CERTIFICATION OF ENROLLMENT

# SUBSTITUTE HOUSE BILL 1253

Chapter 279, Laws of 2025

69th Legislature
2025 Regular Session

CONSUMER-OWNED ELECTRIC UTILITIES—JOINT AGREEMENTS

EFFECTIVE DATE: July 27, 2025

Passed by the House April 19, 2025
Yeas 94 Nays 1

LAURIE JINKINS

**Speaker of the House of Representatives**

Passed by the Senate April 4, 2025
Yeas 49 Nays 0

DENNY HECK

**President of the Senate**

Approved May 15, 2025 1:39 PM

BOB FERGUSON

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1253** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 19, 2025

**Secretary of State**
**State of Washington**

# SUBSTITUTE HOUSE BILL 1253

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

**State of Washington 69th Legislature 2025 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Ybarra and Doglio)

READ FIRST TIME 01/31/25.

AN ACT Relating to expanding the ability of consumer-owned utilities to enter into joint use agreements; and amending RCW 35.92.052, 54.44.020, 54.16.090, and 43.52.300.

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

**Sec. 1.** RCW 35.92.052 and 1997 c 230 s 1 are each amended to read as follows:

(1) ((~~Except as provided in subsection (3) of this section, cities~~)) Cities of the first class which operate electric generating facilities and distribution systems shall have power and authority to participate and enter into agreements for the development, use, or ((~~undivided~~)) ownership of high voltage transmission facilities and capacity rights in those facilities and for the ((~~undivided~~)) development, use, or ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities, renewable energy facilities, energy storage facilities, and transmission facilities including, but not limited to, related transmission facilities, all to be called "common facilities"; and for the planning, financing, acquisition, construction, operation, and maintenance with: (a) Each other; (b) electrical companies which are subject to the jurisdiction of the Washington utilities and

transportation commission or the regulatory commission of any other state, to be called "regulated utilities"; (c) rural electric cooperatives, including generation and transmission cooperatives in any state; (d) municipal corporations, utility districts, or other political subdivisions in any state; ((~~and~~)) (e) any agency of the United States authorized to generate or transmit electrical energy; and (f) any other persons or entities. Agreements under this section include, but are not limited to, joint venture agreements and limited liability company agreements. It shall be provided in such agreements that each city shall use or own a percentage of any common facility at least equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output.

(2) A city using or owning common facilities under this section may issue revenue bonds or other obligations to finance the city's share of the use or ownership of the common facilities.

(3) ((~~Cities of the first class shall have the power and authority to participate and enter into agreements for the use or undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output of the facility. Cities may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with utility districts, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.~~

~~(4)~~)) The agreement must provide that each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied

by it for the planning, acquisition, and construction of any common facility, or any additions or betterments. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of a common facility.

((~~(5)~~)) (4) Each city participating in the ownership, use, or operation of a common facility shall pay all taxes chargeable to its share of the common facility and the electric energy generated under any applicable statutes and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, under agreement with such county or taxing district.

((~~(6)~~)) (5) In carrying out the powers granted in this section, each such city shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions, or obligations of others. No money or property supplied by any such city for the planning, financing, acquisition, construction, operation, or maintenance of, or addition or improvement to any common facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the ((~~undivided~~)) share of any city in any common facility be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon any city unless authorized or approved by resolution or ordinance of its governing body.

((~~(7)~~)) (6) Any city acting jointly outside the state of Washington, by mutual agreement with any participant under authority of this section, shall not acquire properties owned or operated by any public utility district, by any regulated utility, or by any public utility owned by a municipality without the consent of the utility owning or operating the property, and shall not participate in any condemnation proceeding to acquire such properties.

**Sec. 2.** RCW 54.44.020 and 2010 c 167 s 2 are each amended to read as follows:

(1) Except as provided in ((~~subsections~~)) subsection (2) ((~~and (3)~~)) of this section, cities of the first class, ((~~public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, any such cities and~~)) public utility districts organized under chapter 54.08 RCW, which

operate electric generating facilities or distribution systems, and any joint operating agency organized under chapter 43.52 RCW shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the ((~~public utility commissioner of Oregon~~)) regulatory commission of any other state, hereinafter called "regulated utilities", and with rural electric cooperatives, including generation and transmission cooperatives, with any other person or entities for the ((~~undivided~~)) development, use, and ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities, renewable energy facilities, energy storage facilities, and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities", and for the planning, financing, acquisition, construction, operation and maintenance thereof. Agreements under this section include, but are not limited to, joint venture agreements and limited liability company agreements. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility at least equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

(2) ((~~Cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, shall have the power and authority to participate and enter into agreements for the undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city, district, or agency, for the acquisition and construction of the facility, and shall own and control a like percentage of the electrical output thereof. Cities of the first class, public utility districts, and joint operating~~

~~agencies may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.~~

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

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

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

(iii) Rural electric cooperatives and generation and transmission cooperatives or any wholly owned subsidiaries of either rural electric cooperatives or generation and transmission cooperatives; and

(iv) Any other persons or entities.

(b) Except as provided in (b)(i)(B) of this subsection ((~~(3)~~)) (2), agreements including, but not limited to, joint venture agreements and limited liability company agreements, may provide for:

(i)(A) The ((~~undivided~~)) development, use, or ownership, or indirect ownership in the case of a separate legal entity, of common facilities that include any type of electric generating plant generating an eligible renewable resource, as defined in RCW 19.285.030, energy storage facilities, and transmission facilities including, but not limited to, related transmission facilities, and for the planning, financing, acquisition, construction, operation, and maintenance thereof;

(B) For counties with a biomass facility authorized under RCW 36.140.010, the provisions in (b)(i)(A) of this subsection ((~~(3)~~)) (2) are limited to the purposes of RCW 36.140.010; and

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

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

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

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

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

((~~(4)~~)) (3) Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

((~~(5)~~)) (4) Each city, county acting under RCW 36.140.010, public utility district, joint operating agency, regulated utility, and cooperatives participating in the direct or indirect ownership or operation of a common facility described in subsections (1) ((~~through (3)~~)) and (2) of this section shall pay all taxes chargeable to its share of the common facility and the electric energy generated thereby under applicable statutes as now or hereafter in effect, and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, pursuant to agreement with such county or taxing district.

**Sec. 3.** RCW 54.16.090 and 1969 c 106 s 7 are each amended to read as follows:

A district may enter into any contract or agreement with the United States, or any state, municipality, or other utility district, or any department of those entities, or with any cooperative, mutual,

consumer-owned utility, or with any investor-owned utility or with an association of any of such utilities, for carrying out any of the powers authorized by this title.

It may acquire by gift, devise, bequest, lease, or purchase, real and personal property necessary or convenient for its purposes, or for any local district therein.

It may make contracts, employ engineers, attorneys, and other technical or professional assistance; print and publish information or literature; advertise or promote the sale and distribution of electricity or water and do all other things necessary to carry out the provisions of this title.

It may advance funds, jointly fund or jointly advance funds for surveys, plans, investigations, or studies as set forth in RCW 54.16.010, including costs of investigations, design and licensing of properties and rights of the type described in RCW 54.16.020, including the cost of technical and professional assistance, and for the advertising and promotion of the sale and distribution of electricity or water.

In accordance with RCW 54.44.020, districts that operate electric generating facilities or distribution systems shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any other state, and with rural electric cooperatives, including generation and transmission cooperatives, with any other person or entities for the development, use, and ownership of any type of electric generating plants and facilities including, but not limited to, nuclear and other thermal power generating plants and facilities, renewable energy facilities, energy storage facilities, and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities," and for the planning, financing, acquisition, construction, operation and maintenance thereof. Agreements under this section include, but are not limited to, joint venture agreements and limited liability company agreements. It shall be provided in such agreements that each district shall own a percentage of any common facility at least equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

**Sec. 4.** RCW 43.52.300 and 1977 ex.s. c 184 s 4 are each amended to read as follows:

An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political

subdivisions and agencies of any state, of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its

business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper.

(13) To participate and enter into agreements in accordance with RCW 54.44.020. Joint operating agencies that operate electric generating facilities or distribution systems shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any other state, and with rural electric cooperatives, including generation and transmission cooperatives, with any other person or entities for the development, use, and ownership of any type of electric generating plants and facilities including, but not limited to, nuclear and other thermal power generating plants and facilities, renewable energy facilities, energy storage facilities, and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities," and for the planning, financing, acquisition, construction, operation and maintenance thereof. Agreements under this section include, but are not limited to, joint venture agreements and limited liability company agreements. It shall be provided in such agreements that each joint operating agency shall own a percentage of any common facility at least equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

Passed by the House April 19, 2025.
Passed by the Senate April 4, 2025.

Approved by the Governor May 15, 2025.
Filed in Office of Secretary of State May 19, 2025.

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