
HOUSE BILL 1975

State of Washington 55th Legislature 1997 Regular Session

By Representatives DeBolt, Morris, Benson and Sullivan

Read first time 02/17/97. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to the ownership of coal-fired thermal electric
2 generating facilities placed in operation before July 1, 1975; amending
3 RCW 35.92.052 and 54.44.020; and declaring an emergency.

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

5 **Sec. 1.** RCW 35.92.052 and 1992 c 11 s 1 are each amended to read
6 as follows:

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

1 or the regulatory commission of any other state, to be called
2 "regulated utilities"; (c) rural electric cooperatives, including
3 generation and transmission cooperatives in any state; (d) municipal
4 corporations, utility districts, or other political subdivisions in any
5 state; and (e) any agency of the United States authorized to generate
6 or transmit electrical energy. It shall be provided in such agreements
7 that each city shall use or own a percentage of any common facility
8 equal to the percentage of the money furnished or the value of property
9 supplied by it for the acquisition and construction of or additions or
10 improvements to the facility and shall own and control or provide for
11 the use of a like percentage of the electrical transmission or output.

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

15 ~~((2+))~~ (3) Cities of the first class shall have the power and
16 authority to participate and enter into agreements for the use or
17 undivided ownership of a coal-fired thermal electric generating plant
18 and facility placed in operation before July 1, 1975, including related
19 common facilities, and for the planning, financing, acquisition,
20 construction, operation, and maintenance of the plant and facility. It
21 shall be provided in such agreements that each city shall own a
22 percentage of any common facility equal to the percentage of the money
23 furnished or the value of property supplied by the city for the
24 acquisition and construction of or additions or improvements to the
25 facility and shall own and control a like percentage of the electrical
26 output of the facility. Cities may enter into agreements under this
27 subsection with each other, with regulated utilities, with rural
28 electric cooperatives, with electric companies subject to the
29 jurisdiction of the regulatory commission of any other state, and with
30 any power marketer subject to the jurisdiction of the federal energy
31 regulatory commission.

32 (4) The agreement must provide that each participant shall defray
33 its own interest and other payments required to be made or deposited in
34 connection with any financing undertaken by it to pay its percentage of
35 the money furnished or value of property supplied by it for the
36 planning, acquisition, and construction of any common facility, or any
37 additions or betterments. The agreement shall provide a uniform method
38 of determining and allocating operation and maintenance expenses of a
39 common facility.

1 ~~((+3))~~ (5) Each city participating in the ownership, use, or
2 operation of a common facility shall pay all taxes chargeable to its
3 share of the common facility and the electric energy generated under
4 any applicable statutes and may make payments during preliminary work
5 and construction for any increased financial burden suffered by any
6 county or other existing taxing district in the county in which the
7 common facility is located, under agreement with such county or taxing
8 district.

9 ~~((+4))~~ (6) In carrying out the powers granted in this section,
10 each such city shall be severally liable only for its own acts and not
11 jointly or severally liable for the acts, omissions, or obligations of
12 others. No money or property supplied by any such city for the
13 planning, financing, acquisition, construction, operation, or
14 maintenance of, or addition or improvement to any common facility shall
15 be credited or otherwise applied to the account of any other
16 participant therein, nor shall the undivided share of any city in any
17 common facility be charged, directly or indirectly, with any debt or
18 obligation of any other participant or be subject to any lien as a
19 result thereof. No action in connection with a common facility shall
20 be binding upon any city unless authorized or approved by resolution or
21 ordinance of its governing body.

22 ~~((+5))~~ (7) Any city acting jointly outside the state of
23 Washington, by mutual agreement with any participant under authority of
24 this section, shall not acquire properties owned or operated by any
25 public utility district, by any regulated utility, or by any public
26 utility owned by a municipality without the consent of the utility
27 owning or operating the property, and shall not participate in any
28 condemnation proceeding to acquire such properties.

29 **Sec. 2.** RCW 54.44.020 and 1975-'76 2nd ex.s. c 72 s 2 are each
30 amended to read as follows:

31 ~~((In addition to the powers heretofore conferred upon))~~ (1) Except
32 as provided in subsection (2) of this section, cities of the first
33 class, public utility districts organized under chapter 54.08 RCW, and
34 joint operating agencies organized under chapter 43.52 RCW, any such
35 cities and public utility districts which operate electric generating
36 facilities or distribution systems and any joint operating agency shall
37 have power and authority to participate and enter into agreements with
38 each other and with electrical companies which are subject to the

1 jurisdiction of the Washington utilities and transportation commission
2 or the public utility commissioner of Oregon, hereinafter called
3 "regulated utilities", and with rural electric cooperatives, including
4 generation and transmission cooperatives for the undivided ownership of
5 any type of electric generating plants and facilities, including, but
6 not limited to nuclear and other thermal power generating plants and
7 facilities and transmission facilities including, but not limited to,
8 related transmission facilities, hereinafter called "common
9 facilities", and for the planning, financing, acquisition,
10 construction, operation and maintenance thereof. It shall be provided
11 in such agreements that each city, public utility district, or joint
12 operating agency shall own a percentage of any common facility equal to
13 the percentage of the money furnished or the value of property supplied
14 by it for the acquisition and construction thereof and shall own and
15 control a like percentage of the electrical output thereof.

16 (2) Cities of the first class, public utility districts organized
17 under chapter 54.08 RCW, and joint operating agencies organized under
18 chapter 43.52 RCW, shall have the power and authority to participate
19 and enter into agreements for the undivided ownership of a coal-fired
20 thermal electric generating plant and facility placed in operation
21 before July 1, 1975, including related common facilities, and for the
22 planning, financing, acquisition, construction, operation, and
23 maintenance of the plant and facility. It shall be provided in such
24 agreements that each city, public utility district, or joint operating
25 agency shall own a percentage of any common facility equal to the
26 percentage of the money furnished or the value of property supplied by
27 the city, district, or agency, for the acquisition and construction of
28 the facility and shall own and control a like percentage of the
29 electrical output thereof. Cities of the first class, public utility
30 districts, and joint operating agencies may enter into agreements under
31 this subsection with each other, with regulated utilities, with rural
32 electric cooperatives, with electric companies subject to the
33 jurisdiction of the regulatory commission of any other state, and with
34 any power marketer subject to the jurisdiction of the federal energy
35 regulatory commission.

36 (3) Each participant shall defray its own interest and other
37 payments required to be made or deposited in connection with any
38 financing undertaken by it to pay its percentage of the money furnished
39 or value of property supplied by it for the planning, acquisition and

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

5 (4) Each city, public utility district, joint operating agency,
6 regulated utility, and cooperatives participating in the ownership or
7 operation of a common facility shall pay all taxes chargeable to its
8 share of the common facility and the electric energy generated thereby
9 under applicable statutes as now or hereafter in effect, and may make
10 payments during preliminary work and construction for any increased
11 financial burden suffered by any county or other existing taxing
12 district in the county in which the common facility is located,
13 pursuant to agreement with such county or taxing district.

14 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

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