

CERTIFICATION OF ENROLLMENT

SENATE BILL 5261

Chapter 63, Laws of 2017

65th Legislature
2017 Regular Session

IRRIGATION DISTRICTS--AUTHORITY--CONTRACTS

EFFECTIVE DATE: 7/23/2017

Passed by the Senate February 8, 2017
Yeas 46 Nays 2

CYRUS HABIB

President of the Senate

Passed by the House April 7, 2017
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 19, 2017 11:30 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5261** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 19, 2017

**Secretary of State
State of Washington**

SENATE BILL 5261

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Senator Warnick

Read first time 01/18/17. Referred to Committee on Energy,
Environment & Telecommunications.

1 AN ACT Relating to irrigation district authority; and amending
2 RCW 87.03.015, 87.03.0155, and 87.03.115.

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

4 **Sec. 1.** RCW 87.03.015 and 2014 c 2 s 6 are each amended to read
5 as follows:

6 Any irrigation district, operating and maintaining an irrigation
7 system, in addition to other powers conferred by law, shall have
8 authority:

9 (1) To purchase and sell electric power to the inhabitants of the
10 irrigation district for the purposes of irrigation and domestic
11 use((~~r~~)); to finance, acquire, construct, own, and lease dams,
12 canals, plants, transmission lines, and other power equipment and the
13 necessary property and rights therefor and to operate, improve,
14 repair, and maintain the same, for the generation and transmission of
15 electrical energy for use in the operation of pumping plants and
16 irrigation systems of the district and for sale to the inhabitants of
17 the irrigation district for the purposes of irrigation and domestic
18 use; and, as a further and separate grant of authority and in
19 furtherance of a state purpose and policy of developing hydroelectric
20 capability in connection with irrigation facilities, to construct,
21 finance, acquire, own, lease, operate, improve, repair, and maintain,

1 alone or jointly with other irrigation districts, boards of control,
2 (~~or~~) municipal or quasi-municipal corporations or cooperatives
3 authorized to engage in the business of distributing electricity,
4 (~~or~~) electrical companies subject to the jurisdiction of the
5 utilities and transportation commission, private commercial or
6 industrial entities that construct or operate electric power
7 generation or transmission facilities, or private commercial or
8 industrial entities that acquire electric power for their own use or
9 resale, hydroelectric facilities including but not limited to dams,
10 canals, plants, transmission lines, other power equipment, and the
11 necessary property and rights therefor, located within or outside the
12 district, for the purpose of utilizing for the generation of
13 electricity, water power made available by and as a part of the
14 irrigation water storage, conveyance, and distribution facilities,
15 waste ways, and drainage water facilities which serve irrigation
16 districts, and to sell any and all the electric energy generated at
17 any such hydroelectric facilities or the irrigation district's share
18 of such energy, to municipal or quasi-municipal corporations (~~and~~)
19 or cooperatives authorized to engage in the business of distributing
20 electricity, (~~and~~) electrical companies subject to the jurisdiction
21 of the utilities and transportation commission, private commercial or
22 industrial entities that acquire electric power for their own use or
23 resale, or (~~to~~) other irrigation districts, and on such terms and
24 conditions as the board of directors shall determine(~~, and to enter~~
25 ~~into contracts with other irrigation districts, boards of control,~~
26 ~~other municipal or quasi-municipal corporations and cooperatives~~
27 ~~authorized to engage in the business of distributing electricity, and~~
28 ~~electrical companies subject to the jurisdiction of the utilities and~~
29 ~~transportation commission: PROVIDED, That~~). No contract entered into
30 under this subsection by the board of directors of any irrigation
31 district for the sale of electrical energy from such hydroelectric
32 facility for a period longer than forty years from the date of
33 commercial operation of such hydroelectric facility shall be binding
34 on the district until ratified by a majority vote of the electors of
35 the district at an election therein, called, held, and canvassed for
36 that purpose in the same manner as that provided by law for district
37 bond elections.

38 (2) To construct, repair, purchase, maintain, or lease a system
39 for the sale or lease of water to the owners of irrigated lands
40 within the district for domestic purposes.

1 (3) To construct, repair, purchase, lease, acquire, operate and
2 maintain a system of drains, sanitary sewers, and sewage disposal or
3 treatment plants as herein provided.

4 (4) To assume, as principal or guarantor, any indebtedness to the
5 United States under the federal reclamation laws, on account of
6 district lands.

7 (5) To maintain, repair, construct, and reconstruct ditches,
8 laterals, pipe lines, and other water conduits used or to be used in
9 carrying water for irrigation of lands located within the boundaries
10 of a city or town, or for the domestic use of the residents of a city
11 or town where the owners of land within such city or town shall use
12 such works to carry water to the boundaries of such city or town for
13 irrigation, domestic, or other purposes within such city or town, and
14 to charge to such city or town the pro rata proportion of the cost of
15 such maintenance, repair, construction, and reconstruction work in
16 proportion to the benefits received by the lands served and located
17 within the boundaries of such city or town, and if such cost is not
18 paid, then and in that event said irrigation district shall have the
19 right to prevent further water deliveries through such works to the
20 lands located within the boundaries of such city or town until such
21 charges have been paid.

22 (6) To acquire, install, and maintain as a part of the irrigation
23 district's water system the necessary water mains and fire hydrants
24 to make water available for firefighting purposes; and in addition
25 any such irrigation district shall have the authority to repair,
26 operate, and maintain such hydrants and mains.

27 (7) To enter into contracts with other irrigation districts,
28 boards of control, municipal or quasi-municipal corporations (~~and~~)
29 or cooperatives authorized to engage in the business of distributing
30 electricity, (~~and~~) electrical companies subject to the jurisdiction
31 of the utilities and transportation commission, private commercial or
32 industrial entities that construct or operate electric power
33 generation or transmission facilities, or private commercial or
34 industrial entities that acquire electric power for their own use or
35 resale, to jointly finance, acquire, lease, construct, own, operate,
36 improve, repair, and maintain irrigation water, domestic water,
37 drainage and sewerage works, and electrical power works to the same
38 extent as authorized by subsection (1) of this section, or portions
39 of such works. If an irrigation district enters into a contract or
40 agreement under this subsection to create a legal entity or

1 undertaking with an investor-owned utility or a private commercial or
2 industrial entity, that contract or agreement must provide that the
3 irrigation district be severally liable only for its own acts and not
4 jointly or severally liable for the acts, omissions, or obligations
5 of an investor-owned utility or a private commercial or industrial
6 entity. No money or property supplied by any irrigation district for
7 the planning, financing, acquisition, construction, operation, or
8 maintenance of any common facility may be credited or otherwise
9 applied to the account of any investor-owned utility or private
10 commercial or industrial entity therein, nor may the undivided share
11 of any irrigation district in any common facility be charged,
12 directly or indirectly, with any debt or obligation of any investor-
13 owned utility or private commercial or industrial entity or be
14 subject to any lien as a result thereof. No action in connection with
15 a common facility may be binding upon any irrigation district unless
16 authorized or approved by resolution of its board.

17 (8) To acquire from a water-sewer district wholly within the
18 irrigation district's boundaries, by a conveyance without cost, the
19 water-sewer district's water system and to operate the same to
20 provide water for the domestic use of the irrigation district
21 residents. As a part of its acceptance of the conveyance the
22 irrigation district must agree to relieve the water-sewer district of
23 responsibility for maintenance and repair of the system. Any such
24 water-sewer district is authorized to make such a conveyance if all
25 indebtedness of the water-sewer district, except local improvement
26 district bonds, has been paid and the conveyance has been approved by
27 a majority of the water-sewer district's voters voting at a general
28 or special election.

29 (9) To approve and condition placement of hydroelectric
30 generation facilities by entities other than the district on water
31 conveyance facilities operated or maintained by the district.

32 This section shall not be construed as in any manner abridging
33 any other powers of an irrigation district conferred by law.

34 **Sec. 2.** RCW 87.03.0155 and 2009 c 145 s 4 are each amended to
35 read as follows:

36 (1) An irrigation district may enter into any contract or
37 agreement with, or form a separate legal entity with, one or more of
38 the entities or utilities specified in subsection (3) of this section
39 for any of the following purposes:

1 (a) Purchasing and selling electric power; (~~and~~)

2 (b) Developing or owning, or both, electric power generating or
3 transmitting facilities, or both, including, but not limited to,
4 facilities for generating or transmitting electric power generated by
5 water, wind, solar power, thermal power, or batteries; and

6 (c) Developing or owning, or both, water storage, pumping, and
7 transmission facilities.

8 (2) The contract or agreement may provide:

9 (a) For purchasing the capability of a project to produce or
10 transmit electric power, in addition to actual output of a project;

11 (b) For making payments whether or not a project is completed,
12 operative, or operating, and notwithstanding the suspension,
13 interruption, interference, reduction, or curtailment of output or
14 use of a project or the use, power, and energy contracted for or
15 agreed to;

16 (c) That payments are not subject to reduction, whether by offset
17 or otherwise; and

18 (d) That performance is not conditioned upon performance or
19 nonperformance of any party or entity.

20 (3) Pursuant to authority granted under this section, irrigation
21 districts may contract or enter into agreements with one or more:

22 (a) Agencies of the United States government;

23 (b) States;

24 (c) Municipalities;

25 (d) Public utility districts;

26 (e) Irrigation districts;

27 (f) Joint operating agencies;

28 (g) Rural electric cooperatives;

29 (h) Mutual corporations or associations;

30 (i) Investor-owned utilities; (~~or~~)

31 (j) Private commercial or industrial entities that construct or
32 operate electric power generation or transmission facilities;

33 (k) Private commercial or industrial entities that acquire
34 electric power for their own use or resale; or

35 (l) Associations or legal entities composed of any such entities
36 or utilities.

37 (4) If an irrigation district enters into a contract or agreement
38 under this section to create a legal entity or undertaking with an
39 investor-owned utility or a private commercial or industrial entity,
40 that contract or agreement must provide that the irrigation district

1 be severally liable only for its own acts and not jointly or
2 severally liable for the acts, omissions, or obligations of an
3 investor-owned utility or a private commercial or industrial entity.
4 No money or property supplied by any irrigation district for the
5 planning, financing, acquisition, construction, operation, or
6 maintenance of any common facility may be credited or otherwise
7 applied to the account of any investor-owned utility or private
8 commercial or industrial entity therein, nor may the undivided share
9 of any irrigation district in any common facility be charged,
10 directly or indirectly, with any debt or obligation of any investor-
11 owned utility or private commercial or industrial entity or be
12 subject to any lien as a result thereof. No action in connection with
13 a common facility may be binding upon any irrigation district unless
14 authorized or approved by resolution of its board.

15 (5) This section may not be construed in any manner that abridges
16 any other powers of an irrigation district conferred by law.

17 **Sec. 3.** RCW 87.03.115 and 2013 c 23 s 492 are each amended to
18 read as follows:

19 (1) The directors of the district shall organize as a board and
20 shall elect a president from their number, and appoint a secretary,
21 who shall keep a record of their proceedings.

22 (2) The office of the directors and principal place of business
23 of the district shall be at some place in the county in which the
24 organization was effected, to be designated by the directors.

25 (3) The directors serving districts of five thousand acres or
26 more shall hold a regular monthly meeting at their office on the
27 first Tuesday in every month, or on such other day in each month as
28 the board shall direct in its bylaws, and may adjourn any meeting
29 from time to time as may be required for the proper transaction of
30 business.

31 (4) Directors serving districts of less than five thousand acres
32 shall hold at least quarterly meetings on a day designated by the
33 board's bylaws, and may adjourn any meeting from time to time as may
34 be required for the proper transaction of business.

35 (5) Special meetings shall be called and conducted in the manner
36 required by chapter 42.30 RCW.

37 (6) All meetings of the directors must be public.

38 (7) A majority of the directors shall constitute a quorum for the
39 transaction of business, and in all matters requiring action by the

1 board there shall be a concurrence of at least a majority of the
2 directors.

3 (8) All records of the board shall be open to the inspection of
4 any electors during business hours.

5 (9) The board shall have the power, and it shall be its duty, to
6 adopt a seal of the district, to manage and conduct the business and
7 affairs of the district, to make and execute all necessary contracts,
8 to employ and appoint such agents, officers, and employees as may be
9 necessary and prescribe their duties, and to establish equitable
10 bylaws, rules, and regulations for the government and management of
11 the district, and for the equitable distribution of water to the
12 lands within the district, upon the basis of the beneficial use
13 thereof, and generally to perform all such acts as shall be necessary
14 to fully carry out the provisions of this chapter: PROVIDED, That all
15 water, the right to the use of which is acquired by the district
16 under any contract with the United States shall be distributed and
17 apportioned by the district in accordance with the acts of congress,
18 and rules and regulations of the secretary of the interior until full
19 reimbursement has been made to the United States, and in accordance
20 with the provisions of said contract in relation thereto.

21 (10) The bylaws, rules, and regulations must be on file and open
22 to inspection of any elector during regular business hours.

23 (11) All leases, contracts, or other form of holding any interest
24 in any state or other public lands shall be, and the same are hereby
25 declared to be title to and evidence of title to lands and for all
26 purposes within this act, shall be treated as the private property of
27 the lessee or owner of the contractual or possessory interest:
28 PROVIDED, That nothing in this section shall be construed to affect
29 the title of the state or other public ownership, nor shall any lien
30 for such assessment attach to the fee simple title of the state or
31 other public ownership.

32 (12) The board of directors shall have authority to develop and
33 to sell, lease, or rent the use of: ~~((1))~~ (a) Water facilities and
34 water derived from the operation of the ~~((district))~~ water facilities
35 to such municipal and quasi-municipal entities, the state of
36 Washington, and state entities and agencies, and public and private
37 corporations and individuals located within and outside the
38 boundaries of the district, and on such terms and conditions as the
39 board of directors shall determine; ~~((and—(2))~~ (b) electric
40 facilities and power derived from ~~((hydroelectric))~~ electric

1 facilities authorized by RCW 87.03.015(~~((1) as now or hereafter~~
2 ~~amended~~) or 87.03.0155, to such municipal or quasi-municipal
3 corporations and cooperatives authorized to engage in the business of
4 distributing electricity, electrical companies subject to the
5 jurisdiction of the utilities and transportation commission, private
6 commercial or industrial entities that acquire electric power for
7 their own use or resale, and other irrigation districts, and on such
8 terms and conditions as the board of directors shall determine(~~(-~~
9 ~~PROVIDED,~~)); and (c) power derived from electric facilities
10 authorized by RCW 87.03.015 or 87.03.0155 on such terms and
11 conditions as the board of directors shall determine. No water shall
12 be furnished for use outside of said district until all demands and
13 requirements for water for use in said district are furnished and
14 supplied by said district(~~(- AND PROVIDED FURTHER, That)~~). As soon as
15 any public lands situated within the limits of the district shall be
16 acquired by any private person, or held under any title of private
17 ownership, the owner thereof shall be entitled to receive his or her
18 proportion of water as in case of other land owners, upon payment by
19 him or her of such sums as shall be determined by the board, and at
20 the time to be fixed by the board, which sums shall be such equitable
21 amount as such lands should pay having regard to placing said lands
22 on the basis of equality with other lands in the district as to
23 benefits received, and giving credit if equitable for any sums paid
24 as water rent by the occupant of said lands prior to the vesting of
25 private ownership, and such lands shall also become subject to all
26 taxes and assessments of the district thereafter imposed.

Passed by the Senate February 8, 2017.

Passed by the House April 7, 2017.

Approved by the Governor April 19, 2017.

Filed in Office of Secretary of State April 19, 2017.

--- END ---