
ENGROSSED SUBSTITUTE HOUSE BILL 2901

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives Bray, Kessler and Long)

Read first time 02/04/94.

1 AN ACT Relating to publicly owned utilities' authority to
2 participate and enter into agreements with unregulated private
3 nonutility developers; amending RCW 54.44.020; and adding a new section
4 to chapter 80.28 RCW.

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

6 **Sec. 1.** RCW 54.44.020 and 1975-'76 2nd ex.s. c 72 s 2 are each
7 amended to read as follows:

8 In addition to the powers heretofore conferred upon cities of the
9 first class, public utility districts organized under chapter 54.08
10 RCW, and joint operating agencies organized under chapter 43.52 RCW,
11 any such cities and public utility districts which operate electric
12 generating facilities or distribution systems and any joint operating
13 agency shall have power and authority to participate and enter into
14 agreements with each other and with electrical companies which are
15 subject to the jurisdiction of the Washington utilities and
16 transportation commission or the public utility commissioner of Oregon,
17 hereinafter called "regulated utilities", unregulated private
18 nonutility developers, and with rural electric cooperatives, including
19 generation and transmission cooperatives for the undivided ownership of

1 any type of electric generating plants and facilities, including, but
2 not limited to nuclear and other thermal power generating plants and
3 facilities and transmission facilities including, but not limited to,
4 related transmission facilities, hereinafter called "common
5 facilities", and for the planning, financing, acquisition,
6 construction, operation and maintenance thereof. It shall be provided
7 in such agreements that each city, public utility district, or joint
8 operating agency shall own a percentage of any common facility equal to
9 the percentage of the money furnished or the value of property supplied
10 by it for the acquisition and construction thereof and shall own and
11 control a like percentage of the electrical output thereof.

12 Each participant shall defray its own interest and other payments
13 required to be made or deposited in connection with any financing
14 undertaken by it to pay its percentage of the money furnished or value
15 of property supplied by it for the planning, acquisition and
16 construction of any common facility, or any additions or betterments
17 thereto. The agreement shall provide a uniform method of determining
18 and allocating operation and maintenance expenses of the common
19 facility.

20 Each city, public utility district, joint operating agency,
21 regulated utility, unregulated private nonutility developer, and
22 cooperatives participating in the ownership or operation of a common
23 facility shall pay all taxes chargeable to its share of the common
24 facility and the electric energy generated thereby under applicable
25 statutes as now or hereafter in effect, and may make payments during
26 preliminary work and construction for any increased financial burden
27 suffered by any county or other existing taxing district in the county
28 in which the common facility is located, pursuant to agreement with
29 such county or taxing district. When a regulated utility is supplied
30 with electric energy from an electric generating plant held, in part or
31 in whole, by an unregulated private nonutility developer, no city,
32 public utility district, or joint operating agency shall acquire
33 ownership in the portion of the plant corresponding to the portion of
34 the plant output being supplied to the regulated utility without the
35 consent of the regulated utility.

36 A city, public utility district, or joint operating agency
37 participating in an undivided ownership with an unregulated private
38 nonutility developer of an electric generating plant may not sell or
39 otherwise transfer its portion of the electrical output of the

1 generation facility to any retail electricity customers being served by
2 a regulated utility unless both utilities agree to the transaction.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.28 RCW
4 to read as follows:

5 An electrical company under the jurisdiction of the Washington
6 utilities and transportation commission may not sell or otherwise
7 transfer its portion of the output of an electric generating plant held
8 in common with an unregulated private nonutility developer to any
9 retail customers being served by a city or public utility district
10 engaged in the business of distributing electricity unless both
11 utilities agree to the transaction.

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