
HOUSE BILL 1253

State of Washington

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By Representatives Ybarra and Doglio

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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 and 54.44.020.

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, and transmission facilities including, but not
17 limited to, related storage and transmission facilities, all to be
18 called "common facilities"; and for the planning, financing,
19 acquisition, construction, operation, and maintenance with: (a) Each
20 other; (b) electrical companies which are subject to the jurisdiction
21 of the Washington utilities and transportation commission or the

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

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

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

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

1 facility, or any additions or betterments. The agreement shall
2 provide a uniform method of determining and allocating operation and
3 maintenance expenses of a common facility.

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

12 ~~((+6))~~ (5) In carrying out the powers granted in this section,
13 each such city shall be severally liable only for its own acts and
14 not jointly or severally liable for the acts, omissions, or
15 obligations of others. No money or property supplied by any such city
16 for the planning, financing, acquisition, construction, operation, or
17 maintenance of, or addition or improvement to any common facility
18 shall be credited or otherwise applied to the account of any other
19 participant therein, nor shall the ~~((undivided))~~ share of any city in
20 any common facility be charged, directly or indirectly, with any debt
21 or obligation of any other participant or be subject to any lien as a
22 result thereof. No action in connection with a common facility shall
23 be binding upon any city unless authorized or approved by resolution
24 or ordinance of its governing body.

25 ~~((+7))~~ (6) Any city acting jointly outside the state of
26 Washington, by mutual agreement with any participant under authority
27 of this section, shall not acquire properties owned or operated by
28 any public utility district, by any regulated utility, or by any
29 public utility owned by a municipality without the consent of the
30 utility owning or operating the property, and shall not participate
31 in any condemnation proceeding to acquire such properties.

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

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

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

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

1 other, with regulated utilities, with rural electric cooperatives,
2 with electric companies subject to the jurisdiction of the regulatory
3 commission of any other state, and with any power marketer subject to
4 the jurisdiction of the federal energy regulatory commission.

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

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

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

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

25 (iv) Any other persons or entities.

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

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

37 (B) For counties with a biomass facility authorized under RCW
38 36.140.010, the provisions in (b)(i)(A) of this subsection (~~(3))~~
39 (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.

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