

HOUSE BILL REPORT

HB 2925

As Reported by House Committee On:
Local Government & Housing
Ways & Means

Title: An act relating to impact payments of a municipally owned hydroelectric facility.

Brief Description: Concerning impact payments of a municipally owned hydroelectric facility.

Sponsors: Representatives Kretz, Short and Condotta.

Brief History:

Committee Activity:

Local Government & Housing: 1/28/10, 2/1/10 [DP];
Ways & Means: 2/6/10, 2/8/10 [DPS].

Brief Summary of Substitute Bill

- Requires certain cities and municipally-owned utilities that have hydroelectric or other electricity generating projects located in another county to provide financial compensation for negative impacts upon county revenues and the public welfare resulting from such generating facilities or projects.
- Requires these cities or municipal utilities to compensate the county or counties under the terms of an expired contract until a new contract is agreed upon.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass. Signed by 7 members: Representatives Simpson, Chair; Angel, Ranking Minority Member; Fagan, Miloscia, Short, Upthegrove and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Nelson, Vice Chair; Springer and White.

Staff: Thamas Osborn (786-7129).

Background:

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

A city that owns and operates a public utility with electricity generating facilities located in another county *may* provide financial assistance to that county to compensate for the financial and social impacts of such facility on the affected community. The city and county are authorized to enter into contracts for the provision of such compensation.

After March 17, 1955, if a city either constructs hydroelectric facilities or acquires land for that purpose in another county and the hydroelectric project has impacts that negatively affect county revenues, transportation, public welfare, or local school districts, then the city must enter into a financial compensation agreement with the county and/or the affected school districts.

Summary of Bill:

A city with a population greater than 500,000 that owns and operates a public utility with electricity generating facilities in another county must provide financial compensation to that county, the municipalities within that county, and local school districts, so as to compensate for the impacts of the generating facility that negatively affect local revenues, public welfare, and/or the school districts.

After March 17, 1955, a municipal utility located in a city with a population exceeding 500,000 and that has hydroelectric facilities located in another county, or that acquires land in another county for the development of such facilities, must provide financial compensation to the affected county. The compensation must be paid annually pursuant to an agreement between the municipal utility and the county. The compensation agreement must either provide for the reimbursement of the county for actual financial losses resulting from the hydroelectric project or must provide for financial compensation equal to 7 percent of the annual utility taxes paid by the municipal utility.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Hydroelectric and other electricity generating projects owned by big cities, but located in remote rural counties, have significant negative impacts on the finances and social welfare of the host county. The disparity between large cities and rural areas with respect to financial and political power is profound, hence rural counties are greatly disadvantaged regarding compensation negotiations. Pend Oreille County (county) is in exactly this sort of disadvantaged position when it comes to receiving compensation from Seattle City Light (SCL). The presence of SCL facilities in the county are a great financial and social burden. Compensation payments from SCL make up approximately 10 percent of county revenues,

yet the county has not received any payments since 2008. This has had significant negative impacts on school funding. Compensation offers from SCL have been far too low, which has resulted in the breakdown of negotiations. Under current law, the county has little or no leverage to obtain a new, equitable payment agreement. Seattle City Light should not be allowed to have discretionary power over the amount of compensation that should be paid. The provisions of the bill represent an important first step in giving the county greater power to negotiate fair and timely compensation agreements. Current law is vague and the bill would eliminate uncertainties regarding the compensation negotiation process. The statutes governing this process need to be amended so as to reduce the discretionary authority of SCL regarding compensation payments.

(Opposed) This bill is simply not necessary insofar as SCL has been doing its best to negotiate in good faith with the county. It should be recognized that the City of Seattle has economic problems that make it difficult to provide the level of compensation sought by the county. Seattle City Light has record of making generous payments to the county for many decades and is making every effort to continue to do so. While SCL recognizes the problems faced by the county, it must endeavor to reach an agreement that is also fair to the city and its ratepayers. The county has turned down a generous compensation offer and wants more than SCL can afford to give. Furthermore, the county already obtains benefits from the presence SCL facilities such as good paying jobs and cheap electric rates.

Persons Testifying: (In support) Representative Kretz, prime sponsor; Laura Merrill, Pend Oreille County; and Nancy Lotze, Selkirk School District.

(Opposed) Tim Gugerty, City of Seattle; Jackie Kirn and Mike Haines, Seattle City Light; and Paul W. Locke.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Linville, Chair; Ericks, Vice Chair; Sullivan, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Cody, Conway, Darneille, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Ross, Schmick and Seaquist.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Local Government & Housing:

When a required contract expires for a city over 500,000 owning a utility with facilities in other counties, the city must continue to compensate the county or counties under the terms of the expired contract until a new contract is agreed to. For contracts that have expired prior to the effective date of the substitute bill and where a new contract has not been agreed to,

the city must compensate the county or counties under the terms of the expired agreement from the expiration date until a new contract is entered into.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill is intended to address the negotiations between Seattle City Light (SCL) and Pend Oreille and Whatcom counties over the impact fees for hydroelectric facilities. Every 10 years the impact fees are negotiated, but the counties aren't on equal ground with the utility and thus end up having to accept whatever offer is proposed. In the 1980s the escalator in these agreements was about 5.7 percent and in the late 1980s and 1990s the escalator was about 4.7 percent. In the current offer the escalator is at about 2.7 percent. There has been no negotiation progress in the last year. Pend Oreille county has not received a payment since December 2008. If SCL was a private utility it would be paying about \$9 million in property tax, and if SCL was a public utility district it would pay a privilege tax of about \$6.5 million. In the last agreement the payment was about \$2.5 million between the two counties. There is concern about a level playing field between the county and the utility in arbitration and that is the reason for the bill.

(Opposed) Seattle City Light (SCL) is committed to resolving this issue with Pend Oreille county. Seattle City Light has had agreements with Pend Oreille county since 1962. There is currently an offer that amounts to \$15.5 million in payments over 10 years, which is an increase of 39 percent above the base payment from the previous 10 years. This proposal would put an onerous burden on the utility and rate payers. Depending on how the payment is calculated, the formulas in the bill could increase payments to Pend Oreille county by \$35 million more than the current offer. There is an agreement in place with Whatcom county. The current objective is to get an agreement locally with Pend Oreille county by the end of February. Payments have not been made since the last agreement ended in 2008. The city council can't make payments without a new agreement in place. This bill has long-term ramifications for all utilities that buy power from other areas of the state.

Persons Testifying: (In support) Representative Kretz, prime sponsor; and Paul Locke.

(Opposed) Rose Feliciano and Jorge Carrasco, Seattle City Light.

Persons Signed In To Testify But Not Testifying: None.