

**Chapter 54.16 RCW**  
**POWERS**

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*Deferral of special assessments: Chapter 84.38 RCW.*

*Special benefit assessments—Property taxes—Exemptions: RCW 84.34.300 through 84.34.380.*

**RCW 54.16.005 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services.

(2) "Commission" means the Washington utilities and transportation commission.

(3) "District commission" means the governing board of a public utility district.

(4) "Retail telecommunications services" means the sale, lease, license, or indivisible right of use of telecommunications services or telecommunications facilities directly to end users.

(5) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(6) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

(7) "Wholesale telecommunications services" means the provision of telecommunications services or telecommunications facilities for resale to an entity that provides retail telecommunications services. [2021 c 294 § 1; 2000 c 81 § 2.]

**Short title—2021 c 294:** See note following RCW 54.16.330.

**Findings—2000 c 81:** See note following RCW 53.08.005.

**RCW 54.16.010 Surveys, plans, investigations, or studies.** A district may make surveys, plans, investigations or studies for generating electric energy by water power, steam, or other methods, and for systems and facilities for the generation, transmission or distribution thereof, and for domestic and industrial water supply and irrigation, and for matters and purposes reasonably incidental thereto, within or without the district, and compile comprehensive maps and plans showing the territory that can be most economically served by the various resources and utilities, the natural order in which they should be developed, and how they may be joined and coordinated to make a complete and systematic whole. [1969 c 106 § 6; 1955 c 390 § 2. Prior: 1945 c 143 § 1(a); 1931 c 1 § 6(a); Rem. Supp. 1945 § 11610(a).]

**Construction—Severability—1969 c 106:** See notes following RCW 54.08.041.

**RCW 54.16.020 Acquisition of property and rights—Eminent domain.** A district may construct, condemn and purchase, purchase, acquire, lease, add to, maintain, operate, develop, and regulate all lands, property, property rights, water, water rights, dams, ditches, flumes, aqueducts, pipes and pipe lines, water power, leases, easements, rights-of-way, franchises, plants, plant facilities, and systems for generating electric energy by water power, steam, or other methods; plants, plant facilities, and systems for developing, conserving, and distributing water for domestic use and irrigation; buildings, structures, poles and pole lines, and cables and conduits and any and all other facilities; and may exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of such property and rights, or property of

any kind appurtenant thereto, and for the purpose of acquiring the right to make physical connection with plants and plant facilities of all persons and municipalities. The right of eminent domain shall be exercised pursuant to resolution of the commission and conducted in the same manner and by the same procedure as is provided for the exercise of that power by cities and towns of the state in the acquisition of like property and property rights. It shall be no defense to a condemnation proceeding that a portion of the electric current generated or sold by the district will be applied to private purposes, if the principal uses intended are public: PROVIDED, That no public utility owned by a city or town shall be condemned, and none shall be purchased without submission of the question to the voters of the utility district. In a condemnation proceeding, the court shall submit to the jury the values placed upon the property by the taxing authority for taxation purposes, and in respect to property, plants, and facilities of persons using public highways for furnishing public service without franchises, shall consider in determining the value thereof the fact that the property, plants, and facilities are subject to be removed from the highways by reason of being so operated without a franchise. [1955 c 390 § 3. Prior: 1945 c 143 § 1(b); 1931 c 1 § 6(b); Rem. Supp. 1945 § 11610(b).]

*Eminent domain: State Constitution Art. 1 § 16 (Amendment 9).*

*Eminent domain by cities: Chapter 8.12 RCW.*

**RCW 54.16.030 Water and irrigation works.** A district may construct, purchase, condemn and purchase, acquire, add to, maintain, conduct, and operate waterworks and irrigation plants and systems, within or without its limits, for the purpose of furnishing the district, and the inhabitants thereof, and of the county in which the district is located, and any other persons including public and private corporations within or without the limits of the district or the county, with an ample supply of water for all purposes, public and private, including water power, domestic use, and irrigation, with full and exclusive authority to sell and regulate and control the use, distribution, and price thereof. [1999 c 154 § 1; 1998 c 49 § 1; 1955 c 390 § 4. Prior: 1945 c 143 § 1(c); 1931 c 1 § 6(c); Rem. Supp. 1945 § 11610(c).]

**RCW 54.16.032 Authority to assist customers in the acquisition of water conservation equipment—Limitations.** Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the district if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the district to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform

the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life-cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed two hundred forty months in length. [2009 c 416 § 2; 1989 c 421 § 4.]

**Intent—Contingent effective date—1989 c 421:** See notes following RCW 35.92.017.

**RCW 54.16.035 Provision of water service beyond district subject to review by boundary review board.** The provision of water service beyond the boundaries of a public utility district may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 § 48.]

**RCW 54.16.040 Electric energy.** A district may purchase, within or without its limits, electric current for sale and distribution within or without its limits, and construct, condemn and purchase, purchase, acquire, add to, maintain, conduct, and operate works, plants, transmission and distribution lines and facilities for generating electric current, operated either by water power, steam, or other methods, within or without its limits, for the purpose of furnishing the district, and the inhabitants thereof and any other persons, including public and private corporations, within or without its limits, with electric current for all uses, with full and exclusive authority to sell and regulate and control the use, distribution, rates, service, charges, and price thereof, free from the jurisdiction and control of the utilities and transportation commission, in all things, together with the right to purchase, handle, sell, or lease motors, lamps, transformers and all other kinds of equipment and accessories necessary and convenient for the use, distribution, and sale thereof: PROVIDED, That the commission shall not supply water to a privately owned utility for the production of electric energy, but may supply, directly or indirectly, to an instrumentality of the United States government or any publicly or privately owned public utilities which sell electric energy or water

to the public, any amount of electric energy or water under its control, and contracts therefor shall extend over such period of years and contain such terms and conditions for the sale thereof as the commission of the district shall elect; such contract shall only be made pursuant to a resolution of the commission authorizing such contract, which resolution shall be introduced at a meeting of the commission at least ten days prior to the date of the adoption of the resolution: PROVIDED FURTHER, That it shall first make adequate provision for the needs of the district, both actual and prospective. [1955 c 390 § 5. Prior: 1945 c 143 § 1(d); 1931 c 1 § 6(d); Rem. Supp. 1945 § 11610(d).]

*Joint operating agency: RCW 43.52.360.*

*Reduced utility rates for low-income senior citizens and other low-income citizens: RCW 74.38.070.*

*Right of city or town to acquire electrical distribution property from P.U.D.: RCW 35.92.054.*

**RCW 54.16.050 Water rights.** A district may take, condemn and purchase, purchase and acquire any public and private property, franchises and property rights, including state, county, and school lands, and property and littoral and water rights, for any of the purposes aforesaid, and for railroads, tunnels, pipe lines, aqueducts, transmission lines, and all other facilities necessary or convenient, and, in connection with the construction, maintenance, or operation of any such utilities, may acquire by purchase or condemnation and purchase the right to divert, take, retain, and impound and use water from or in any lake or watercourse, public or private, navigable or nonnavigable, or held, owned, or used by the state, or any subdivision thereof, or by any person for any public or private use, or any underflowing water within the state; and the district may erect, within or without its limits, dams or other works across any river or watercourse, or across or at the outlet of any lake, up to and above high water mark; and, for the purpose of constructing or laying aqueducts or pipelines, dams, or waterworks or other necessary structures in storing, retaining, and distributing water, or for any other purpose authorized hereunder, the district may occupy and use the beds and shores up to the high water mark of any such lake, river, or watercourse, and acquire by purchase or by condemnation and purchase, or otherwise, any water, water rights, easements, or privileges named herein or necessary for any of such purposes, and a district may acquire by purchase, or condemnation and purchase, or otherwise, any lands, property, or privileges necessary to protect the water supply of the district from pollution: PROVIDED, That should private property be necessary for any of its purposes, or for storing water above high water mark, the district may condemn and purchase, or purchase and acquire such private property. [1955 c 390 § 6. Prior: 1945 c 143 § 1(e), part; 1931 c 1 § 6(e), part; Rem. Supp. 1945 § 11610(e), part.]

*Water rights: Title 90 RCW.*

**RCW 54.16.060 Intertie lines.** A district may build and maintain intertie lines connecting its power plant and distribution system with the power plant and distribution system owned by any other public utility district, or municipal corporation, or connect with the power plants and distribution systems owned by any municipal corporation in the district, and from any such intertie line, sell electric energy to any person, public utility district, city, town or other corporation, public or private, and, by means of transmission or pole lines, conduct electric energy from the place of production to the point of distribution, and construct and lay aqueducts, pipe or pole lines, and transmission lines along and upon public highways, roads, and streets, and condemn and purchase, purchase or acquire, lands, franchises, and rights-of-way necessary therefor. [1955 c 390 § 7. Prior: 1945 c 143 § 1(e), part; 1931 c 1 § 6(e), part; Rem. Supp. 1945 § 11610(e), part.]

**RCW 54.16.070 District may borrow money, contract indebtedness, issue bonds or obligations—Guaranty fund.** (1) A district may contract indebtedness or borrow money for any corporate purpose on its credit or on the revenues of its public utilities, and to evidence such indebtedness may issue general obligation bonds or revenue obligations; may issue and sell local utility district bonds of districts created by the commission, and may purchase with surplus funds such local utility district bonds, and may create a guaranty fund to insure prompt payment of all local utility district bonds. The general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW. A district is authorized to establish lines of credit or make other prearranged agreements, or both, to borrow money with any financial institution.

(2) Notwithstanding subsection (1) of this section, such revenue obligations and local utility district bonds may be issued and sold in accordance with chapter 39.46 RCW. [1991 c 74 § 1; 1984 c 186 § 44; 1983 c 167 § 144; 1959 c 218 § 1; 1955 c 390 § 8. Prior: 1945 c 143 § 1(f); 1931 c 1 § 6(f); Rem. Supp. 1945 § 11610(f).]

**Purpose—1984 c 186:** See note following RCW 39.46.110.

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

**RCW 54.16.080 Levy and collection of taxes—Tax anticipation warrants.** A district may raise revenue by the levy of an annual tax on all taxable property within the district, not exceeding forty-five cents per thousand dollars of assessed value in any one year, exclusive of interest and redemption for general obligation bonds. The commission shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file it in its records, on or before the first Monday in September. Notice of the filing of the proposed budget and the date and place of hearing thereon shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in the county. On the first Monday in October, the commission shall hold a public hearing on the proposed budget at which any taxpayer may appear and be heard against the whole or any part thereof. Upon the conclusion of the

hearing, the commission shall, by resolution, adopt the budget as finally determined, and fix the final amount of expenditures for the ensuing year. Taxes levied by the commission shall be certified to and collected by the proper officer of the county in which the district is located in the same manner as provided for the certification and collection of port district taxes. The commission may, prior to the receipt of taxes raised by levy, borrow money or issue warrants of the district in anticipation of the revenue to be derived from the levy or taxes for district purposes, and the warrants shall be redeemed from the first money available from such taxes. The warrants shall not exceed the anticipated revenue of one year, and shall bear interest at a rate determined by the commission. [1981 c 156 § 18; 1973 1st ex.s. c 195 § 60; 1955 c 390 § 9. Prior: 1945 c 143 § 1(g); 1931 c 1 § 6(g); Rem. Supp. 1945 § 11610(g).]

**Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195:** See notes following RCW 84.52.043.

*Application of one percentum levy limitation to public utility district: State Constitution Art. 7 § 2 and RCW 84.52.050.*

*Collection of taxes by port districts: RCW 53.36.020.*

**RCW 54.16.083 Community revitalization financing—Public improvements.** In addition to other authority that a public utility district possesses, a public utility district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a public utility district to otherwise participate in the public improvements if that authority exists elsewhere. [2001 c 212 § 19.]

**RCW 54.16.085 Interfund loans.** A public utility district may make and repay interfund loans between its funds. [1987 c 18 § 2.]

**RCW 54.16.090 Contracts with other agencies or utilities—Gifts, etc.—Employees and experts—Advancements.** A district may enter into any contract or agreement with the United States, or any state, municipality, or other utility district, or any department of those entities, or with any cooperative, mutual, consumer-owned utility, or with any investor-owned utility or with an association of any of such utilities, for carrying out any of the powers authorized by this title.

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

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

It may advance funds, jointly fund or jointly advance funds for surveys, plans, investigations, or studies as set forth in RCW 54.16.010, including costs of investigations, design and licensing of properties and rights of the type described in RCW 54.16.020, including the cost of technical and professional assistance, and for the advertising and promotion of the sale and distribution of electricity or water. [1969 c 106 § 7; 1955 c 390 § 10. Prior: 1945 c 143 § 1(h), (i), (j), part; 1931 c 1 § 6(h), (i), (j), part; Rem. Supp. 1945 § 11610(h), (i), (j), part.]

**Construction—Severability—1969 c 106:** See notes following RCW 54.08.041.

**RCW 54.16.092 Employment interview expenses.** When a district commission finds that a vacancy for a technical or managerial position requires special qualifications or entails responsibilities and duties of such a nature that substantial benefits will accrue to the district from personal interviews of candidates for such a vacancy to be held in the district, the district commission, by resolution adopted at a regular meeting, may authorize the payment of actual necessary travel and living expenses of such candidates incurred while in travel status. [1975 1st ex.s. c 140 § 1.]

*Special purpose districts, expenditures to recruit job candidates: RCW 42.24.170.*

**RCW 54.16.095 Liability insurance for officials and employees.** The board of commissioners of each public utility district may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1973 c 125 § 5.]

**RCW 54.16.097 Actions against officer, employee, or agent—Defense and costs provided by public utility district—Exception.** Whenever any action, claim, or proceeding is instituted against any person who is or was an officer, employee, or agent of a public utility district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit, or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds: PROVIDED, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district. [2010 c 8 § 17007; 1975 c 60 § 2.]

**RCW 54.16.100 Manager—Appointment—Compensation—Duties.** The commission, by resolution introduced at a regular meeting and adopted at a subsequent regular meeting, shall appoint and may remove at will a district manager, and shall, by resolution, fix his or her compensation.

The manager shall be the chief administrative officer of the district, in control of all administrative functions and shall be responsible to the commission for the efficient administration of the affairs of the district placed in his or her charge. The manager shall be an experienced executive with administrative ability. In the absence or temporary disability of the manager, the manager shall, with the approval of the president of the commission, designate some competent person as acting manager.

The manager may attend all meetings of the commission and its committees, and take part in the discussion of any matters pertaining to the duties of his or her department, but shall have no vote.

The manager shall carry out the orders of the commission, and see that the laws pertaining to matters within the functions of his or her department are enforced; keep the commission fully advised as to the financial condition and needs of the districts; prepare an annual estimate for the ensuing fiscal year of the probable expenses of the department, and recommend to the commission what development work should be undertaken, and what extensions and additions, if any, should be made during the ensuing fiscal year, with an estimate of the costs of the development work, extensions, and additions; certify to the commission all bills, allowances, and payrolls, including claims due contractors of public works; recommend to the commission compensation of the employees of his or her office, and a scale of compensation to be paid for the different classes of service required by the district; hire and discharge employees under his or her direction; and perform such other duties as may be imposed upon the manager by resolution of the commission. It is unlawful for the manager to make any contribution of money in aid of or in opposition to the election of any candidate for public utility commissioner or to advocate or oppose any such election. [1990 c 16 § 1; 1955 c 390 § 11. Prior: 1945 c 143 § 1(j), part; 1931 c 1 § 6(j), part; Rem. Supp. 1945 § 11610(j), part.]

**RCW 54.16.110 May sue and be sued—Claims.** A district may sue in any court of competent jurisdiction, and may be sued in the county in which its principal office is located or in which it owns or operates facilities. No suit for damages shall be maintained against a district except on a claim filed with the district complying in all respects with the terms and requirements for claims for damages set forth in chapter 4.96 RCW. [1993 c 449 § 11; 1979 ex.s. c 240 § 3; 1955 c 390 § 12. Prior: 1945 c 143 § 1(k); 1931 c 1 § 6(k); Rem. Supp. 1945 § 11610(k).]

**Purpose—Severability—1993 c 449:** See notes following RCW 4.96.010.

*Claims against cities of the second class: RCW 35.31.040.*

**RCW 54.16.120 Local utility districts authorized.** A district may, by resolution, establish and define the boundaries of local assessment districts to be known as local utility district No. . . . ., for distribution, under the general supervision and control of the commission, of water for all purposes, public and private, including domestic use, irrigation, and electric energy, and for providing street lighting, or any of them, and in like manner provide for the purchasing, or otherwise acquiring, or constructing and equipping and maintaining and operating distribution systems for such purposes, and for extensions and betterments thereof, and may levy and collect in accordance with the special benefits conferred thereon, special assessments and reassessments on property specially benefited thereby, for paying the cost and expense thereof, or any portions thereof, as herein provided, and issue local improvement bonds or warrants or both to be repaid wholly or in part by collection of local improvement assessments. A district also may form local utility districts located entirely or in part outside its limits or the limits of the county in which the district is located to provide water, or sewer facilities if otherwise authorized under this title. [1999 c 154 § 2; 1975 c 46 § 1; 1955 c 390 § 13. Prior: 1951 c 209 § 1; 1945 c 143 § 1(1), part; 1931 c 1 § 6(1), part; Rem. Supp. 1945 § 11610(1), part.]

*Assessments and charges against state lands: Chapter 79.44 RCW.*

*Local improvements, supplemental authority: Chapter 35.51 RCW.*

**RCW 54.16.130 Local districts—Procedure—Financing.** The commission shall by resolution establish the method of procedure in all matters relating to local utility districts. A public utility district may determine by resolution what work shall be done or improvements made at the expense, in whole or in part, of the property specially benefited thereby; and adopt and provide the manner, machinery and proceedings in any way relating to the making and collecting of assessments therefor in pursuance thereof. Except as herein otherwise provided or as may hereafter be set forth by resolution, all matters and proceedings relating to the local utility district, the levying and collection of assessments, the issuance and redemption of local improvement warrants and bonds, and the enforcement of local assessment liens hereunder, shall be governed, as nearly as may be, by the laws relating to local improvements for cities and towns: PROVIDED, That no protest against a local utility district improvement shall be received after twelve o'clock noon of the day set for hearing. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered warrants or registered bonds as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW.

The commission may determine to finance the project by bonds or warrants secured by assessments against the property within the local utility district: Or it may finance the project by revenue bonds, in which case no bonds or warrants shall be issued by the local utility district, but assessments shall be levied upon the taxable property therein on the basis of special benefits up to, but not exceeding the total cost of the improvement and in such cases the entire principal and interest of such assessments shall be paid into a revenue bond

fund of the district, to be used for the sole purpose of the payment of revenue bonds. [1983 c 167 § 145; 1955 c 390 § 14. Prior: 1951 c 209 § 2; 1945 c 143 § 1(1), part; 1931 c 1 § 6(1), part; Rem. Supp. 1945 § 11610(1), part.]

**Liberal construction—Severability—1983 c 167:** See RCW 39.46.010 and note following.

*Local improvement*

*first-class cities: Chapters 35.43 through 35.56 RCW.  
guaranty fund: RCW 54.24.200 through 54.24.260.*

**RCW 54.16.140 Petition or resolution for local district—Hearing—Notice.** Any such improvement shall be ordered by resolution of the commission either upon petition or resolution therefor. When a petition, signed by ten percent of the owners of land in the district to be therein described, is filed with the commission, asking that the plan or improvement therein set forth be adopted and ordered, and defining the boundaries of a local improvement district to be assessed in whole or in part to pay the cost thereof, the commission shall fix the date of hearing thereon, and give not less than two weeks notice thereof by publication. The commission may deny the petition or order the improvement, unless a majority of the owners of lands in the district file prior to twelve o'clock noon of the day of the hearing, with the secretary a petition protesting against the improvement. If the commission orders the improvement, it may alter the boundaries of the proposed local district and prepare and adopt detail plans of the local improvement, declare the estimated cost thereof, what proportion thereof shall be borne by the local improvement district, and what proportion, if any shall be borne by the entire public utility district. [1955 c 390 § 15. Prior: 1945 c 143 § 1(1), part; 1931 c 1 § 6(1), part; Rem. Supp. 1945 § 11610(1), part.]

**RCW 54.16.142 Local utility districts—Notice must contain statement that assessments may vary from estimates.** Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local utility district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property. [1989 c 243 § 9.]

**RCW 54.16.145 Local utility districts—Sanitary sewer or potable water facilities—Notice to certain property owners.** Whenever it is proposed that a local utility district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed local utility district shall be mailed to the owners of any property located outside of the proposed local utility district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local utility district. The notice shall include information about this restriction. [1987 c 315 § 4.]

**RCW 54.16.150 Procedure when petition is signed by majority of landowners.** When a petition signed by a majority of the landowners in a proposed local improvement district is filed with the commission, asking that the improvement therein described be ordered, the commission shall forthwith fix a date for hearing thereon after which it shall, by resolution, order the improvement, and may alter the boundaries of the proposed district; prepare and adopt the improvement; prepare and adopt detail plans thereof; declare the estimated cost thereof, what proportion of the cost shall be borne by the local district, and what proportion, if any, shall be borne by the entire public utility district, and provide the general funds thereof to be applied thereto, if any; acquire all lands and other properties therefor; pay all damages caused thereby; and commence in the name of the public utility district such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards necessary to entitle the district to proceed with the work, and shall thereafter proceed with the work, and shall file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property in the local improvement district in proportion to the special benefits to be derived by the property in the local district from the improvement: PROVIDED, HOWEVER, No such improvement shall be ordered unless the same appears to the commission to be financially and economically feasible: AND PROVIDED FURTHER, That the commission may require as a condition to ordering such improvement or to making its determination as to the financial and economic feasibility, that all or a portion of such engineering, legal, or other costs incurred or to be incurred by the commission in determining financial and economic feasibility shall be borne or guaranteed by the petitioners of the proposed local improvement district under such rules as the commission may adopt. No person shall withdraw his or her name from the petition after the same has been filed with the commission. [2010 c 8 § 17008; 1959 c 142 § 3; 1955 c 390 § 16. Prior: 1945 c 143 § 1(1), part; 1931 c 1 § 6(1), part; Rem. Supp. 1945 § 11610(1), part.]

**RCW 54.16.160 Assessment roll—Hearing—Appellate review—Expenses.** Before approval of the roll, a notice shall be published once each week for two successive weeks in a newspaper of general circulation in the county, stating that the roll is on file and open to inspection in the office of the secretary, and fixing a time not less than fifteen nor more than thirty days from the date of the first publication of the notice, within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing shall be held by the commission on the protests. After the hearing the commission may alter any and all assessments shown on the roll and may, by resolution, approve it, but if an assessment is raised, a new notice, similar to the first, shall be given, and a hearing had thereon, after which final approval of the roll may be made. Any person aggrieved by the assessments shall perfect an appeal to the superior court of the county within ten days after the approval, in the manner provided for appeals from assessments levied by cities of the first class. In the event such an appeal shall be taken, the judgment of the court shall confirm the assessment insofar as it affects the property of the appellant unless the court shall find from the evidence that such assessment is founded upon a

fundamentally wrong basis and/or the decision of the commission thereon was arbitrary or capricious; in which event the judgment of the court shall correct, change, modify, or annul the assessment insofar as it affects the property of the appellant. In the same manner as provided with reference to cities of the first class appellate review of the judgment of the superior court may be sought, as in other cases, within fifteen days after the date of the entry of the judgment in the superior court. Engineering, office, and other expenses necessary or incident to the improvement shall be borne by the public utility district: PROVIDED, That when a municipal corporation included in the public utility district already owns or operates a utility of a character like that for which the assessments are levied hereunder, all such engineering and other expenses shall be borne by the local assessment district. [1988 c 202 § 51; 1971 c 81 § 123; 1959 c 142 § 4; 1955 c 390 § 17. Prior: 1945 c 143 § 1(1), part; 1931 c 1 § 6(1), part; Rem. Supp. 1945 c 11610(1), part.]

**Severability—1988 c 202:** See note following RCW 2.24.050.

*Procedure on appeal from assessments levied by cities of the first class: RCW 35.44.200 through 35.44.270.*

**RCW 54.16.165 Segregation of assessments.** Whenever any land against which there has been levied any special assessment by any public utility district shall have been sold in part or subdivided, the board of commissioners of such public utility district shall have the power to order a segregation of the assessment.

Any person owning any part of the land involved in a special assessment and desiring to have such special assessment against the tracts of land segregated to apply to smaller parts thereof shall apply in writing to the board of commissioners of the public utility district which levied the assessment. If the commissioners determine that a segregation should be made they shall do so as nearly as possible on the same basis as the original assessment was levied and the total of the segregated parts of the assessment shall equal the assessment before segregation.

The commission shall then send notice thereof by mail to the several owners interested in the tract, as shown on the general tax rolls. If no protest is filed within twenty days from date of mailing said notice, the commission shall then by resolution approve said segregation. If a protest is filed, the commission shall have a hearing thereon, after mailing to the several owners at least ten days notice of the time and place thereof. After the hearing, the commission may by resolution approve said segregation, with or without change. Within ten days after the approval, any person aggrieved by the segregation may perfect an appeal to the superior court of the county wherein the property is situated and thereafter seek appellate review, all as provided for appeals from assessments levied by cities of the first class. The resolution approving said segregation shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part, and shall order the county treasurer to make segregation on the original assessment roll as directed in the resolution. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make

the segregation ordered. The board of commissioners may require as a condition to the order of segregation that the person seeking it pay the public utility district the reasonable engineering and clerical costs incident to making the segregation. Unless otherwise provided in said resolution, the county treasurer shall apportion amounts paid on the original assessment in the same proportion as the segregated assessments bear to the original assessment. Upon segregation being made by the county treasurer, as aforesaid, the lien of the special assessment shall apply to the segregated parcels only to the extent of the segregated part of such assessment. [1988 c 202 § 52; 1971 c 81 § 124; 1959 c 142 § 1.]

**Severability—1988 c 202:** See note following RCW 2.24.050.

**RCW 54.16.170 Apportionment of cost of improvement.** When an improvement is ordered hereunder, payment for which shall be made in part from assessments against property specially benefited, not more than fifty percent of the cost thereof shall ever be borne by the entire public utility district, nor shall any sum be contributed by it to any improvement acquired or constructed with or by any other body, exceed such amount, unless a majority of the electors of the district consent to or ratify the making of such expenditure. [1955 c 390 § 18. Prior: 1945 c 143 § 1(1), part; 1931 c 1 § 6(1), part; Rem. Supp. 1945 § 11610(1), part.]

**RCW 54.16.180 Sale, lease, disposition of properties, equipment, and materials—Procedure—Acquisition, operation of sewage system by districts in certain counties.** (1) A district may sell and convey, lease, or otherwise dispose of all or any part of its works, plants, systems, utilities and properties, after proceedings and approval by the voters of the district, as provided for the lease or disposition of like properties and facilities owned by cities and towns. The affirmative vote of three-fifths of the voters voting at an election on the question of approval of a proposed sale shall be necessary to authorize such a sale.

(2) A district may, without the approval of the voters, sell, convey, lease, or otherwise dispose of all or any part of the property owned by it that is located:

(a) Outside its boundaries, to another public utility district, city, town or other municipal corporation; or

(b) Within or without its boundaries, which has become unserviceable, inadequate, obsolete, worn out or unfit to be used in the operations of the system and which is no longer necessary, material to, and useful in such operations, to any person or public body.

(3) A district may sell, convey, lease or otherwise dispose of items of equipment or materials to any other district, to any cooperative, mutual, consumer-owned or investor-owned utility, to any federal, state, or local government agency, to any contractor employed by the district or any other district, utility, or agency, or any customer of the district or of any other district or utility, from the district's stores without voter approval or resolution of the district's board, if such items of equipment or materials cannot practicably be obtained on a timely basis from any other source, and

the amount received by the district in consideration for any such sale, conveyance, lease, or other disposal of such items of equipment or materials is not less than the district's cost to purchase such items or the reasonable market value of equipment or materials.

(4) A district located within a county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand may sell and convey to a city of the first class, which owns its own water system, all or any part of a water system owned by the district where a portion of it is located within the boundaries of the city, without approval of the voters, upon such terms and conditions as the district shall determine.

(5) A district located in a county with a population of from twelve thousand to less than eighteen thousand and bordered by the Columbia river may, separately or in connection with the operation of a water system, or as part of a plan for acquiring or constructing and operating a water system, or in connection with the creation of another or subsidiary local utility district, provide for the acquisition or construction, additions or improvements to, or extensions of, and operation of, a sewage system within the same service area as in the judgment of the district commission is necessary or advisable to eliminate or avoid any existing or potential danger to public health due to lack of sewerage facilities or inadequacy of existing facilities.

(6) A district located within a county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand bordering on Puget Sound may sell and convey to any city or town with a population of less than ten thousand all or any part of a water system owned by the district without approval of the voters upon such terms and conditions as the district shall determine.

(7) A district located within a county with a population of from six hundred fifty thousand to less than seven hundred fifty thousand bordering on Puget Sound may sell and convey to any city or town with a population of less than sixty-five thousand which owns its own water system all or any part of a water system owned by the district without approval of the voters upon such terms and conditions as the district shall determine.

(8) A district may sell and convey, lease, or otherwise dispose of, to any person or entity without approval of the voters and upon such terms and conditions as it determines, all or any part of an electric generating project owned directly or indirectly by the district, regardless of whether the project is completed, operable, or operating, as long as:

(a) The project is or would be powered by an eligible renewable resource as defined in RCW 19.285.030; and

(b) The district, or the separate legal entity in which the district has an interest in the case of indirect ownership, has:

(i) The right to lease the project or to purchase all or any part of the energy from the project during the period in which it does not have a direct or indirect ownership interest in the project; and

(ii) An option to repurchase the project or part thereof sold, conveyed, leased, or otherwise disposed of at or below fair market value upon termination of the lease of the project or termination of the right to purchase energy from the project.

(9) Districts are municipal corporations for the purposes of this section. A commission shall be held to be the legislative body, a president and secretary shall have the same powers and perform the same duties as a mayor and city clerk, and the district resolutions

shall be held to be ordinances within the meaning of statutes governing the sale, lease, or other disposal of public utilities owned by cities and towns. [2011 c 285 § 1; 2008 c 198 § 5; 1999 c 69 § 1; 1994 c 81 § 78; 1991 c 363 § 135; 1977 ex.s. c 31 § 1; 1963 c 196 § 1; 1959 c 275 § 1; 1955 c 390 § 19. Prior: 1945 c 143 § 1(m); 1931 c 1 § 6(m); Rem. Supp. 1945 § 11610(m).]

**Finding—2008 c 198:** See note following RCW 39.34.030.

**Purpose—Captions not law—1991 c 363:** See notes following RCW 2.32.180.

**RCW 54.16.190 General resolutions.** The commission of a district may adopt general resolutions to carry out the purposes, objects, and provisions of this title. [1955 c 390 § 20. Prior: 1945 c 143 § 1(n); 1931 c 1 § 6(n); Rem. Supp. 1945 § 11610(n).]

**RCW 54.16.200 Joint exercise of powers and joint acquisition of properties.** Any two or more public utility districts organized under the provisions of the laws of this state shall have the power, by mutual agreement, to exercise jointly all powers granted to each individual district, and in the exercise of such powers shall have the right and power to acquire jointly all or any part of any electric utility properties which, at \*the time of the passage of this act, constitutes an interconnected and physically integrated electric utility system, whether entirely within or partly within and partly without such districts: PROVIDED, That any two or more districts so acting jointly, by mutual agreement, shall not acquire any electric utility distribution properties in any other public utility district without the consent of such district, and shall not exercise jointly the power to condemn any privately owned utility property or any public utility owned by a municipality, to levy taxes or, to create subdistricts. [1949 c 227 § 2; Rem. Supp. 1949 § 10459-15.]

**\*Reviser's note:** As to "the time of the passage of this act," the legislative history of chapter 227, Laws of 1949 is as follows: Passed the house March 8, 1949; passed the senate March 7, 1949; approved by the governor March 22, 1949.

*Joint operating agency: RCW 43.52.360.*

**RCW 54.16.220 Columbia river hydroelectric projects—Grant back of easements to former owners.** Notwithstanding any other provision of law, every public utility district acquiring privately owned lands, real estate or property for reservoir purposes of a hydroelectric power project dam on the Columbia river, upon acquisition of title to said lands, whether acquired by purchase or condemnation, shall grant back to the former owners of the lands acquired upon their request therefor, whether prior to conveyance of title to the district or within sixty days thereafter, a perpetual easement appurtenant to the adjoining property for such occupancy and use and improvement of the acquired lands as will not be detrimental to the operation of the hydroelectric project and not be in violation of the required conditions of the district's federal power commission license for the

project: PROVIDED, That said former owners shall not thereafter erect any structure or make any extensive physical change thereon except under a permit issued by the public utility district: PROVIDED FURTHER, That said easement shall include a provision that any shorelands thereunder shall be open to the public, and shall be subject to cancellation upon sixty days notice to the owners by the district that such lands are to be conveyed to another public agency for game or game fish purposes or public recreational use, in which event the owners shall remove any structures they may have erected thereon within a reasonable time without cost to the district. The provisions of this section shall not be applicable with respect to: (1) lands acquired from an owner who does not desire an easement for such occupancy and use; (2) lands acquired from an owner where the entire estate has been acquired; (3) lands acquired for, and reasonably necessary for, project structures (including borrow areas) or for relocation of roads, highways, railroads, other utilities or railroad industrial sites; and (4) lands heretofore acquired or disposed of by sale or lease by a public utility district for whatsoever purpose. [1965 ex.s. c 118 § 1.]

**RCW 54.16.230 Sewage system works—Acquire, construct, operate, etc.—Authorizing election—Procedure.** A public utility district may acquire, construct, operate, maintain, and add to sewage systems, subject to and in compliance with the county comprehensive plan, under the general powers of Title 54 RCW or through the formation of local utility districts as provided in RCW 54.16.120 through 54.16.170: PROVIDED, That prior to engaging in any sewage system works as authorized by this section, the voters of the public utility district shall first approve by majority vote a referendum proposition authorizing such district to exercise the powers set forth in this section, which proposition shall be presented at a general election. [1975 1st ex.s. c 57 § 1.]

**RCW 54.16.240 Sewage system works—Resolution or petition—Voter approval or rejection.** The commission of a public utility district, by resolution may, or on petition in the same manner as provided for the creation of a district under RCW 54.08.010 shall, submit to the voters for their approval or rejection the proposal that said public utility district be authorized to exercise the powers set forth in RCW 54.16.230. [1975 1st ex.s. c 57 § 2.]

**RCW 54.16.250 Sewage system works—Ballot proposition—Canvass.** The legislative authority of the county in which the public utility district is located, upon receipt of the resolution of the public utility district commission or petition as provided for in RCW 54.08.010, shall submit such proposal to the voters of the district at the next general election in substantially the following terms:

Shall Public Utility District No. . . . . of . . . . . County be authorized to acquire, construct, operate, maintain, and add to sewage systems?

Yes   
No

Within ten days after such election, the election board of the county shall canvass the returns, and if at such election a majority of voters voting on the proposition shall vote in favor of such authority, the district shall have the powers set forth in RCW 54.16.230. [1975 1st ex.s. c 57 § 3.]

**RCW 54.16.260 Sewage system works—Accounts and funding.**

Accounts and funding for any sewage system or systems shall be kept as provided in RCW 43.09.210. [1975 1st ex.s. c 57 § 4.]

**RCW 54.16.270 Sewage system works—Existing authority not affected.** Nothing contained in RCW 54.16.230 through 54.16.260 shall change or alter the present authority of certain public utility districts as regards sewage systems and as provided in RCW 54.16.180. [1975 1st ex.s. c 57 § 5.]

**RCW 54.16.280 Energy conservation plan—Financing authorized for energy conservation projects in structures or equipment—Limitations.** Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the district if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the district could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. For the purposes of this section, "conservation purposes in existing structures" may include projects to allow a district's customers to generate all or a portion of their own electricity through the on-site installation of a distributed electricity generation system that uses as its fuel solar, wind, geothermal, or hydropower, or other renewable resource that is available on-site and not from a commercial source. Such projects shall not be considered "a conversion from one energy source to another" which is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life-cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the district, each of which businesses shall have requested to be included and shall have the ability to provide the products in a

workmanlike manner and to utilize such materials in accordance with the prevailing national standard;

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation;

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner; and

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed two hundred forty months in length. [2010 1st sp.s. c 4 § 1; 2002 c 276 § 3; 1989 c 268 § 2; 1979 ex.s. c 239 § 3.]

**Findings—Intent—2002 c 276:** See note following RCW 35.92.360.

**Legislative declaration—Effective date—Contingency—1979 ex.s. c 239:** See RCW 35.92.355 and note following RCW 35.92.360.

**RCW 54.16.281 Energy conservation—Utility cool roof program—Tree planting program.** The legislature encourages any public utility district to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy including, but not limited to, materials and equipment installed as part of a utility cool roof program. The use of appropriate tree plantings for energy conservation is highly encouraged as part of these programs. It is the policy of the state of Washington that any tree planting program engaged in by a public utility district where energy reduction is a goal as part of a broader energy conservation program under this chapter should accomplish the following:

(1) Reduce the peak-load demand for electricity in residential and commercial business areas during the summer months through direct shading of buildings provided by strategically planted trees;

(2) Reduce wintertime demand for energy in residential areas by blocking cold winds from reaching homes, which lowers interior temperatures and drives heating demand;

(3) Protect public health by removing harmful pollution from the air and prioritize in communities with environmental health disparities;

(4) Utilize the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide;

(5) Lower electric bills for residential and commercial business ratepayers by limiting electricity consumption without reducing benefits;

(6) Relieve financial and demand pressure on the utility that stems from large peak-load electricity demand;

(7) Protect water quality and public health by reducing and cooling stormwater runoff and keeping harmful pollutants from entering waterways, with special attention given to waterways vital for the preservation of threatened and endangered salmon;

(8) Ensure that trees are planted in locations that limit the amount of public funding needed to maintain public and electric infrastructure;

(9) Measure program performance in terms of the estimated present value benefit per tree planted and equitable and accessible community engagement consistent with the department of health's environmental health disparities map recommendations 12 and 13, and with the community engagement plan guidance appendix C of the final report of the environmental justice task force established under chapter 415, Laws of 2019;

(10) Give special consideration to achieving environmental justice in goals and policies, avoid creating or worsening environmental health disparities, and make use of the department of health's environmental health disparities map to help guide engagement and actions; and

(11) Coordinate with the department of natural resources urban and community forestry program's efforts to identify areas of need related to urban tree canopy and to provide technical assistance and capacity building to encourage urban tree canopy. [2021 c 11 § 4.]

**Findings—Intent—2021 c 11:** See note following RCW 35.92.355.

**RCW 54.16.285 Limitations on termination of utility service for residential heating and of electric or water utility service during heat-related alerts.** (1) A district providing utility service for residential space heating shall not terminate such utility service between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior 12 months to a grantee of the department of commerce which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in

default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if the customer moves.

(2) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program except on the days indicated in subsection (5) of this section. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(3) All districts providing utility service for residential space heating shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(4) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

(5) A district providing electric or water utility service to residential customers may not effect, due to lack of payment, an involuntary termination of utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(6) (a) A residential user at whose dwelling utility service has been disconnected for lack of payment may request that the district reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The district shall inform all customers in the notice of disconnection of the ability to seek

reconnection and provide clear and specific information on how to make that request, including how to contact the district.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the district shall promptly make a reasonable attempt to reconnect service to the dwelling. The district, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the district requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (7) of this section.

(7) A repayment plan required by a district pursuant to subsection (6)(b) of this section will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the district to reformulate the plan.

(8) On an annual basis, each district with more than 25,000 retail electric customers or 2,500 water customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Districts with fewer than 25,000 retail electric customers or 2,500 water customers in Washington must provide similar information upon request by the department.

(a) Subject to availability, each district must provide any other information related to utility disconnections that is requested by the department.

(b) The information required in this subsection must be submitted in a form, timeline, and manner as prescribed by the department.

[2023 c 105 § 4; 1995 c 399 § 144; 1991 c 165 § 3; 1990 1st ex.s. c 1 § 3; 1986 c 245 § 3; 1985 c 6 § 19; 1984 c 251 § 2.]

**Findings—1991 c 165:** See note following RCW 35.21.300.

**RCW 54.16.300 Combined utility functions.** A public utility district by resolution may combine two or more of its separate utility functions into a single utility and combine its related funds or accounts into a single fund or account. The separate utility functions include electrical energy systems, domestic water systems, irrigation systems, sanitary sewer systems, and storm sewer systems. All powers granted to public utility districts to acquire, construct, maintain, and operate such systems may be exercised in the joint acquisition, construction, maintenance, and operation of such combined systems. The establishment, maintenance, and operation of the combined system shall be governed by the public utility district statutes relating to one of the utility systems that is being combined, as specified in the resolution combining the utility systems. [1987 c 18 § 1.]

**RCW 54.16.310 Operation, maintenance, and inspection of sewage disposal facilities, septic tanks, and wastewater disposal facilities and systems—Maintenance costs.** A public utility district as authorized by a county board of health, may perform operation and maintenance, including inspections, of on-site sewage disposal facilities, alternate sewage disposal facilities, approved septic tanks or approved septic tank systems, other facilities and systems for the collection, interception, treatment, and disposal of wastewater, and for the control and protection, preservation, and rehabilitation of surface and underground waters. Those costs associated with the maintenance of private on-site sewage systems may be charged by the public utility district to the system owner. [1990 c 107 § 1.]

**RCW 54.16.320 Assumption of substandard water system—Limited immunity from liability.** A public utility district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements for public drinking water systems, which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the public utility district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith. [1994 c 292 § 10.]

**Findings—Intent—1994 c 292:** See note following RCW 57.04.050.

**RCW 54.16.330 Telecommunications facilities—Purposes—Limitations—Provision of telecommunications services—Eminent domain.**

(1) A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

- (a) For the district's internal telecommunications needs;
- (b) For the provision of wholesale telecommunications services as follows:
  - (i) Within the district and by contract with another public utility district;
  - (ii) Within an area in an adjoining county that is already provided electrical services by the district; or
  - (iii) Within an adjoining county that does not have a public utility district providing electrical or telecommunications services headquartered within the county's boundaries, but only if the district providing telecommunications services is not authorized to provide electrical services; or
- (c) For the provision of retail telecommunications services as authorized in this section.

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and

conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

(8) A public utility district may provide retail telecommunications services or telecommunications facilities within the district's limits or without the district's limits by contract with another public utility district, any political subdivision of the state authorized to provide retail telecommunications services in the state, or with any federally recognized tribe located in the state of Washington.

(9) (a) A public utility district may provide retail telecommunications services to end users in unserved areas.

(b) A public utility district must notify and consult with the governor's statewide broadband office within 30 days of its decision to provide retail telecommunications services to unserved areas. The governor's statewide broadband office must post notices received from

a public utility district pursuant to this subsection on its public website.

(c) Any public utility district that intends to provide retail telecommunications services to unserved areas must submit a telecommunications infrastructure and service plan to the governor's statewide broadband office that will be published on the office's website. Submission of plans will enable the governor's statewide broadband office: (i) To better understand infrastructure deployment; (ii) to potentially allocate funding for unserved areas; (iii) to advance the state policy objectives; (iv) to determine whether the plan aligns with state policy objectives and broadband priorities; (v) to measure progress toward serving those in unserved areas; (vi) to report on the feasibility and sustainability of the project; and (vii) to confirm that the project is within an unserved area. The telecommunications infrastructure and service plans shall include, but not be limited to, the following:

(A) Map and description of how the deployment of proposed broadband infrastructure will achieve at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed and then increases to be consistent with the stated long-term state broadband speed goals for unserved areas;

(B) Project timeline prioritization of unserved areas; and

(C) Description of potential state and federal funding available to provide service to the unserved area.

(d) A public utility district that exercises its authority under (a) of this subsection to provide retail telecommunications services may use state funds, federal funds appropriated through the state, or federal funds dedicated for projects in unserved areas to fund projects identified in the submitted telecommunications infrastructure and service plan required in (c) of this subsection.

(e) A public utility district providing retail telecommunications services under this subsection must operate an open access network.

(f) This section does not apply to retail internet services provided by a public utility district under \*RCW 54.16.420.

(g) Provisions in this subsection do not apply to the provision of wholesale telecommunications services authorized in this section.

(h) For the purposes of this subsection:

(i) "Open access network" means a network that, during the useful life of the infrastructure, ensures service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employs accountable interconnection arrangements published and available publicly.

(ii) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service of speeds at a minimum of 100 megabits per second download and at a minimum 20 megabits per second upload. [2023 c 470 § 1011. Prior: 2021 c 294 § 2; 2021 c 293 § 2; 2019 c 365 § 9; 2004 c 158 § 1; 2000 c 81 § 3.]

**\*Reviser's note:** RCW 54.16.420 was repealed by 2021 c 294 § 13.

**Explanatory statement—2023 c 470:** See note following RCW 10.99.030.

**Short title—2021 c 294:** "This act may be known and cited as the public broadband act." [2021 c 294 § 12.]

**Findings—2021 c 293:** "The legislature finds that the COVID-19 pandemic has made it clear that equitable access to education can only happen with equitable access to reliable broadband. Increasing broadband access to unserved areas of the state is of vital importance to increasing quality of life, broadening educational opportunities, and promoting economic inclusion in the parts of our state that, without broadband access, cannot fully participate in modern society. The legislature further finds that one of the most effective tools to ensure all Washingtonians have an opportunity to equitably access education, the job market, and health care resources is to allow our public utility districts and port districts to provide retail telecommunications services." [2021 c 293 § 1.]

**Findings—2019 c 365:** See note following RCW 43.330.532.

**Findings—2000 c 81:** See note following RCW 53.08.005.

**RCW 54.16.340 Wholesale telecommunications services—Petition for review of rates, terms, conditions.** (1) A person or entity that has requested wholesale telecommunications services from a public utility district providing wholesale telecommunications services under this chapter may petition the commission under the procedures set forth in RCW 80.04.110 (1) through (3) if it believes the district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential. The person or entity shall provide the public utility district notice of its intent to petition the commission and an opportunity to review within thirty days the rates, terms, and conditions as applied to it prior to submitting its petition. In determining whether a district is providing discriminatory or preferential rates, terms, and conditions, the commission may consider such matters as service quality, cost of service, technical feasibility of connection points on the district's facilities, time of response to service requests, system capacity, and other matters reasonably related to the provision of wholesale telecommunications services. If the commission, after notice and hearing, determines that a public utility district's rates, terms, and conditions are unduly or unreasonably discriminatory or preferential, it shall issue a final order finding noncompliance with this section and setting forth the specific areas of apparent noncompliance. An order imposed under this section shall be enforceable in any court of competent jurisdiction.

(2) The commission may order a public utility district to pay a share of the costs incurred by the commission in connection with adjudicating or enforcing the provisions of this section.

(3) Without limiting other remedies at law or equity, the commission and prevailing party may also seek injunctive relief to compel compliance with an order.

(4) Nothing in this section shall be construed to affect the commission's authority and jurisdiction with respect to actions, proceedings, or orders permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56). [2000 c 81 § 5.]

**Findings—2000 c 81:** See note following RCW 53.08.005.

**RCW 54.16.350 Tariff for irrigation pumping service—Authority to buy back electricity.** The commission may approve a tariff for irrigation pumping service that allows the district to buy back electricity from customers to reduce electricity usage by those customers during the district's particular irrigation season. [2001 c 122 § 2.]

**Effective date—2001 c 122:** See note following RCW 80.28.310.

**RCW 54.16.360 Cooperative watershed management.** In addition to the authority provided in RCW 54.16.030 relating to water supply, a public utility district may participate in and expend revenue on cooperative watershed management actions, including watershed management partnerships under RCW 39.34.210 and other intergovernmental agreements, for purposes of water supply, water quality, and water resource and habitat protection and management. [2003 c 327 § 14.]

**Finding—Intent—2003 c 327:** See note following RCW 39.34.190.

**RCW 54.16.370 Purchase of electric power and energy from joint operating agency.** A district may contract to purchase from a joint operating agency electric power and energy required for its present or future requirements. For projects the output of which is limited to qualified alternative energy resources as defined by RCW 19.29A.090(3), the contract may include the purchase of capability of the projects to produce electricity in addition to the actual output of the projects. The contract may provide that the district must make the payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract are not subject to reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint operating agency or a city, town, or district under the contract or other instrument. [2003 c 138 § 2.]

**RCW 54.16.380 Appliance repair service—Operation by district.** Any public utility district that has operated an electrical appliance repair service for at least ten years prior to July 24, 2005, may continue to operate an electrical appliance repair service within its service territory. [2005 c 175 § 2.]

**Intent—2005 c 175:** "It is the intent of the legislature to avoid unnecessary hardships on the citizens of a community by recognizing the traditional appliance repair services that have been offered for many years by any public utility district described in section 2 of this act.

The legislature understands that some of these services improve the energy efficiency of the appliance repaired, which helps citizens save money and energy as well as extending the life of the appliance.

The legislature recognizes these historic services coexist with the private sector without creating aggressive competition between public and private enterprises.

It is the intent of the legislature to have these services be financially self-supporting and not be subsidized by any other customer rate structures.

Public utility districts affected by this act are encouraged to continue to work collaboratively with the private sector in providing these services." [2005 c 175 § 1.]

**RCW 54.16.385 Appliance repair service—Requirements.** When a public utility district provides electrical appliance repair services under RCW 54.16.380, the public utility district shall:

- (1) Charge customers the true and fair cost for the services;
- (2) Keep records documenting the revenues and expenditures for the services and make those records available to the public; and
- (3) Develop measures or benchmarks to track and evaluate the performance of the services. [2005 c 175 § 3.]

**Intent—2005 c 175:** See note following RCW 54.16.380.

**RCW 54.16.390 Environmental mitigation activities.** (1) A public utility district may develop and make publicly available a plan for the district to reduce its greenhouse gases emissions or achieve net emissions from all sources of greenhouse gases that the district owns, leases, uses, contracts for, or otherwise controls.

(2) A public utility district may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation and any power purchases. Mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a public utility district that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry. [2007 c 349 § 4.]

**Finding—Intent—2007 c 349 § 4:** "The legislature finds and declares that greenhouse gases offset contracts, credits, and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that section 4 of this act is intended to reverse the result of *Okeson v. City of Seattle* (January 18, 2007), by expressly granting public utility districts the statutory authority to engage in mitigation activities to offset their utility's impact on the environment." [2007 c 349 § 3.]

**RCW 54.16.400 Voluntary donations for purposes of urban forestry.** (1) Public utility districts may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(2) Voluntary donations collected by public utility districts under this section may be used by the public utility district to:

(a) Support the development and implementation of urban forestry ordinances, as that term is defined in RCW 76.15.010, for cities, towns, or counties within their service areas;

(b) Complete projects consistent with the urban forestry management plans and ordinances developed under RCW 76.15.090; or

(c) Fund a tree planting program for energy conservation that accomplishes the goals established under RCW 54.16.281.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW. [2021 c 209 § 21; 2021 c 11 § 5; 2008 c 299 § 22.]

**Reviser's note:** This section was amended by 2021 c 11 § 5 and by 2021 c 209 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Intent—2021 c 209:** See note following RCW 76.15.005.

**Findings—Intent—2021 c 11:** See note following RCW 35.92.355.

**Short title—2008 c 299:** See note following RCW 76.15.020.

**RCW 54.16.405 Voluntary donations for purpose of supporting hunger programs.** (1) Public utility districts may request voluntary donations from their customers for the purpose of supporting hunger programs.

(2) Voluntary donations collected by public utility districts under this section must be used by the public utility district to support the maintenance and operation of hunger programs.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

(4) Nothing in this section precludes a public utility district from requesting voluntary donations to support other programs. [2011 c 226 § 1.]

**RCW 54.16.410 Supply of water to be used in pumped storage generating facilities—Requirements—Contract, resolution.** (1) Notwithstanding any other provision of this chapter to the contrary, a qualifying public utility district may supply any water, if authorized by a previously perfected water right under its control, to be used in a pumped storage generating facility to any entity that sells electric energy or water either directly or indirectly to the public.

(2) To qualify for the authority under this section, the public utility district must have satisfied all of the following requirements prior to June 7, 2012:

(a) Border the Columbia river;

(b) Have obtained a water right from an industrial user; and

(c) Hold a water right for which power generation is an authorized purpose.

(3) Water supplied to an entity under this section must be supplied consistent with a contract that contains the terms and

conditions deemed appropriate by the commission of the qualifying public utility district. Contracts under this section must be made pursuant to a resolution of the commission that is introduced at a meeting of the commission at least ten days prior to the date of the adoption of the resolution. However, the commission shall first make adequate provision for the needs of the public utility district, both actual and prospective. [2012 c 246 § 1.]

**RCW 54.16.415 Retail telecommunications services—Reporting requirements.**

(1) Before providing retail telecommunications services, a public utility district must report to its governing body and to the state broadband office the following about the area to be served by the public utility district:

(a) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(b) The location of where retail telecommunications services will be provided;

(c) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(d) Expected costs of providing retail telecommunications services to customers to be served by the public utility district;

(e) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(2) The state broadband office must post a review of the proposed project on their website.

(3) For the purposes of this section, "unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed. [2021 c 294 § 3.]

**Short title—2021 c 294:** See note following RCW 54.16.330.

**RCW 54.16.425 Retail telecommunications services—Payment in lieu of property tax.**

(1) Property owned by a public utility district that is exempt from property tax under RCW 84.36.010 is subject to an annual payment in lieu of property taxes if the property consists of a broadband infrastructure used in providing retail telecommunications services.

(2)(a) The amount of the payment must be determined jointly and in good faith negotiation between the public utility district that owns the property and the county or counties in which the property is located.

(b) The amount agreed upon may not exceed the property tax amount that would be owed on the property comprising the broadband infrastructure used in providing retail telecommunications services as calculated by the department of revenue. The public utility district must provide information necessary for the department of revenue to

make the required valuation under this subsection. The department of revenue must provide the amount of property tax that would be owed on the property to the county or counties in which the broadband infrastructure is located on an annual basis.

(c) If the public utility district and a county cannot agree on the amount of the payment in lieu of taxes, either party may invoke binding arbitration by providing written notice to the other party. In the event that the amount of payment in lieu of taxes is submitted to binding arbitration, the arbitrators must consider the government services available to the public utility district's broadband infrastructure used in providing retail telecommunications services. The public utility district and county must each select one arbitrator, the two of whom must pick a third arbitrator. Costs of the arbitration, including compensation for the arbitrators' services, must be borne equally by the parties participating in the arbitration.

(3) By April 30th of each year, a public utility district must remit the annual payment to the county treasurer of each county in which the public utility district's broadband infrastructure used in providing retail telecommunications services is located in a form and manner required by the county treasurer.

(4) The county must distribute the amounts received under this section to all property taxing districts, including the state, in appropriate tax code areas in the same proportion as it would distribute property taxes from taxable property.

(5) By December 1, 2019, and annually thereafter, the department of revenue must submit a report to the appropriate legislative committees detailing the amount of payments made under this section and the amount of property tax that would be owed on the property comprising the broadband infrastructure used in providing retail telecommunications services. [2021 c 294 § 4; 2018 c 186 § 3.]

**Short title—2021 c 294:** See note following RCW 54.16.330.

**RCW 54.16.430 Electrification of transportation plan—**

**Considerations—Incentive programs.** (1) The commission of a public utility district may adopt an electrification of transportation plan that, at a minimum, establishes a finding that outreach and investment in the electrification of transportation infrastructure does not increase net costs to ratepayers in excess of one-quarter of one percent.

(2) In adopting an electrification of transportation plan under subsection (1) of this section, the commission of a public utility district may consider some or all of the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the district's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) overall customer experience.

(3) A public utility district may, upon making a determination in accordance with subsection (1) of this section, offer incentive programs in the electrification of transportation for its customers,

including the promotion of electric vehicle adoption and advertising programs to promote the district's services, incentives, or rebates. [2019 c 109 § 3.]

**Findings—Intent—2019 c 109:** See note following RCW 35.92.450.