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HOUSE BILL 1590

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State of Washington                      54th Legislature                      1995 Regular Session

By Representatives Mielke, Crouse and Huff

Read first time 01/31/95. Referred to Committee on Energy & Utilities.

1            AN ACT Relating to energy financing voter approval; amending RCW  
2 80.52.030, 80.52.040, 80.52.050, and 80.52.060; creating a new section;  
3 and decodifying RCW 80.52.020.

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

5            NEW SECTION.    **Sec. 1.** Many government-owned electrical utilities,  
6 including those operated by first class cities and public utility  
7 districts, have traditionally relied upon a federal marketing agency as  
8 their primary, if not exclusive, source of electrical energy. Recent  
9 changes affecting the operation of federally owned hydroelectric  
10 projects for the protection of anadromous fish, and the prospect that  
11 additional constraints might be placed upon the management of such  
12 federal facilities, have diminished the stability of the cost of power  
13 supplied by such federal marketing agency. In response to the concern  
14 engendered by the increasing cost of electricity generated at federally  
15 owned hydroelectric projects, many government-owned electrical  
16 utilities have either begun to seek, or are currently pursuing, the  
17 acquisition of their own electrical energy generation plants or  
18 facilities. Some of these acquisitions may entail the involvement of  
19 other parties. Default on bonds issued to finance the WPPSS nuclear

1 plants demonstrates that the faith and credit of the political  
2 subdivisions of the state should not be extended unadvisedly.  
3 Therefore, the legislature finds and declares that government-owned  
4 electrical utilities must receive the authorization of their electors  
5 for the issuance of any bonds required to finance the acquisition or  
6 development of electrical energy generation plants or facilities when  
7 the ownership of such plants or facilities will be undivided between  
8 the government-owned utility and another party or parties.

9       **Sec. 2.** RCW 80.52.030 and 1981 2nd ex.s. c 6 s 3 are each amended  
10 to read as follows:

11       The definitions set forth in this section apply throughout this  
12 chapter unless the context clearly requires otherwise.

13       (1) "Public agency" means a public utility district, joint  
14 operating agency, city, county, or any other state governmental agency,  
15 entity, or political subdivision.

16       (2) "Major public energy project" means a plant or installation  
17 capable, or intended to be capable, of generating electricity in an  
18 amount greater than two hundred fifty megawatts. Where two or more  
19 such plants are located within the same geographic site, each plant  
20 shall be considered a major public energy project. An addition to an  
21 existing facility is not deemed to be a major energy project unless the  
22 addition itself is capable, or intended to be capable, of generating  
23 electricity in an amount greater than two hundred fifty megawatts. A  
24 project which is under construction on July 1, 1982, shall not be  
25 considered a major public energy project unless the official agency  
26 budget or estimate for total construction costs for the project as of  
27 July 1, 1982, is more than two hundred percent of the first official  
28 estimate of total construction costs as specified in the senate energy  
29 and utilities committee WPPSS inquiry report, volume one, January 12,  
30 1981, and unless, as of July 1, 1982, the projected remaining cost of  
31 construction for that project exceeds two hundred million dollars.

32       (3) "Public energy project" means a plant or installation capable,  
33 or intended to be capable, of generating electricity including a major  
34 public energy project.

35       (4) "Cost of construction" means the total cost of planning and  
36 building a (~~major~~) public energy project and placing it into  
37 operation, including, but not limited to, planning cost, direct  
38 construction cost, licensing cost, cost of fuel inventory for the first

1 year's operation, interest, and all other costs incurred prior to the  
2 first day of full operation, whether or not incurred prior to July 1,  
3 1982.

4 ~~((+4))~~ (5) "Cost of acquisition" means the total cost of acquiring  
5 a ~~((major))~~ public energy project from another party, including, but  
6 not limited to, principal and interest costs.

7 ~~((+5))~~ (6) "Bond" means a revenue bond, a general obligation bond,  
8 or any other indebtedness issued by a public agency or its assignee.

9 ~~((+6))~~ (7) "Applicant" means a public agency, or the assignee of  
10 a public agency, requesting the secretary of state to conduct an  
11 election pursuant to this chapter.

12 ~~((+7))~~ (8) "Cost-effective" means that a project or resource is  
13 forecast:

14 (a) To be reliable and available within the time it is needed; and

15 (b) To meet or reduce the electric power demand of the intended  
16 consumers at an estimated incremental system cost no greater than that  
17 of the least-cost similarly reliable and available alternative project  
18 or resource, or any combination thereof.

19 ~~((+8))~~ (9) "System cost" means an estimate of all direct costs of  
20 a project or resource over its effective life, including, if  
21 applicable, the costs of distribution to the consumer, and, among other  
22 factors, waste disposal costs, end-of-cycle costs, and fuel costs  
23 (including projected increases), and such quantifiable environmental  
24 costs and benefits as are directly attributable to the project or  
25 resource.

26 **Sec. 3.** RCW 80.52.040 and 1981 2nd ex.s. c 6 s 4 are each amended  
27 to read as follows:

28 No public agency or assignee of a public agency may issue or sell  
29 bonds to finance the cost of construction or the cost of acquisition of  
30 (1) A major public energy project, or any portion thereof; or (2) a  
31 public energy project to be acquired or developed pursuant to RCW  
32 54.44.020, unless it has first obtained authority for the expenditure  
33 of the funds to be raised by the sale of such bonds for that project at  
34 an election conducted in the manner provided in this chapter.

35 **Sec. 4.** RCW 80.52.050 and 1982 c 88 s 1 are each amended to read  
36 as follows:

1 The election required under RCW 80.52.040 shall be conducted in the  
2 manner provided in this section.

3 (1)(a) If the applicant is a public utility district, joint  
4 operating agency, city, or county, the election shall be among the  
5 voters of the public utility district, city, or county, or among the  
6 voters of the local governmental entities comprising the membership of  
7 the joint operating agency.

8 (b) If the applicant is any public agency other than those  
9 described in subsection (1)(a) of this section, or is an assignee of a  
10 joint operating agency and not itself a joint operating agency, the  
11 election shall be conducted state-wide in the manner provided in Title  
12 29 RCW for state-wide elections.

13 (2) The election shall be held at the next state-wide general  
14 election occurring more than ninety days after submission of a request  
15 by an applicant to the secretary of state unless a special election is  
16 requested by the applicant as provided in this section.

17 (3) If no state-wide election can be held under subsection (2) of  
18 this section within one hundred twenty days of the submission to the  
19 secretary of state of a request by an applicant for financing authority  
20 under this chapter, the applicant may request that a special election  
21 be held if such election is necessary to avoid significant delay in  
22 construction or acquisition of the energy project. Within ten days of  
23 receipt of such a request for a special election, the secretary of  
24 state shall designate a date for the election pursuant to RCW 29.13.010  
25 and certify the date to the county auditor of each county in which an  
26 election is to be held under this section.

27 (4) Prior to an election under this section, the applicant shall  
28 submit to the secretary of state a cost-effectiveness study, prepared  
29 by an independent consultant approved by the state finance committee,  
30 pertaining to the (~~major~~) public energy project under consideration.  
31 The study shall be available for public review and comment for thirty  
32 days. At the end of the thirty-day period, the applicant shall prepare  
33 a final draft of the study which includes the public comment, if any.

34 (5) The secretary of state shall certify the ballot issue for the  
35 election to be held under this section to the county auditor of each  
36 county in which an election is to be held. The certification shall  
37 include the statement of the proposition as provided in RCW 80.52.060.  
38 The costs of the election shall be relieved by the applicant in the  
39 manner provided by RCW 29.13.045. In addition, the applicant shall

1 reimburse the secretary of state for the applicant's share of the costs  
2 related to the preparation and distribution of the voters' pamphlet  
3 required by subsection (6) of this section and such other costs as are  
4 attributable to any election held pursuant to this section.

5 (6) Prior to an election under this section, the secretary of state  
6 shall provide an opportunity for supporters and opponents of the  
7 requested financing authority to present their respective views in a  
8 voters' pamphlet which shall be distributed to the voters of the local  
9 governmental entities participating in the election. Upon submission  
10 of an applicant's request for an election pursuant to this section, the  
11 applicant shall provide the secretary of state with the following  
12 information regarding each ((major)) public energy project for which  
13 the applicant seeks financing authority at such election, which  
14 information shall be included in the voters' pamphlet:

15 (a) The name, location, and type of ((major)) public energy  
16 project, expressed in common terms;

17 (b) The dollar amount and type of bonds being requested;

18 (c) If the bond issuance is intended to finance the acquisition of  
19 all or a portion of the project, the anticipated total cost of the  
20 acquisition of the project;

21 (d) If the bond issuance is intended to finance the planning or  
22 construction of all or a portion of the project, the anticipated total  
23 cost of construction of the project;

24 (e) The projected average rate increase for consumers of the  
25 electricity to be generated by the project. The rate increase shall be  
26 that which will be necessary to repay the total indebtedness incurred  
27 for the project, including estimated interest;

28 (f) A summary of the final cost-effectiveness study conducted under  
29 subsection (4) of this section;

30 (g) The anticipated functional life of the project;

31 (h) The anticipated decommissioning costs of the project; and

32 (i) If a special election is requested by the applicant, the  
33 reasons for requesting a special election.

34 **Sec. 5.** RCW 80.52.060 and 1981 2nd ex.s. c 6 s 6 are each amended  
35 to read as follows:

36 The proposition for each ((major)) public energy project listed  
37 upon a ballot pursuant to this chapter shall be in the form provided in  
38 this section.

1 (1) If the funds are intended to finance the planning or  
2 construction of all or a portion of the project, the proposition shall  
3 read substantially as follows:

4 "Shall  (name of applicant)  be authorized to spend  
5  (dollar amount of financing authority requested)  to  
6 construct the  (name of the project)   (type of  
7  project)  located at  (location) , the anticipated total  
8 construction cost of which is  (anticipated cost of  
9  construction) ?"

10 (2) If the financing authority is intended to finance the  
11 acquisition of all or a portion of the project from another party, the  
12 proposition shall read substantially as follows:

13 "Shall  (name of applicant)  be authorized to spend  
14  (dollar amount of financing authority requested)  to  
15 acquire the  (name of project)   (type of project)   
16 located at  (location) , the anticipated total acquisition  
17 cost of which is  (anticipated cost of acquisition) ?"

18 NEW SECTION. **Sec. 6.** RCW 80.52.020 is decodified.

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