
SENATE BILL 6719

State of Washington 55th Legislature 1998 Regular Session

By Senators Finkbeiner, Johnson, Rossi, McDonald and Hochstatter

Read first time 01/29/98. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to retail electrical customers; amending RCW
2 42.30.110, 54.16.040, 54.16.070, 54.16.090, 54.16.180, 54.24.020,
3 54.24.030, 54.24.050, and 54.24.090; adding a new chapter to Title 18
4 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Electricity is a basic and fundamental need of all residents;

8 (b) Currently Washington's consumer-owned and investor-owned
9 distribution utilities offer consumers a high degree of reliability and
10 service quality while providing some of the lowest rates in the
11 country; and

12 (c) Consumer protection, system reliability, service quality, and
13 low-cost electricity rates could be at risk if the restructuring of the
14 retail electricity industry occurs.

15 (2) The legislature intends to:

16 (a) Preserve the benefits of consumer protection, system
17 reliability, high service quality, and low-cost rates in the event of
18 the restructuring of the retail electrical industry;

1 (b) Ensure that all retail electrical customers have the same level
2 of rights and protections;

3 (c) Require the adequate disclosure of the rights afforded to
4 retail electric customers; and

5 (d) Provide for increased protections for consumers against
6 potential unscrupulous business practices that may occur in the
7 marketing of electricity products or services in a restructured
8 environment.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Commission" means the utilities and transportation commission.

12 (2) "Consumer-owned distribution utility" means an electricity
13 distribution utility that is a municipal electric utility formed under
14 Title 35 RCW, a public utility district formed under Title 54 RCW, a
15 cooperative formed under chapter 23.86 RCW, an irrigation district
16 formed under chapter 87.03 RCW, or a mutual corporation or association
17 formed under chapter 24.06 RCW.

18 (3) "Department" means the department of community, trade, and
19 economic development.

20 (4) "Electricity" means electric energy measured in kilowatt hours,
21 or electric capacity measured in kilowatts, or both.

22 (5) "Electricity distribution utility" means a consumer-owned or
23 investor-owned utility that is authorized and engaged in the business
24 of distributing electricity to retail electric customers in the state.

25 (6) "Electricity supplier" means a person or entity that sells
26 electricity directly to more than one retail electric customer,
27 including, but not limited to, electric utilities, aggregators,
28 marketers, brokers, or independent power producers to be distributed by
29 the customer's electricity distribution utility. Electricity suppliers
30 do not include electricity distribution utilities unless the utilities
31 are authorized to sell electricity to retail electric customers who are
32 served by another electricity distribution utility.

33 (7) "Governing body" means the council of a city or town, the
34 commissioners of an irrigation district, municipal electric utility, or
35 public utility district, or the board of directors of an electric
36 cooperative or mutual association that has the authority to set and
37 approve rates.

1 (8) "Investor-owned distribution utility" means an electricity
2 distribution utility owned by investors that meets the definition of an
3 electrical company as defined in RCW 80.04.010.

4 (9) "Proprietary customer information" means (a) information that
5 relates to the source and amount of electricity used by a customer, a
6 customer's payment history, and household data that is made available
7 by the customer solely by virtue of the utility-customer or supplier-
8 customer relationship; and (b) information contained in a customer's
9 bill.

10 (10) "Retail electric customer" means a person or entity that
11 purchases electricity for ultimate consumption and not for resale.

12 NEW SECTION. **Sec. 3.** Each retail electric customer in this state
13 has the right to receive the following disclosures from the electricity
14 distribution utility that provides electricity service to the customer:

15 (1) An explanation of any applicable credit and deposit
16 requirements, including the means by which credit may be established,
17 the conditions under which a deposit may be required, the amount of any
18 deposit, interest paid on the deposit, and the circumstances under
19 which the deposit will be returned or forfeited.

20 (2) A complete, itemized listing of all rates and charges for which
21 the customer is responsible, including charges, if any, to terminate
22 service.

23 (3) An explanation of the metering or measurement policies and
24 procedures, including the process for verifying the reliability of the
25 meters or measurements and adjusting bills upon discovery of errors in
26 the meters or measurements.

27 (4) An explanation of bill payment policies and procedures,
28 including due dates and applicable late fees.

29 (5) An explanation of the payment arrangement options available to
30 customers, including budget payment plans and the availability of home
31 heating assistance from government and private sector organizations.

32 (6) An explanation of the method by which customers must give
33 notice of their intent to discontinue service, the circumstances under
34 which service may be discontinued by the utility, the conditions that
35 must be met by the utility prior to discontinuing service, and how to
36 avoid disconnection.

37 (7) An explanation of the utility's policies governing the
38 confidentiality of proprietary customer information, including the

1 circumstances under which the information may be disclosed and ways in
2 which customers can control access to the information.

3 (8) An explanation of the methods by which customers may make
4 inquiries to and file complaints with the utility, and the utility's
5 procedures for responding to and resolving complaints and disputes,
6 including a customer's right to complain about an investor-owned
7 distribution utility to the commission and appeal a decision by a
8 consumer-owned utility to the governing body of the consumer-owned
9 utility.

10 (9) An annual report containing the following information for the
11 previous calendar year:

12 (a) A general description of the electricity distribution utility's
13 customers, including the number of residential, commercial, and
14 industrial customers served by the electric distribution utility, and
15 the amount of electricity consumed by each customer class stated as a
16 percentage of the total utility load;

17 (b) A summary of the average electricity rates for each customer
18 class stated in cents per kilowatt hour, and the date of the
19 electricity distribution utility's last general rate increase or
20 decrease;

21 (c) An explanation of the fuel mix used by the electricity
22 distribution utility to serve its retail electric customers, shown as
23 a pie chart where each resource comprising five percent or more of the
24 total fuel mix is separately listed, and including the air emissions of
25 sulfur dioxide, nitrogen oxide, and carbon dioxide per kilowatt hour
26 for each source of generation in the fuel mix, relative to the regional
27 average emissions per kilowatt hour for each resource. When all or a
28 portion of the electricity is supplied without regard to a particular
29 source of generation, then the electricity distribution utility shall
30 disclose the average level of air emissions for all generators within
31 the western systems coordinating council;

32 (d) An explanation of the amount invested by the electricity
33 distribution utility in conservation, renewable resources, and low-
34 income weatherization and assistance programs, and the source of
35 funding for the investments; and

36 (e) An explanation of the amount of federal, state, and local taxes
37 collected and paid by the electricity distribution utility, including
38 the amounts collected by the electricity distribution utility but paid
39 directly by retail electric customers.

1 (10) A prominent disclosure of the following statements: "YOUR
2 BILL INCLUDES CHARGES FOR ELECTRICITY, DELIVERY SERVICES, GENERAL
3 ADMINISTRATION AND OVERHEAD, METER READING, TAXES, CONSERVATION
4 EXPENSES, AND OTHER ITEMS." and (a) For investor-owned distribution
5 utilities: "YOUR RATES ARE REVIEWED BY THE WASHINGTON UTILITIES AND
6 TRANSPORTATION COMMISSION (WUTC) BEFORE THEY BECOME EFFECTIVE. WE WILL
7 SEND YOU AN ADVANCE NOTICE OF ANY PUBLIC HEARINGS SCHEDULED BY THE WUTC
8 THAT MAY AFFECT YOUR RATES." or (b) For consumer-owned distribution
9 utilities: "YOUR RATES ARE SET BY . . .[name of the governing body of
10 the consumer-owned distribution utility]. . . WE WILL SEND YOU AN
11 ADVANCE NOTICE OF ANY PUBLIC HEARING SCHEDULED BY . . .[name of the
12 governing body of the consumer-owned distribution utility]. . . THAT
13 MAY AFFECT YOUR RATES."

14 NEW SECTION. **Sec. 4.** (1) An electricity distribution utility
15 shall provide the disclosures required in section 3 (1) through (9) of
16 this act to retail electric customers at the following times:

- 17 (a) At the time service is established;
18 (b) At least thirty days prior to the effective date of any changes
19 to the policies and procedures adopted by the utility under section 5
20 or 6 of this act;
21 (c) At least once a year after the adoption of the policies and
22 procedures by the utility under section 5 or 6 of this act; and
23 (d) At any time upon request of the customer.

24 (2) The disclosures required in section 3(10) of this act shall be
25 displayed in a prominent location on all billing statements sent to
26 retail electric customers.

27 (3) Required disclosures shall be provided in writing using plain
28 language that is understandable to an ordinary customer and presented
29 in a form that is clear and conspicuous.

30 NEW SECTION. **Sec. 5.** (1) Not later than October 1, 1998, each
31 investor-owned distribution utility shall adopt consumer protection
32 policies and procedures to implement the disclosure requirements of
33 this chapter and any related commission rules, whether the rules are
34 currently existing or adopted under this section. An investor-owned
35 distribution utility shall file its policies and procedures with the
36 commission and may modify the policies and procedures from time to
37 time, subject to the approval of the commission.

1 (2) Not later than September 1, 1998, the commission shall adopt
2 rules necessary for investor-owned distribution utilities to comply
3 with the requirements of this chapter.

4 NEW SECTION. **Sec. 6.** (1) Not later than October 1, 1998, the
5 governing body of each consumer-owned distribution utility shall adopt
6 consumer protection policies and procedures to implement the disclosure
7 requirements of this chapter. The policies and procedures shall be
8 adopted only after one or more public meetings on the matter have been
9 held. A consumer-owned distribution utility shall file its policies
10 and procedures with the department along with a summary of the public
11 meetings held on the policies and procedures. A consumer-owned
12 distribution utility may modify the policies and procedures from time
13 to time, subject to the approval of the utility's governing body after
14 a public meeting on the matter.

15 (2) Upon request of the governing body of a consumer-owned
16 distribution utility, the department, the attorney general, and the
17 commission shall provide technical assistance to a consumer-owned
18 distribution utility in the development of its policies and procedures.

19 NEW SECTION. **Sec. 7.** Not later than December 1, 1998, the
20 department shall report to the legislature on the consumer protection
21 policies and procedures adopted by consumer-owned distribution
22 utilities under this chapter. The report shall summarize the policies
23 and procedures adopted, including areas where the policies and
24 procedures were consistent among the consumer-owned distribution
25 utilities and areas where the policies and procedures were inconsistent
26 among the consumer-owned distribution utilities. The report shall also
27 summarize the level of public participation reported by the consumer-
28 owned distribution utilities during the development of the policies and
29 procedures.

30 NEW SECTION. **Sec. 8.** The utilities and transportation commission
31 and the department of community, trade, and economic development shall
32 jointly study the following issues:

33 (1) The current and potential future impacts on wholesale and
34 retail electricity prices in Washington resulting from the enactment of
35 the federal energy policy act of 1992, P.L. 102-486;

1 (2) In the absence of state legislation allowing retail electric
2 customers in the state to have choices among electricity suppliers, the
3 current and potential future impacts on:

4 (a) The prices of retail electricity for residential, commercial,
5 and industrial customers in the state, including the types of cost-
6 shifting that may occur by electricity distribution utilities between
7 and among customer classes;

8 (b) The reliability and service quality of electricity service in
9 the state;

10 (c) Employment levels in the electric utility industry in the
11 state; and

12 (d) The level of investment by local electric utilities in
13 conservation, renewable resources, and low-income weatherization and
14 energy assistance programs in the state; and

15 (3) Assuming a model of electricity industry restructuring that
16 allows residential and small commercial customers access to a portfolio
17 of electricity options from their electric distribution utility, and
18 large commercial and industrial customers with individual or aggregated
19 loads of one average megawatt or larger direct access to electricity
20 offered by electricity suppliers, the potential future impacts on:

21 (a) The prices of retail electricity in the state for residential,
22 commercial, and industrial customers, including ways to define,
23 measure, detect, control, deter, and sanction cost-shifting by
24 electricity distribution utilities;

25 (b) The reliability of electricity service in the state, including
26 ways to maintain the integrity of the state's distribution systems and
27 protect the safety of maintenance and operation workers of the systems;

28 (c) The service quality of electricity service in the state,
29 including ways to define, measure, detect, control, deter, and sanction
30 service quality problems; and

31 (d) The level of investment by local electric utilities in
32 conservation, renewable resources, and low-income weatherization and
33 energy assistance programs in the state, including ways to fairly,
34 efficiently, and effectively maintain support for these programs.

35 The utilities and transportation commission and the department of
36 community, trade, and economic development shall report the results of
37 this study to the legislature and the governor no later than November
38 15, 1998.

1 NEW SECTION. **Sec. 9.** Sections 10 through 16 of this act apply to
2 electricity suppliers that are authorized to market, promote, sell, or
3 provide electricity to retail electric customers as a product separate
4 from the distribution services provided by the customers' electricity
5 distribution utilities. However, nothing in this chapter shall be
6 construed to provide electricity suppliers the authority to market,
7 promote, sell, or provide electricity to retail electric customers as
8 products separate from the distribution services provided by
9 electricity distribution utilities.

10 NEW SECTION. **Sec. 10.** (1) An electricity supplier that makes an
11 oral solicitation to sell electricity directly to a retail electric
12 customer for distribution by the customer's electricity distribution
13 utility shall disclose as part of the oral solicitation the following
14 information:

15 (a) The average price for various usage patterns, based on regional
16 load profiles;

17 (b) Notice that the price is for generation only and that
18 additional rates and charges will apply from the customer's electricity
19 distribution utility;

20 (c) A description of the contract length, including beginning and
21 ending dates, and the method of renewal;

22 (d) The fuel mix used to supply the product, except that when the
23 electricity will be supplied without regard to a particular source of
24 generation, then the electricity supplier shall disclose the average
25 level of air emissions for all generators within the western systems
26 coordinating council; and

27 (e) Any other material terms or conditions of the sale.

28 (2) Prior to selling electricity to a retail electric customer for
29 distribution by the customer's electricity distribution utility, an
30 electricity supplier shall disclose the following information in
31 writing to the customer:

32 (a) The electricity supplier's policies and procedures regarding
33 the consumer protection issues for which disclosure is required under
34 section 3 of this act;

35 (b) The terms and conditions for which disclosure is required under
36 subsection (1) of this section;

1 (c)(i) The fuel mix used to supply the product, shown as a pie
2 chart where each resource comprising five percent or more of the total
3 fuel mix is separately listed; and

4 (ii) The air emissions of sulfur dioxide, nitrogen oxide, and
5 carbon dioxide per kilowatt hour for each source of generation in the
6 fuel mix, relative to the regional average emissions per kilowatt hour
7 for each resource. When the electricity will be supplied without
8 regard to a particular source of generation, then the electricity
9 supplier shall disclose the average level of air emissions for all
10 generators within the western systems coordinating council;

11 (d) An explanation of whether the rates or charges are fixed or
12 variable and, if variable, a description of the formula by which those
13 rates or charges may change; and

14 (e) A description of any other products or services to be provided
15 by the electricity supplier, if any, other than electricity.

16 (3) Required disclosures under this section shall be provided using
17 plain language that is understandable to ordinary customers and
18 presented in a form that is clear and conspicuous.

19 NEW SECTION. **Sec. 11.** (1) Prior to engaging in the business of
20 selling or advertising to sell electricity directly to a retail
21 electric customer for distribution by the customer's electricity
22 distribution utility, an electricity supplier shall establish a
23 customer service facility or other means to receive and respond to
24 customer complaints and inquiries regarding service. The facility
25 shall be adequately staffed daily from at least 7 a.m. until 7 p.m. and
26 be reachable by a toll-free number.

27 (2) The customer service facility or other means shall, at a
28 minimum, receive and respond to:

29 (a) Reports of interruption of service at any time of day;

30 (b) Inquiries from customers regarding billing amounts and
31 practices;

32 (c) Requests for information regarding the price, product
33 information, and terms of service provided by the electricity supplier;

34 (d) Inquiries regarding conservation efforts, if any, made by the
35 electricity supplier;

36 (e) Requests for appealing a decision of the electricity supplier.

37 (3) There shall be no charge for use of the facility or other
38 means.

1 NEW SECTION. **Sec. 12.** (1) An agreement between an electricity
2 supplier and a retail electric customer for the purchase and sale of
3 electricity may only be made in writing.

4 (2) No electricity supplier shall change, or request or authorize
5 any other entity to change, a retail electric customer's electricity
6 product or supplier unless and until the submitting electricity
7 supplier has obtained the customer's written or electronic
8 authorization and provided verification of the authorization to the
9 current electricity supplier and electricity distribution utility.

10 (3) Retail electric customers are not obligated for unauthorized
11 charges resulting from an unwritten purchase and sale agreement or an
12 unlawful charge, and electricity suppliers may not bill customers for
13 the charges.

14 (4) An electricity supplier is liable to a retail electric customer
15 for liquidated damages in the amount of one hundred dollars for each
16 unauthorized change.

17 NEW SECTION. **Sec. 13.** It is an unfair or deceptive act or
18 practice and a violation of this section for any electricity supplier
19 to place a commercial telephone solicitation to any residence that will
20 be received before 8:00 a.m. or after 5:00 p.m. at the retail electric
21 customer's local time, notwithstanding the provisions of chapter 19.158
22 RCW.

23 NEW SECTION. **Sec. 14.** (1) Any person making an express or implied
24 claim concerning an electricity product must, at the time the claim is
25 made, possess and rely upon a reasonable basis substantiating the
26 claim.

27 (2) An electricity supplier making an expressed or implied claim
28 relating to any aspect of an electricity product included in the
29 disclosures required under section 10 of this act may substantiate the
30 claims with the information required to be disclosed under those
31 sections.

32 (3) Electricity suppliers may make express or implied marketing
33 claims relating to their projected performance if, at the time the
34 claim is made, they possess and rely upon a reasonable basis for
35 substantiating the claim. If the actual performance differs from the
36 projected performance in a material way during any six-month period
37 that an agreement is in effect, the electricity service provider shall

1 provide the retail electric customer, in a timely manner, with a brief,
2 written explanation for the difference and a notice that as a result of
3 the difference, the customer has the right to change suppliers without
4 incurring any transfer charge.

5 NEW SECTION. **Sec. 15.** (1) All electricity distribution utilities
6 and electricity suppliers shall protect the confidentiality of
7 proprietary information of, and relating to, retail electric customers.
8 An electricity distribution utility or electricity supplier that
9 receives or obtains proprietary customer information from another
10 electricity distribution utility or electricity supplier for the
11 purposes of providing retail electric service shall use the information
12 only for such a purpose, and shall not use the information for its own
13 marketing efforts.

14 (2) Except as required by law or with the approval of the customer,
15 an electricity distribution utility or electricity supplier that
16 receives or obtains proprietary customer information by virtue of its
17 provision of electricity or related services shall only use, disclose,
18 or permit access to individually identifiable proprietary customer
19 information as necessary to the provision of electricity service.
20 Nothing in this subsection shall be construed to prohibit an
21 electricity distribution utility or electricity supplier from using,
22 disclosing, or permitting access to proprietary customer information
23 obtained from its customers to initiate, render, bill, or collect for
24 electricity and related services.

25 (3) An electricity distribution utility or electricity supplier
26 shall disclose proprietary customer information, upon affirmative
27 written request by the customer, to any person designated by the
28 customer.

29 (4) An electricity distribution utility or electricity supplier
30 that receives or obtains proprietary customer information by virtue of
31 its provision of electricity or related services may use, disclose, or
32 permit access to aggregate customer information other than for the
33 purposes described in subsection (2) of this section. An electricity
34 distribution utility may use, disclose, or permit access to aggregate
35 customer information other than for the purposes described in
36 subsection (2) of this section only if it provides the information to
37 other electricity suppliers on reasonable and nondiscriminatory terms
38 and conditions upon reasonable request of the suppliers. For the

1 purposes of this subsection, "aggregate information" means collective
2 data that relates to a group or category of services or customers, from
3 which individual customer identities and characteristics have been
4 removed. Aggregate information shall not be released without
5 permission of the affected customers when the information concerns a
6 group of customers that is small enough to reveal the probable usage,
7 billing, or payment behavior of any individual members of the customer
8 group. There is a rebuttable presumption that a customer group with
9 less than twenty-five members meets this criteria.

10 NEW SECTION. **Sec. 16.** (1) It is an unfair or deceptive act or
11 practice and a violation of this section for any electricity supplier
12 to engage in the following conduct:

13 (a) Failing to disclose in a clear and conspicuous manner, before
14 a retail electric customer authorizes payment for an electricity
15 product offered:

16 (i) The information required in section 10 of this act;

17 (ii) All material restrictions, limitations, or conditions to
18 purchase, receive, or use the products or services that are the subject
19 of the sales offer; and

20 (iii) In any one-time price inducements, all material restrictions,
21 limitations, or conditions to receive or redeem the inducement that is
22 the subject of the sales offer;

23 (b) Misrepresenting, directly or by implication, any of the
24 following:

25 (i) The information required in section 10 of this act;

26 (ii) All material restrictions, limitations, or conditions to
27 purchase, receive, or use the products or services that are the subject
28 of the sales offer;

29 (iii) In any one-time price inducements, all material restrictions,
30 limitations, or conditions to receive or redeem the inducement that is
31 the subject of the sales offer; or

32 (iv) An electricity supplier's affiliation with, or endorsement by,
33 any government or third-party organization; or

34 (c) Making a false or misleading statement to induce any person to
35 pay for electricity or other related services.

36 (2) For the purposes of this section, an electricity supplier
37 includes any person authorized by the electricity supplier to market,
38 promote, or sell electricity or other related services.

1 NEW SECTION. **Sec. 17.** (1) The acts and practices covered by
2 sections 10 through 16 of this act vitally affect the public interest,
3 the electricity bills of consumers, and the competitive positions of
4 businesses and industries for the purposes of applying chapter 19.86
5 RCW, the consumer protection act. Unfair or deceptive methods of
6 marketing, promoting, selling, and providing electricity and ancillary
7 services are unreasonable in relation to the development of competitive
8 markets for power and are injurious to the public interest.

9 (2) Every electricity supplier that markets, promotes, sells, or
10 provides electricity directly to retail electric customers for delivery
11 by the customer's electricity distribution utility must comply with the
12 requirements of sections 10 through 16 of this act. Failure to comply
13 with these sections constitutes an unfair or deceptive act or practice
14 for the purposes of applying chapter 19.86 RCW, the consumer protection
15 act.

16 (3) Any actions or transactions after the effective date of this
17 act, related to the marketing, promoting, selling, or the provision of
18 electricity directly to retail electric customers for delivery by the
19 customer's electricity distribution utility shall not be deemed
20 otherwise permitted, prohibited, or regulated by the commission for the
21 purposes of establishing an exemption under RCW 19.86.170, and shall be
22 deemed to be acting in trade or commerce for the purposes of applying
23 chapter 19.86 RCW, the consumer protection act.

24 NEW SECTION. **Sec. 18.** The utilities and transportation commission
25 shall exercise its best efforts to reach agreement with the federal
26 energy regulatory commission as to the respective jurisdiction of the
27 utilities and transportation commission and the federal energy
28 regulatory commission regarding the transmission and distribution of
29 electricity in Washington state. By December 1, 1998, the commission
30 shall report to the legislature on the results of such efforts.

31 **Sec. 19.** RCW 42.30.110 and 1989 c 238 s 2 are each amended to read
32 as follows:

33 (1) Nothing contained in this chapter may be construed to prevent
34 a governing body from holding an executive session during a regular or
35 special meeting:

36 (a) To consider matters affecting national security;

1 (b) To consider the selection of a site or the acquisition of real
2 estate by lease or purchase when public knowledge regarding such
3 consideration would cause a likelihood of increased price;

4 (c) To consider the minimum price at which real estate will be
5 offered for sale or lease when public knowledge regarding such
6 consideration would cause a likelihood of decreased price. However,
7 final action selling or leasing public property shall be taken in a
8 meeting open to the public;

9 (d) To review negotiations on the performance of publicly bid
10 contracts when public knowledge regarding such consideration would
11 cause a likelihood of increased costs;

12 (e) To consider, in the case of an export trading company,
13 financial and commercial information supplied by private persons to the
14 export trading company;

15 (f) To receive and evaluate complaints or charges brought against
16 a public officer or employee. However, upon the request of such
17 officer or employee, a public hearing or a meeting open to the public
18 shall be conducted upon such complaint or charge;

19 (g) To evaluate the qualifications of an applicant for public
20 employment or to review the performance of a public employee. However,
21 subject to RCW 42.30.140(4), discussion by a governing body of
22 salaries, wages, and other conditions of employment to be generally
23 applied within the agency shall occur in a meeting open to the public,
24 and when a governing body elects to take final action hiring, setting
25 the salary of an individual employee or class of employees, or
26 discharging or disciplining an employee, that action shall be taken in
27 a meeting open to the public;

28 (h) To evaluate the qualifications of a candidate for appointment
29 to elective office. However, any interview of such candidate and final
30 action appointing a candidate to elective office shall be in a meeting
31 open to the public;

32 (i) To discuss with legal counsel representing the agency matters
33 relating to agency enforcement actions, or to discuss with legal
34 counsel representing the agency litigation or potential litigation to
35 which the agency, the governing body, or a member acting in an official
36 capacity is, or is likely to become, a party, when public knowledge
37 regarding the discussion is likely to result in an adverse legal or
38 financial consequence to the agency;

1 (j) To consider, in the case of the state library commission or its
2 advisory bodies, western library network prices, products, equipment,
3 and services, when such discussion would be likely to adversely affect
4 the network's ability to conduct business in a competitive economic
5 climate. However, final action on these matters shall be taken in a
6 meeting open to the public;

7 (k) To consider, in the case of the state investment board,
8 financial and commercial information when the information relates to
9 the investment of public trust or retirement funds and when public
10 knowledge regarding the discussion would result in loss to such funds
11 or in private loss to the providers of this information;

12 (l) To discuss arrangements for the sale, purchase, or exchange of
13 electric energy or capacity or rights thereto or related products or
14 services when such a discussion would be likely to adversely affect the
15 public agency's ability to conduct business in a competitive economic
16 climate.

17 (2) Before convening in executive session, the presiding officer of
18 a governing body shall publicly announce the purpose for excluding the
19 public from the meeting place, and the time when the executive session
20 will be concluded. The executive session may be extended to a stated
21 later time by announcement of the presiding officer.

22 **Sec. 20.** RCW 54.16.040 and 1955 c 390 s 5 are each amended to read
23 as follows:

24 A district may purchase, within or without its limits, electric
25 current for sale and distribution within or without its limits, and
26 construct, condemn and purchase, purchase, acquire, add to, maintain,
27 conduct, and operate works, plants, transmission and distribution lines
28 and facilities for generating electric current, operated either by
29 water power, steam, or other methods, within or without its limits, for
30 the purpose of furnishing the district, and the inhabitants thereof and
31 any other persons, including public and private corporations, within or
32 without its limits, with electric current for all uses, with full and
33 exclusive authority to sell and regulate and control the use,
34 distribution, rates, service, charges, and price thereof, free from the
35 jurisdiction and control of the utilities and transportation
36 commission, in all things, together with the right to purchase, handle,
37 sell, or lease motors, lamps, transformers and all other kinds of
38 equipment and accessories necessary and convenient for the use,

1 distribution, and sale thereof: PROVIDED, That the commission shall
2 not supply water to a privately owned utility for the production of
3 electric energy, but may supply, directly or indirectly, to an
4 instrumentality of the United States government or any publicly or
5 privately owned public utilities which sell electric energy or water to
6 the public, any amount of electric energy or water under its control,
7 and contracts therefor shall extend over such period of years and
8 contain such terms and conditions for the sale thereof as the
9 commission of the district shall elect(~~(; such contract shall only be~~
10 ~~made pursuant to a resolution of the commission authorizing such~~
11 ~~contract, which resolution shall be introduced at a meeting of the~~
12 ~~commission at least ten days prior to the date of the adoption of the~~
13 ~~resolution))): PROVIDED FURTHER, That it shall first make adequate
14 provision for the needs of the district, both actual and prospective.~~

15 **Sec. 21.** RCW 54.16.070 and 1991 c 74 s 1 are each amended to read
16 as follows:

17 (1) A district may contract indebtedness or borrow money for any
18 corporate purpose on its credit or on the revenues of its public
19 utilities, and to evidence such indebtedness may issue general
20 obligation bonds or revenue obligations or other evidences of
21 indebtedness; may issue and sell local utility district bonds of
22 districts created by the commission, and may purchase with surplus
23 funds such local utility district bonds, and may create a guaranty fund
24 to insure prompt payment of all local utility district bonds. A
25 district may grant security interests in or otherwise pledge or
26 encumber properties, rights, and interests to secure its bonds or other
27 obligations. The general obligation bonds shall be issued and sold in
28 accordance with chapter 39.46 RCW. A district is authorized to
29 establish lines of credit or make other prearranged agreements, or
30 both, to borrow money with any financial institution.

31 (2) Notwithstanding subsection (1) of this section, such revenue
32 obligations and local utility district bonds may be issued and sold in
33 accordance with chapter 39.46 RCW.

34 **Sec. 22.** RCW 54.16.090 and 1969 c 106 s 7 are each amended to read
35 as follows:

36 A district may enter into any contract or agreement with the United
37 States, or any state, municipality, or other utility district, or any

1 department of those entities, or with any cooperative, mutual,
2 consumer-owned utility, nonprofit corporation, limited liability
3 company, partnership, or with any investor-owned utility or with an
4 association or instrumentality of any of such ((utilities)) entities,
5 for carrying out any of the powers authorized by this title.

6 For the purpose of carrying out any of its obligations or
7 exercising any of its powers, a district may create, be a member of,
8 and otherwise participate in the formation, function, and operation of
9 any entity described in this section. Members of the district's
10 commission and district employees may serve as directors and officers
11 of such entities, with or without additional compensation for services,
12 as the formation documents of such an entity may provide.

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

16 It may make contracts, employ engineers, attorneys, and other
17 technical or professional assistance; print and publish information or
18 literature; advertise or promote the sale and distribution of
19 electricity or water and do all other things necessary to carry out the
20 provisions of this title.

21 It may advance funds, jointly fund or jointly advance funds for
22 surveys, plans, investigations, or studies as set forth in RCW
23 54.16.010, including costs of investigations, design and licensing of
24 properties and rights of the type described in RCW 54.16.020, including
25 the cost of technical and professional assistance, and for the
26 advertising and promotion of the sale and distribution of electricity
27 or water.

28 **Sec. 23.** RCW 54.16.180 and 1994 c 81 s 78 are each amended to read
29 as follows:

30 A district may sell ((and)), convey, lease, grant security
31 interests in, or otherwise pledge, encumber, or dispose of all or any
32 part of its works, plants, systems, utilities and properties((, after
33 proceedings and approval by the voters of the district, as provided for
34 the lease or disposition of like properties and facilities owned by
35 cities and towns)): PROVIDED, That ((the affirmative vote of three-
36 fifths of the voters)) except as otherwise provided in chapters 54.08
37 and 54.32 RCW, in no event shall all or substantially all of the assets
38 of a utility of a district be sold or permanently disposed of to any

1 private person or entity without the approval of three-fifths of the
2 electors of the district voting at an election (~~on the question of~~
3 ~~approval of a proposed sale, shall be necessary to authorize such~~
4 ~~sale~~)) held for such a purpose: PROVIDED FURTHER, That a district may
5 sell, convey, lease or otherwise dispose of all or any part of the
6 property owned by it, located outside its boundaries, to another public
7 utility district, city, town or other municipal corporation without the
8 approval of the voters; or may sell, convey, lease, or otherwise
9 dispose of to any person or public body, any part, either within or
10 without its boundaries, which has become unserviceable, inadequate,
11 obsolete, worn out or unfit to be used in the operations of the system
12 and which is no longer necessary, material to, and useful in such
13 operations, without the approval of the voters: PROVIDED FURTHER, That
14 a public utility district located within a county with a population of
15 from one hundred twenty-five thousand to less than two hundred ten
16 thousand may sell and convey to a city of the first class, which owns
17 its own water system, all or any part of a water system owned by said
18 public utility district where a portion of it is located within the
19 boundaries of such city, without approval of the voters upon such terms
20 and conditions as the district shall determine: PROVIDED FURTHER, That
21 a public utility district located in a county with a population of from
22 twelve thousand to less than eighteen thousand and bordered by the
23 Columbia river may, separately or in connection with the operation of
24 a water system, or as part of a plan for acquiring or constructing and
25 operating a water system, or in connection with the creation of another
26 or subsidiary local utility district, may provide for the acquisition
27 or construction, additions or improvements to, or extensions of, and
28 operation of a sewage system within the same service area as in the
29 judgment of the district commission is necessary or advisable in order
30 to eliminate or avoid any existing or potential danger to the public
31 health by reason of the lack of sewerage facilities or by reason of the
32 inadequacy of existing facilities: AND PROVIDED FURTHER, That a public
33 utility district located within a county with a population of from one
34 hundred twenty-five thousand to less than two hundred ten thousand
35 bordering on Puget Sound may sell and convey to any (~~city of or town~~
36 ~~{city or town}~~)) city or town with a population of less than ten
37 thousand all or any part of a water system owned by said public utility
38 district without approval of the voters upon such terms and conditions
39 as the district shall determine. Public utility districts are

1 municipal corporations for the purposes of this section and the
2 commission shall be held to be the legislative body and the president
3 and secretary shall have the same powers and perform the same duties as
4 the mayor and city clerk and the resolutions of the districts shall be
5 held to be ordinances within the meaning of the statutes governing the
6 sale, lease, or other disposal of public utilities owned by cities and
7 towns.

8 **Sec. 24.** RCW 54.24.020 and 1959 c 218 s 3 are each amended to read
9 as follows:

10 Whenever the commission of a public utility district(~~(, organized~~
11 ~~pursuant to chapter 1 of the Laws of 1931 (sections 11605 et seq. of~~
12 ~~Remington's Revised Statutes))~~) shall deem it advisable that the
13 district purchase, purchase and condemn, acquire, or construct any
14 public utility, or make any additions or betterments thereto or
15 extensions thereof, or to carry out other lawful district purposes, the
16 commission shall provide therefor by resolution, which shall specify
17 and adopt the system (~~(or)~~), plan, or activities proposed and declare
18 the estimated cost thereof, as near as may be, including as part of
19 such cost funds necessary for working capital for the operation of such
20 public utility by the district and for the payment of the expenses
21 incurred in the acquisition or construction thereof, and shall specify
22 whether general obligation bonds or revenue obligations are to be
23 issued to defray such cost and the amount of such general obligation
24 bonds or revenue obligations.

25 The commissioners may provide in such resolution that any
26 additional works, plants, or facilities subsequently acquired or
27 constructed by the district for the same uses, whether or not
28 physically connected therewith, shall be deemed additions or
29 betterments to or extensions of such public utility.

30 **Sec. 25.** RCW 54.24.030 and 1983 c 167 s 147 are each amended to
31 read as follows:

32 (1) Whenever the commission shall deem it advisable to issue
33 revenue obligations for the purpose of defraying the cost or part of
34 the cost of such public utility or any additions or betterments thereto
35 or extensions thereof, or to carry out other lawful district purposes,
36 it shall have power as a part of such plan and system to create a
37 special fund or funds for the purpose of defraying the cost of such

1 public utility, or additions or betterments thereto or extensions
2 thereof, into which special fund or funds it may obligate and bind the
3 district to set aside and pay a fixed proportion of the gross revenues
4 of such public utility, and all additions or betterments thereto or
5 extensions thereof, or any fixed amount out of, and not exceeding a
6 fixed proportion of such revenues, or a fixed amount without regard to
7 any fixed proportion, or an amount of such revenues equal to a fixed
8 percentage of the aggregate principal amount of revenue obligations at
9 any time issued against the special fund or funds, and to issue and
10 sell revenue obligations payable as to both principal and interest only
11 out of such fund or funds.

12 Such revenue obligations shall bear such date or dates, mature at
13 such time or times, be in such denominations, be in such form, either
14 coupon or registered, as provided in RCW 39.46.030, or both, carry such
15 registration privileges, be made transferable, exchangeable, and
16 interchangeable, be payable in such medium of payment, at such place or
17 places, and be subject to such terms of redemption as the commission
18 shall by resolution determine.

19 Any resolution or resolutions authorizing the issuance of any
20 revenue obligations maturing in not exceeding six years from the date
21 thereof (hereinafter in this section referred to as "short term
22 obligations") may contain, in addition to all other provisions
23 authorized by this title, and as an alternate method for the payment
24 thereof, provisions which shall be a part of the contract with the
25 holders of the short term obligations thereby authorized as to:

26 (a) Refunding the short term obligations at or prior to maturity
27 and, if so provided, outstanding bonds by the issuance of revenue bonds
28 of the district either by the sale of bonds and application of the
29 proceeds to the payment of the short term obligations and outstanding
30 bonds or by the exchange of bonds for the short term obligations;

31 (b) Satisfying, paying, or discharging the short term obligations
32 at the election of the district by the tender or delivery of revenue
33 bonds of the district in exchange therefor: PROVIDED, That the
34 aggregate principal amount of bonds shall not exceed by more than five
35 percent the aggregate principal amount of the short term obligations,
36 to satisfy, pay, or discharge said short term obligations for which the
37 bonds are tendered or delivered;

38 (c) Exchanging or converting the short term obligations at the
39 election of the owner thereof for or into the bonds of the district:

1 PROVIDED, That the aggregate principal amount of the bonds shall not
2 exceed by more than five percent the aggregate principal amount of the
3 short term obligations to be exchanged for or converted into bonds;

4 (d) Pledging bonds or other evidences of indebtedness of the
5 district as collateral to secure payment of the short term obligations
6 and providing for the terms and conditions of the pledge and the manner
7 of enforcing the pledge, which terms and conditions may provide for the
8 delivery of the bonds in satisfaction of the short term obligations:

9 PROVIDED, That the aggregate principal amount of the bonds or other
10 evidences of indebtedness pledged shall not exceed by more than five
11 percent the aggregate principal amount of the short term obligations to
12 secure said short term obligations for which they are pledged;

13 (e) Depositing bonds or other evidences of indebtedness in escrow
14 or in trust with a trustee or fiscal agent or otherwise providing for
15 the issuance and disposition of the bonds as security for carrying out
16 any of the provisions in any resolution adopted pursuant to this
17 section and providing for the powers and duties of the trustee, fiscal
18 agent, or other depository and the terms and conditions upon which the
19 bonds are to be issued, held and disposed of;

20 (f) Any other matters of like or different character which relate
21 to any provision or provisions of any resolution adopted pursuant to
22 this section.

23 A district shall have power to make contracts for the future sale
24 from time to time of revenue obligations by which the purchasers shall
25 be committed to purchase such revenue obligations from time to time on
26 the terms and conditions stated in such contract; and a district shall
27 have power to pay such consideration as it shall deem proper for such
28 commitments.

29 (2) Notwithstanding subsection (1) of this section, such revenue
30 obligations may be issued and sold in accordance with chapter 39.46
31 RCW.

32 **Sec. 26.** RCW 54.24.050 and 1983 c 167 s 149 are each amended to
33 read as follows:

34 Any resolution creating any such special fund or authorizing the
35 issue of revenue obligations payable therefrom, or by such alternate
36 method of payment as may be provided therein, shall specify the title
37 of such revenue obligations as determined by the commission and may
38 contain covenants by the district to protect and safeguard the security

1 and the rights of the owners thereof, including covenants as to, among
2 other things:

3 (1) The purpose or purposes to which the proceeds of sale of such
4 obligations may be applied and the use and disposition thereof;

5 (2) The use and disposition of the gross revenues of the public
6 utility, and any additions or betterments thereto or extensions
7 thereof, the cost of which is to be defrayed with such proceeds,
8 including the creation and maintenance of funds for working capital to
9 be used in the operation of the public utility and for renewals and
10 replacements to the public utility;

11 (3) The amount, if any, of additional revenue obligations payable
12 from such fund which may be issued and the terms and conditions on
13 which such additional revenue obligations may be issued;

14 (4) The establishment and maintenance of adequate rates and charges
15 for electric energy, water, and other services, facilities, and
16 commodities sold, furnished, or supplied by the public utility;

17 (5) The operation, maintenance, management, accounting, and
18 auditing of the public utility;

19 (6) The terms and prices upon which such revenue obligations or any
20 of them may be redeemed at the election of the district;

21 (7) Limitations upon the right to dispose of such public utility or
22 any part thereof without providing for the payment of the outstanding
23 revenue obligations; ((and))

24 (8) The grant of security interests in or the pledge or encumbrance
25 of property, rights, or interests of the district to secure revenue
26 obligations; and

27 (9) The appointment of trustees, depositaries, and paying agents to
28 receive, hold, disburse, invest, and reinvest all or any part of the
29 income, revenues, receipts, and profits derived by the district from
30 the operation, ownership, and management of its public utility.

31 **Sec. 27.** RCW 54.24.090 and 1970 ex.s. c 56 s 79 are each amended
32 to read as follows:

33 Whenever any district shall have outstanding any utility revenue
34 obligations, the commission shall have power by resolution to provide
35 for the issuance of funding or refunding revenue obligations with which
36 to take up and refund such outstanding revenue obligations or any part
37 thereof at the maturity thereof or before maturity if the same be by
38 their terms or by other agreement subject to call for prior redemption,

1 with the right in the commission to include various series and issues
2 of such outstanding revenue obligations in a single issue of funding or
3 refunding revenue obligations, and to issue refunding revenue
4 obligations to pay any redemption premium payable on the outstanding
5 revenue obligations being funded or refunded. Such funding or
6 refunding revenue obligations shall be payable only out of a special
7 fund created out of the gross revenues of such public utility, and
8 shall only be a valid claim as against such special fund and the amount
9 of the revenues, property, rights, or interests of such utility pledged
10 to such fund. Such funding or refunding revenue obligations shall in
11 the discretion of the commission be exchanged at par for the revenue
12 obligations which are being funded or refunded or shall be sold in such
13 manner, at such price and at such rate or rates of interest as the
14 commission shall deem for the best interest of the district. Said
15 funding or (~~refunding~~ ~~revenue~~) revenue obligations shall except as
16 specifically provided in this section, be issued in accordance with the
17 provisions with respect to revenue obligations in chapter 182, Laws of
18 1941 set forth.

19 NEW SECTION. **Sec. 28.** Nothing in RCW 42.30.110, 54.16.040,
20 54.16.070, 54.16.090, 54.16.180, 54.24.020, 54.24.030, 54.24.050, or
21 54.24.090 shall be construed to expand the authority of a district to
22 condemn property not necessary to serve customers within the boundaries
23 of the district.

24 NEW SECTION. **Sec. 29.** Sections 1 through 6 and 9 through 12 of
25 this act constitute a new chapter in Title 18 RCW.

26 NEW SECTION. **Sec. 30.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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