

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6692

Chapter 167, Laws of 2010

61st Legislature
2010 Regular Session

BIOMASS ENERGY FACILITIES--CONDITIONS OF OWNERSHIP AND OPERATION

EFFECTIVE DATE: 06/10/10

Passed by the Senate March 9, 2010
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House February 28, 2010
YEAS 95 NAYS 1

FRANK CHOPP

Speaker of the House of Representatives

Approved March 22, 2010, 2:58 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6692** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 22, 2010

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6692

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Pridemore, Hargrove, Ranker, and Haugen)

READ FIRST TIME 02/01/10.

1 AN ACT Relating to allowing certain counties to participate and
2 enter into ownership agreements for electric generating facilities
3 powered by biomass; and amending RCW 36.140.010 and 54.44.020.

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

5 **Sec. 1.** RCW 36.140.010 and 2009 c 281 s 1 are each amended to read
6 as follows:

7 (1) Any county legislative authority of a county where a public
8 utility district owns and operates a plant or system for the
9 generation, transmission, and distribution of electric energy for sale
10 within the county may construct, purchase, acquire, operate, and
11 maintain ((a)) one facility within the county to generate electricity
12 from biomass energy that is a renewable resource under RCW 19.285.030
13 or from biomass energy that is produced from lignin in spent pulping
14 liquors or liquors derived from algae and other sources. The county
15 legislative authority has the authority to regulate and control the
16 use, distribution, sale, and price of the electricity produced from the
17 biomass facility authorized under this section.

18 (2) For the purposes of this section:

1 (a) "County legislative authority" means the board of county
2 commissioners or the county council; (~~and~~)

3 (b) "Plant" means a natural gas-fueled, combined-cycle combustion
4 turbine capable of generating at least two hundred forty megawatts of
5 electricity; and

6 (c) "Public utility district" means a municipal corporation formed
7 under chapter 54.08 RCW.

8 **Sec. 2.** RCW 54.44.020 and 2008 c 198 s 3 are each amended to read
9 as follows:

10 (1) Except as provided in subsections (2) and (3) of this section,
11 cities of the first class, public utility districts organized under
12 chapter 54.08 RCW, and joint operating agencies organized under chapter
13 43.52 RCW, any such cities and public utility districts which operate
14 electric generating facilities or distribution systems and any joint
15 operating agency shall have power and authority to participate and
16 enter into agreements with each other and with electrical companies
17 which are subject to the jurisdiction of the Washington utilities and
18 transportation commission or the public utility commissioner of Oregon,
19 hereinafter called "regulated utilities", and with rural electric
20 cooperatives, including generation and transmission cooperatives for
21 the undivided ownership of any type of electric generating plants and
22 facilities, including, but not limited to, nuclear and other thermal
23 power generating plants and facilities and transmission facilities
24 including, but not limited to, related transmission facilities,
25 hereinafter called "common facilities", and for the planning,
26 financing, acquisition, construction, operation and maintenance
27 thereof. It shall be provided in such agreements that each city,
28 public utility district, or joint operating agency shall own a
29 percentage of any common facility equal to the percentage of the money
30 furnished or the value of property supplied by it for the acquisition
31 and construction thereof and shall own and control a like percentage of
32 the electrical output thereof.

33 (2) Cities of the first class, public utility districts organized
34 under chapter 54.08 RCW, and joint operating agencies organized under
35 chapter 43.52 RCW, shall have the power and authority to participate
36 and enter into agreements for the undivided ownership of a coal-fired
37 thermal electric generating plant and facility placed in operation

1 before July 1, 1975, including related common facilities, and for the
2 planning, financing, acquisition, construction, operation, and
3 maintenance of the plant and facility. It shall be provided in such
4 agreements that each city, public utility district, or joint operating
5 agency shall own a percentage of any common facility equal to the
6 percentage of the money furnished or the value of property supplied by
7 the city, district, or agency, for the acquisition and construction of
8 the facility, and shall own and control a like percentage of the
9 electrical output thereof. Cities of the first class, public utility
10 districts, and joint operating agencies may enter into agreements under
11 this subsection with each other, with regulated utilities, with rural
12 electric cooperatives, with electric companies subject to the
13 jurisdiction of the regulatory commission of any other state, and with
14 any power marketer subject to the jurisdiction of the federal energy
15 regulatory commission.

16 (3)(a) Except as provided in subsections (1) and (2) of this
17 section, cities of the first class, counties with a biomass facility
18 authorized under RCW 36.140.010, public utility districts organized
19 under chapter 54.08 RCW, any cities that operate electric generating
20 facilities or distribution systems, any joint operating agency
21 organized under chapter 43.52 RCW, or any separate legal entity
22 comprising two or more thereof organized under chapter 39.34 RCW shall,
23 either directly or as co-owners of a separate legal entity, have power
24 and authority to participate and enter into agreements described in (b)
25 and (c) of this subsection with each other, and with any of the
26 following, either directly or as co-owners of a separate legal entity:

27 (i) Any public agency, as that term is defined in RCW 39.34.020;

28 (ii) Electrical companies that are subject to the jurisdiction of
29 the Washington utilities and transportation commission or the
30 regulatory commission of any state; and

31 (iii) Rural electric cooperatives and generation and transmission
32 cooperatives or any wholly owned subsidiaries of either rural electric
33 cooperatives or generation and transmission cooperatives.

34 (b) Except as provided in (b)(i)(B) of this subsection (3),
35 agreements may provide for:

36 (i)(A) The undivided ownership, or indirect ownership in the case
37 of a separate legal entity, of common facilities that include any type
38 of electric generating plant (~~((powered by))~~) generating an eligible

1 renewable resource, as defined in RCW 19.285.030, and transmission
2 facilities including, but not limited to, related transmission
3 facilities, and for the planning, financing, acquisition, construction,
4 operation, and maintenance thereof;

5 (B) For counties with a biomass facility authorized under RCW
6 36.140.010, the provisions in (b)(i)(A) of this subsection (3) are
7 limited to the purposes of RCW 36.140.010; and

8 (ii) The formation, operation, and ownership of a separate legal
9 entity that may own the common facilities.

10 (c) Agreements must provide that each city, county, public utility
11 district, or joint operating agency:

12 (i) Owns a percentage of any common facility or a percentage of any
13 separate legal entity equal to the percentage of the money furnished or
14 the value of property supplied by it for the acquisition and
15 construction thereof; and

16 (ii) Owns and controls, or has a right to own and control in the
17 case of a separate legal entity, a like percentage of the electrical
18 output thereof.

19 (d) Any entity in which a public utility district participates,
20 either directly or as co-owner of a separate legal entity, in
21 constructing or developing a common facility pursuant to this
22 subsection shall comply with the provisions of chapter 39.12 RCW.

23 (4) Each participant shall defray its own interest and other
24 payments required to be made or deposited in connection with any
25 financing undertaken by it to pay its percentage of the money furnished
26 or value of property supplied by it for the planning, acquisition and
27 construction of any common facility, or any additions or betterments
28 thereto. The agreement shall provide a uniform method of determining
29 and allocating operation and maintenance expenses of the common
30 facility.

31 (5) Each city, county acting under RCW 36.140.010, public utility
32 district, joint operating agency, regulated utility, and cooperatives
33 participating in the direct or indirect ownership or operation of a
34 common facility described in subsections (1) through (3) of this
35 section shall pay all taxes chargeable to its share of the common
36 facility and the electric energy generated thereby under applicable
37 statutes as now or hereafter in effect, and may make payments during
38 preliminary work and construction for any increased financial burden

1 suffered by any county or other existing taxing district in the county
2 in which the common facility is located, pursuant to agreement with
3 such county or taxing district.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 22, 2010.

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