintain channels, locks, canals
31 and other navigational, reclamation, flood control and fisheries
32 facilities as may be necessary or incidental to the construction of
33 any electric generating project, and to enter into agreements and
34 contracts with any person, firm or corporation, including political
35 subdivisions of any state, of Canada or the United States for such
36 construction, operation and maintenance, and for the distribution and
37 payment of the costs thereof.

38 (10) To employ legal, engineering and other professional services
39 and fix the compensation of a managing director and such other
40 employees as the operating agency may deem necessary to carry on its

1 business, and to delegate to such manager or other employees such
2 authority as the operating agency shall determine. Such manager and
3 employees shall be appointed for an indefinite time and be removable
4 at the will of the operating agency.

5 (11) To study, analyze and make reports concerning the
6 development, utilization and integration of electric generating
7 facilities and requirements within the state and without the state in
8 that region which affects the electric resources of the state.

9 (12) To acquire any land bearing coal, uranium, geothermal, or
10 other energy resources, within or without the state, or any rights
11 therein, for the purpose of assuring a long-term, adequate supply of
12 coal, uranium, geothermal, or other energy resources to supply its
13 needs, both actual and prospective, for the generation of power and
14 may make such contracts with respect to the extraction, sale, or
15 disposal of such energy resources that it deems proper.

16 (13) To participate and enter into agreements in accordance with
17 RCW 54.44.020. Joint operating agencies that operate electric
18 generating facilities or distribution systems shall have power and
19 authority to participate and enter into agreements with each other
20 and with electrical companies which are subject to the jurisdiction
21 of the Washington utilities and transportation commission or the
22 regulatory commission of any other state, and with rural electric
23 cooperatives, including generation and transmission cooperatives,
24 with any other person or entities for the development, use, and
25 ownership of any type of electric generating plants and facilities
26 including, but not limited to, nuclear and other thermal power
27 generating plants and facilities, renewable energy facilities, energy
28 storage facilities, and transmission facilities including, but not
29 limited to, related transmission facilities, hereinafter called
30 "common facilities," and for the planning, financing, acquisition,
31 construction, operation and maintenance thereof. Agreements under
32 this section include, but are not limited to, joint venture
33 agreements and limited liability company agreements. It shall be
34 provided in such agreements that each joint operating agency shall
35 own a percentage of any common facility equal to the percentage of
36 the money furnished or the value of property supplied by it for the
37 acquisition and construction thereof and shall own and control a like
38 percentage of the electrical output thereof.

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