

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1975

Chapter 230, Laws of 1997

(partial veto)

55th Legislature
1997 Regular Session

COAL-FIRED THERMAL ELECTRICAL FACILITIES--PUBLIC USE AND OWNERSHIP

EFFECTIVE DATE: 7/27/97

Passed by the House March 11, 1997
Yeas 97 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate April 11, 1997
Yeas 43 Nays 0

BRAD OWEN
President of the Senate

Approved April 26, 1997, with the
exception of section 3, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1975** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 26, 1997 - 11:09 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1975

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives DeBolt, Morris, Benson and Sullivan)

Read first time 02/27/97.

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 use or 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 or provide for the use of a like
26 percentage of the electrical transmission or output of the facility.
27 Cities may enter into agreements under this subsection with each other,
28 with regulated utilities, with rural electric cooperatives, with
29 utility districts, with electric companies subject to the jurisdiction
30 of the regulatory commission of any other state, and with any power
31 marketer subject to the jurisdiction of the federal energy regulatory
32 commission.

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

1 of determining and allocating operation and maintenance expenses of a
2 common facility.

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

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

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

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

33 ~~((In addition to the powers heretofore conferred upon))~~ (1) Except
34 as provided in subsection (2) of this section, cities of the first
35 class, public utility districts organized under chapter 54.08 RCW, and
36 joint operating agencies organized under chapter 43.52 RCW, any such
37 cities and public utility districts which operate electric generating
38 facilities or distribution systems and any joint operating agency shall

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

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

38 (3) Each participant shall defray its own interest and other
39 payments required to be made or deposited in connection with any

1 financing undertaken by it to pay its percentage of the money furnished
2 or value of property supplied by it for the planning, acquisition and
3 construction of any common facility, or any additions or betterments
4 thereto. The agreement shall provide a uniform method of determining
5 and allocating operation and maintenance expenses of the common
6 facility.

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

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

20 *Sec. 3 was vetoed. See message at end of chapter.

Passed the House March 11, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 26, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 26, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 3,
3 Substitute House Bill No. 1975 entitled:

4 "AN ACT Relating to the ownership of coal-fired thermal electric
5 generating facilities placed in operation before July 1, 1975;"

6 This legislation provides the Centralia Steam Plant the ability to
7 include a broader array of electric generating or transmitting entities
8 within its partnership. This increased flexibility will help ensure
9 that the plant will continue to operate into the future.

10 This legislation includes an emergency clause in section 3.
11 Although this bill is important, it is not a matter for the immediate
12 preservation of the public peace, health or safety, or support of the
13 state government and its existing public institutions.

14 For this reason, I have vetoed section 3 of Substitute House Bill
15 No. 1975.

1 With the exception of section 3, Substitute House Bill No. 1975 is
2 approved."