

ESHB 2925 - S AMD 274

By Senators McDermott, Morton

ADOPTED 03/05/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 35.21.420 and 1965 c 7 s 35.21.420 are each amended
4 to read as follows:

5 (1) Any city owning and operating a public utility and having
6 facilities for the generation of electricity located in a county other
7 than that in which the city is located, may provide for the public
8 peace, health, safety and welfare of such county as concerns the
9 facilities and the personnel employed in connection therewith, by
10 contributing to the support of the county government of any such county
11 and enter into contracts with any such county therefor.

12 (2)(a) Any city with a population greater than five hundred
13 thousand people owning and operating a public utility and having
14 facilities for the generation of electricity located in a county other
15 than that in which the city is located, must provide for the impacts of
16 lost revenue and the public peace, health, safety, and welfare of such
17 county as concerns the facilities and the personnel employed in
18 connection therewith, by contributing to the support of the county,
19 city, or town government and school district of any such county and
20 enter into contracts with any such county therefor as specified in RCW
21 35.21.425.

22 (b)(i) In the event a contract entered into under this section
23 between a county and the governing body of a city with a population
24 greater than five hundred thousand people authorized or required under
25 this section expires prior to the adoption of a new contract between
26 the parties, the city must continue to make compensatory payments
27 calculated based on the payment terms set forth in the most recent
28 expired compensation contract between the city and the county until
29 such time as a new contract is entered into by the parties.

1 (ii) In the event a contract entered into under this section
2 between a county and the governing body of a city with a population
3 greater than five hundred thousand people expired prior to the
4 effective date of this act, the city shall be indebted to the county
5 for any resulting arrearage accruing from the time of the expiration of
6 the contract until such time as a new contract is entered into by the
7 parties. The dollar amount of such arrearage shall be calculated
8 retroactively by reference to the payment terms set forth in the most
9 recent expired compensation contract between the city and the county.

10 (c) In the event a contract entered into under this section between
11 a county and the governing body of a city with a population greater
12 than five hundred thousand people expires, or has expired prior to the
13 effective date of this section and the county and the city are unable
14 to reach agreement on a new contract within six months of such
15 expiration, then either the county or the city may initiate the
16 arbitration procedures set forth in RCW 35.21.426 by serving a written
17 notice of intent to arbitrate on the other. Arbitration must commence
18 within sixty days of service of such notice, and must follow the
19 arbitration procedures as provided in RCW 35.21.426. The city is
20 responsible for the costs of arbitration, including compensation for
21 the arbitrators' services, except that the city and the county shall
22 bear their own costs for attorneys' fees and their own costs of
23 litigation.

24 **Sec. 2.** RCW 35.21.425 and 1965 c 7 s 35.21.425 are each amended to
25 read as follows:

26 (1) Except as provided in subsection (2) of this section, whenever
27 after March 17, 1955, any city shall construct hydroelectric generating
28 facilities or acquire land for the purpose of constructing the same in
29 a county other than the county in which such city is located, and by
30 reason of such construction or acquisition shall (1) cause loss of
31 revenue and/or place a financial burden in providing for the public
32 peace, health, safety, welfare, and added road maintenance in such
33 county, in addition to road construction or relocation as set forth in
34 RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or
35 increase the financial burden of any school district affected by the
36 construction because of an increase in the number of pupils by reason
37 of the construction or the operation of said generating facilities, the

1 city shall enter into an agreement with said county and/or the
2 particular school district or districts affected for the payment of
3 moneys to recompense such losses or to provide for such increased
4 financial burden, upon such terms and conditions as may be mutually
5 agreeable to the city and the county and/or school district or
6 districts.

7 (2)(a) Whenever after March 17, 1955, a municipal owned utility
8 located in a city with a population greater than five hundred thousand
9 people constructs or operates hydroelectric generating facilities or
10 acquires land for the purpose of constructing or operating the same in
11 a county other than the county in which the city is located must enter
12 into an agreement with the county affected for the annual payment of
13 moneys to recompense such losses, as provided under subsection (1) of
14 this section.

15 (b)(i) In the event an agreement entered into under this section
16 between a county and the governing body of either a city with a
17 population greater than five hundred thousand people or a municipal
18 utility owned by a city with a population greater than five hundred
19 thousand people expires prior to the adoption of a new agreement
20 between the parties, the city or utility must continue to make
21 compensatory payments calculated based on the payment terms set forth
22 in the most recent expired compensation contract between the city and
23 the county until such time as a new agreement is entered into by the
24 parties.

25 (ii) In the event an agreement entered into under this section
26 between a county and the governing body of either a city with a
27 population greater than five hundred thousand people or a municipal
28 utility owned by a city with a population greater than five hundred
29 thousand people expired prior to the effective date of this act, the
30 city shall be indebted to the county for any resulting arrearage
31 accruing from the time of the expiration of the agreement until such
32 time as a new agreement is entered into by the parties. The dollar
33 amount of such arrearage shall be calculated retroactively by reference
34 to the payment terms set forth in the most recent expired compensation
35 agreement between the city and the county.

36 (c) In the event an agreement entered into under this section
37 between a county and the governing body of either a city with a
38 population greater than five hundred thousand people or a municipal

1 utility owned by a city with a population greater than five hundred
2 thousand people expires, or has expired prior to the effective date of
3 this section, and the county and the city are unable to reach agreement
4 on a new agreement within six months of such expiration, then either
5 the county or the city may initiate the arbitration procedures set
6 forth in RCW 35.21.426 by serving a written notice of intent to
7 arbitrate on the other. Arbitration must commence within sixty days of
8 service of such notice, and must follow the arbitration procedures as
9 provided in RCW 35.21.426. The city is responsible for the costs of
10 arbitration, including compensation for the arbitrators' services, and
11 the city and the county shall bear their own costs for attorneys' fees
12 and their own costs of litigation.

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

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17 On page 1, line 2 of the title, after "facility;" strike the
18 remainder of the title and insert "amending RCW 35.21.420 and
19 35.21.425; and declaring an emergency."

EFFECT: Changes the requirement that the city must continue to
make compensatory payments to the affected county to be that the city
must continue to make compensatory payments calculated based on the
payment terms set forth in the most recent expired compensation
contract between the city and the county until such time as a new
contract is entered into by the parties.

Clarifies that either the county or the city may initiate
arbitration by serving written notice of the intent to arbitrate.

Clarifies that arbitration must commence within 60 days of service of the notice. Clarifies that the city will cover the cost of arbitration, except that the city and the county are responsible for their own attorneys' fees and their own costs of litigation.

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