

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2925

Chapter 199, Laws of 2010

(partial veto)

61st Legislature
2010 Regular Session

MUNICIPALLY OWNED HYDROELECTRIC FACILITIES--IMPACT PAYMENTS

EFFECTIVE DATE: 06/10/10

Passed by the House March 9, 2010
Yeas 0 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 5, 2010
Yeas 0 Nays 0

BRAD OWEN

President of the Senate

Approved March 24, 2010, 2:00 p.m., with
the exception of Section 3 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
**ENGROSSED SUBSTITUTE HOUSE BILL
2925** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 24, 2010

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2925

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Ways & Means (originally sponsored by Representatives Kretz, Short, and Condotta)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to impact payments of a municipally owned
2 hydroelectric facility; amending RCW 35.21.420 and 35.21.425; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 35.21.420 and 1965 c 7 s 35.21.420 are each amended to
6 read as follows:

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

14 (2)(a) Any city with a population greater than five hundred
15 thousand people owning and operating a public utility and having
16 facilities for the generation of electricity located in a county other
17 than that in which the city is located, must provide for the impacts of
18 lost revenue and the public peace, health, safety, and welfare of such
19 county as concerns the facilities and the personnel employed in

1 connection therewith, by contributing to the support of the county,
2 city, or town government and school district of any such county and
3 enter into contracts with any such county therefor as specified in RCW
4 35.21.425.

5 (b)(i) In the event a contract entered into under this section
6 between a county and the governing body of a city with a population
7 greater than five hundred thousand people authorized or required under
8 this section expires prior to the adoption of a new contract between
9 the parties, the city must continue to make compensatory payments
10 calculated based on the payment terms set forth in the most recent
11 expired compensation contract between the city and the county until
12 such time as a new contract is entered into by the parties.

13 (ii) In the event a contract entered into under this section
14 between a county and the governing body of a city with a population
15 greater than five hundred thousand people expired prior to the
16 effective date of this act, the city shall be indebted to the county
17 for any resulting arrearage accruing from the time of the expiration of
18 the contract until such time as a new contract is entered into by the
19 parties. The dollar amount of such arrearage shall be calculated
20 retroactively by reference to the payment terms set forth in the most
21 recent expired compensation contract between the city and the county.

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

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

1 (1) Except as provided in subsection (2) of this section, whenever
2 after March 17, 1955, any city shall construct hydroelectric generating
3 facilities or acquire land for the purpose of constructing the same in
4 a county other than the county in which such city is located, and by
5 reason of such construction or acquisition shall (1) cause loss of
6 revenue and/or place a financial burden in providing for the public
7 peace, health, safety, welfare, and added road maintenance in such
8 county, in addition to road construction or relocation as set forth in
9 RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or
10 increase the financial burden of any school district affected by the
11 construction because of an increase in the number of pupils by reason
12 of the construction or the operation of said generating facilities, the
13 city shall enter into an agreement with said county and/or the
14 particular school district or districts affected for the payment of
15 moneys to recompense such losses or to provide for such increased
16 financial burden, upon such terms and conditions as may be mutually
17 agreeable to the city and the county and/or school district or
18 districts.

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

27 (b)(i) In the event an agreement entered into under this section
28 between a county and the governing body of either a city with a
29 population greater than five hundred thousand people or a municipal
30 utility owned by a city with a population greater than five hundred
31 thousand people expires prior to the adoption of a new agreement
32 between the parties, the city or utility must continue to make
33 compensatory payments calculated based on the payment terms set forth
34 in the most recent expired compensation contract between the city and
35 the county until such time as a new agreement is entered into by the
36 parties.

37 (ii) In the event an agreement entered into under this section
38 between a county and the governing body of either a city with a

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

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

25 ****NEW SECTION. Sec. 3. This act is necessary for the immediate***
26 ***preservation of the public peace, health, or safety, or support of the***
27 ***state government and its existing public institutions, and takes effect***
28 ***immediately.***

**Sec. 3 was vetoed. See message at end of chapter.*

Passed by the House March 9, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 24, 2010.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3,
Engrossed Substitute House Bill 2925 entitled:

"AN ACT Relating to impact payments of a municipally owned
hydroelectric facility."

The bill requires large cities that own a hydroelectric facility in
another county to continue to make financial compensation payments to
the county in the event an existing compensation agreement between the

city and county expires. There is no emergent need for the bill to become effective immediately, and therefore the emergency clause in Section 3 of this bill is unnecessary.

For this reason I have vetoed Section 3 of Engrossed Substitute House Bill 2925.

With the exception of Section 3 of Engrossed Substitute House Bill 2925 is approved."