

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1854**

Chapter 138, Laws of 2003

58th Legislature  
2003 Regular Session

JOINT OPERATING AGENCIES--ENERGY PURCHASING

EFFECTIVE DATE: 7/27/03

Passed by the House April 21, 2003  
Yeas 97 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate April 10, 2003  
Yeas 48 Nays 0

BRAD OWEN

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**President of the Senate**

Approved May 7, 2003.

GARY LOCKE

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**Governor of the State of Washington**

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1854** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

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**Chief Clerk**

FILED

May 7, 2003 - 3:10 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1854**

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AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

**State of Washington                      58th Legislature                      2003 Regular Session**

**By** House Committee on Technology, Telecommunications & Energy  
(originally sponsored by Representatives Crouse, Sullivan, Delvin,  
Blake, Bush and Grant)

READ FIRST TIME 03/05/03.

1            AN ACT Relating to joint operating agencies; adding a new section  
2 to chapter 43.52 RCW; adding a new section to chapter 54.16 RCW; adding  
3 a new section to chapter 35.92 RCW; adding a new section to chapter  
4 35.22 RCW; adding a new section to chapter 35.23 RCW; adding a new  
5 section to chapter 35.27 RCW; and adding a new section to chapter  
6 35A.80 RCW.

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

8            NEW SECTION.    **Sec. 1.** A new section is added to chapter 43.52 RCW  
9 to read as follows:

10           A city or district may contract to purchase from an operating  
11 agency electric power and energy required for its present or future  
12 requirements. For projects the output of which is limited to qualified  
13 alternative energy resources as defined by RCW 19.29A.090(3), the  
14 contract may include the purchase of capability of the projects to  
15 produce electricity in addition to the actual output of the projects.  
16 The contract may provide that the city or district must make the  
17 payments required by the contract whether or not a project is  
18 completed, operable, or operating and notwithstanding the suspension,  
19 interruption, interference, reduction, or curtailment of the output of

1 a project or the power and energy contracted for. The contract may  
2 also provide that payments under the contract are not subject to  
3 reduction, whether by offset or otherwise, and shall not be conditioned  
4 upon the performance or nonperformance of the operating agency or a  
5 city or district under the contract or other instrument.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 54.16 RCW  
7 to read as follows:

8 A district may contract to purchase from a joint operating agency  
9 electric power and energy required for its present or future  
10 requirements. For projects the output of which is limited to qualified  
11 alternative energy resources as defined by RCW 19.29A.090(3), the  
12 contract may include the purchase of capability of the projects to  
13 produce electricity in addition to the actual output of the projects.  
14 The contract may provide that the district must make the payments  
15 required by the contract whether or not a project is completed,  
16 operable, or operating and notwithstanding the suspension,  
17 interruption, interference, reduction, or curtailment of the output of  
18 a project or the power and energy contracted for. The contract may  
19 also provide that payments under the contract are not subject to  
20 reduction, whether by offset or otherwise, and shall not be conditioned  
21 upon the performance or nonperformance of the joint operating agency or  
22 a city, town, or district under the contract or other instrument.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.92 RCW  
24 to read as follows:

25 A city or town may contract to purchase from a joint operating  
26 agency electric power and energy required for its present or future  
27 requirements. For projects the output of which is limited to qualified  
28 alternative energy resources as defined by RCW 19.29A.090(3), the  
29 contract may include the purchase of capability of the projects to  
30 produce electricity in addition to the actual output of the projects.  
31 The contract may provide that the city or town must make the payments  
32 required by the contract whether or not a project is completed,  
33 operable, or operating and notwithstanding the suspension,  
34 interruption, interference, reduction, or curtailment of the output of  
35 a project or the power and energy contracted for. The contract may  
36 also provide that payments under the contract are not subject to

1 reduction, whether by offset or otherwise, and shall not be conditioned  
2 upon the performance or nonperformance of the joint operating agency or  
3 a city, town, or public utility district under the contract or other  
4 instrument.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.22 RCW  
6 to read as follows:

7 A city of the first class may contract to purchase from a joint  
8 operating agency electric power and energy required for its present or  
9 future requirements. For projects the output of which is limited to  
10 qualified alternative energy resources as defined by RCW 19.29A.090(3),  
11 the contract may include the purchase of capability of the projects to  
12 produce electricity in addition to the actual output of the projects.  
13 The contract may provide that the city must make the payments required  
14 by the contract whether or not a project is completed, operable, or  
15 operating and notwithstanding the suspension, interruption,  
16 interference, reduction, or curtailment of the output of a project or  
17 the power and energy contracted for. The contract may also provide  
18 that payments under the contract are not subject to reduction, whether  
19 by offset or otherwise, and shall not be conditioned upon the  
20 performance or nonperformance of the joint operating agency or a city,  
21 town, or public utility district under the contract or other  
22 instrument.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.23 RCW  
24 to read as follows:

25 A city of the second class may contract to purchase from a joint  
26 operating agency electric power and energy required for its present or  
27 future requirements. For projects the output of which is limited to  
28 qualified alternative energy resources as defined by RCW 19.29A.090(3),  
29 the contract may include the purchase of capability of the projects to  
30 produce electricity in addition to the actual output of the projects.  
31 The contract may provide that the city must make the payments required  
32 by the contract whether or not a project is completed, operable, or  
33 operating and notwithstanding the suspension, interruption,  
34 interference, reduction, or curtailment of the output of a project or  
35 the power and energy contracted for. The contract may also provide  
36 that payments under the contract are not subject to reduction, whether

1 by offset or otherwise, and shall not be conditioned upon the  
2 performance or nonperformance of the joint operating agency or a city,  
3 town, or public utility district under the contract or other  
4 instrument.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.27 RCW  
6 to read as follows:

7 A town may contract to purchase from a joint operating agency  
8 electric power and energy required for its present or future  
9 requirements. For projects the output of which is limited to qualified  
10 alternative energy resources as defined by RCW 19.29A.090(3), the  
11 contract may include the purchase of capability of the projects to  
12 produce electricity in addition to the actual output of the projects.  
13 The contract may provide that the town must make the payments required  
14 by the contract whether or not a project is completed, operable, or  
15 operating and notwithstanding the suspension, interruption,  
16 interference, reduction, or curtailment of the output of a project or  
17 the power and energy contracted for. The contract may also provide  
18 that payments under the contract are not subject to reduction, whether  
19 by offset or otherwise, and shall not be conditioned upon the  
20 performance or nonperformance of the joint operating agency or a city,  
21 town, or public utility district under the contract or other  
22 instrument.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.80 RCW  
24 to read as follows:

25 A code city may contract to purchase from a joint operating agency  
26 electric power and energy required for its present or future  
27 requirements. For projects the output of which is limited to qualified  
28 alternative energy resources as defined by RCW 19.29A.090(3), the  
29 contract may include the purchase of capability of the projects to  
30 produce electricity in addition to the actual output of the projects.  
31 The contract may provide that the code city must make the payments  
32 required by the contract whether or not a project is completed,  
33 operable, or operating and notwithstanding the suspension,  
34 interruption, interference, reduction, or curtailment of the output of  
35 a project or the power and energy contracted for. The contract may  
36 also provide that payments under the contract are not subject to

1 reduction, whether by offset or otherwise, and shall not be conditioned  
2 upon the performance or nonperformance of the joint operating agency or  
3 a city, town, or public utility district under the contract or other  
4 instrument.

Passed by the House April 21, 2003.

Passed by the Senate April 10, 2003.

Approved by the Governor May 7, 2003.

Filed in Office of Secretary of State May 7, 2003.