

CHAPTER 143.

[H. B. 342.]

PUBLIC UTILITY DISTRICTS.

AN ACT relating to public utility districts; providing for the sale of certain properties by said districts to other public utility districts, municipal corporations and public agencies in the state without an election; relating to the covenants of resolutions authorizing the issue of revenue bonds or warrants; amending section 6, chapter 1, Laws of 1931 (section 11610, Remington's Revised Statutes, also Pierce's Perpetual Code 833-11); and section 3, chapter 182, Laws of 1941 (section 11611-3, Remington's Revised Statutes, also Pierce's Perpetual Code 833-29).

Be it enacted by the Legislature of the State of Washington:

Amendments.

SECTION 1. Section 6, chapter 1, Laws of 1931 (section 11610, Remington's Revised Statutes, also Pierce's Perpetual Code 833-11), is amended to read as follows:

Section 6. All public utility districts organized under the provisions of this act shall have power:

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(a) To make a survey of hydro-electric power, irrigation and domestic water supply resources within or without the district, and to compile comprehensive maps and plans showing the territory that can be most economically served by the various resources and utilities, the natural order in which they should be developed, and how they may be joined and co-ordinated to make a complete and systematic whole.

(b) To construct, condemn and purchase, purchase, acquire, lease, add to, maintain, operate, develop and regulate all lands, property, property rights, water, water rights, dams, ditches, flumes, aqueducts, pipes and pipe lines, water power, leases, easements, rights of way, franchises, plants, plant facilities and systems for generating electric energy by water power, steam or other methods, plant, plant facilities and systems for developing, conserving and distribut-

ing water for domestic use and irrigation, buildings, structures, poles and pole lines, and cables and conduits and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and for the purpose of acquiring the right to make physical connection with plants and plant facilities of any and all persons, corporations and municipalities, and such right of eminent domain shall be exercised and instituted pursuant to resolution of the Commission and conducted in the same manner and by the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the State of Washington in the acquisition of like property and property rights. It shall be no defense to a condemnation proceeding hereunder that a portion of the electric current generated or sold by such public utility district will be applied to private purposes provided the principal uses intended are public: *Provided*, That no public utility owned by a city or town shall be condemned hereunder, and none shall be purchased without submission of the question to the voters of the utility district. In any condemnation proceeding under this act, the court shall submit to the jury the values placed upon such property by the County Assessor or other taxing authority, for taxation purposes, and in respect to property, plants and facilities of persons and corporations using public highways for the furnishing of public service without franchises, shall consider in determining the value thereof the fact that such property, plants and facilities are subject to be removed from such highways by reason of being so operated without such franchises.

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(c) To construct, purchase, condemn and purchase, acquire, add to, maintain, conduct and oper-

ate water works and irrigation plants and systems, within or without its limits, for the purpose of furnishing such public utility district, and the inhabitants thereof, and any other persons, including public and private corporations within or without its limits, with an ample supply of water for all uses and purposes, public and private, including water power, domestic use and irrigation, with full and exclusive authority to sell and regulate and control the use, distribution and price thereof.

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(d) To purchase, within or without its limits, electric current for sale and distribution within or without its limits, and to construct, condemn and purchase, purchase, acquire, add to, maintain, conduct and operate works, plants, transmission and distribution lines and facilities for generating electric current, operated either by water power, steam or other methods, within or without its limits, for the purpose of furnishing said public utility district, and the inhabitants thereof and any other person, including public and private corporations, within or without its limits, with electric current for all uses, with full and exclusive authority to sell and regulate and control the use, distribution, rates, service, charges and price thereof, free from the jurisdiction and control of the Director of Public Works and Division of Public Utilities, in all things, together with the right to purchase, handle, sell, or lease motors, lamps, transformers and any and all other kinds of equipment and accessories of every nature and kind whatsoever necessary and convenient for the use, distribution and sale thereof: *Provided*, That the Commission shall not supply water to a privately owned utility for the production of electric energy, and may supply, directly or indirectly, to privately owned public utilities which sell electric energy or water to the public, any of the surplus electric energy or water under its control, and contracts therefor

shall not extend over a longer period than three (3) years: *Provided*, That it must at all times first make adequate provision for the needs of the district, both actual and prospective.

(e) And for the purposes aforesaid, it shall be lawful for any public utility district so organized to take, condemn and purchase, purchase, and acquire any and all public and private property, franchises and property rights, including state, county and school lands, and property and littoral and water rights, for any of the purposes aforesaid, and for railroads, tunnels, pipe lines, aqueducts, transmission lines, and any and all other facilities necessary or convenient, and, in connection with the construction, maintenance or operation, of any such utility or utilities, to acquire by purchase or condemnation and purchase the right to divert, take, retain and impound and use water from or in any lake or watercourse, regardless of whether such lake or watercourse or the water therein be public or private, navigable or non-navigable, or held, owned or used by the state, or any subdivision thereof, or by any person or corporation for any public or private use, proprietary or governmental, or any underflowing water within the state; and such public utility district is hereby authorized and empowered to erect and build, within or without its limits, dams or other works across any river or watercourse, or across or at the outlet of any lake, up to and above high water mark; and, for the purpose of constructing or laying aqueducts or pipe lines, dams or waterworks or other necessary structures in storing, retaining and distributing water as above provided, or for any of the purposes provided for by this act, such public utility district shall have the right to occupy and use the beds and shores up to the high water mark of any such lake, river or watercourse and to acquire by purchase or by con-

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demnation and purchase, or otherwise, any water, water rights, easements or privileges named in this act or necessary for any of said purposes, and any such public utility district shall have the right to acquire by purchase or condemnation and purchase, or otherwise, any lands, property or privileges necessary to be had to protect the water supply of such public utility district from pollution: *Provided*, That should private property be necessary for any such purposes, or for storing water above high water mark, such public utility district may condemn and purchase or purchase and acquire such private property. Such public utility district shall have power to build and maintain inter-tie lines connecting its power plant and distribution system with the power plant and distribution system owned by any other public utility district, or municipal corporation, or to connect with the power plants and distribution systems owned by any municipal corporation in the district, and from any such inter-tie line to sell electric energy to any individual, or public utility district, or any city or town, or other corporations, public or private, and, by means of transmission or pole lines, to conduct electric energy from the place of production to the point of distribution, and to construct and lay said aqueducts, pipe or pole lines, and transmission lines along and upon public highways, roads and streets, and to condemn and purchase, purchase or acquire, lands, franchises and rights of way necessary for the same.

(f) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the public utilities thereof, and to issue general obligation or utility bonds therefor, bearing interest at a rate not exceeding six per cent per annum, payable semi-annually, said bonds not [to] be sold for less than par and accrued interest; to purchase with surplus funds, local utility district

bonds of districts created by the Commission and sell the same, giving preference to residents of the district, and to create a revolving fund to insure the prompt payment of all local utility district bonds.

(g) To raise revenue by the levy of an annual tax on all taxable property within such public utility district not exceeding two mills in any one year, exclusive of interest and redemption for general obligation bonds. The Commission shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file the same in the records of the Commission on or before the first Monday in September. Notice of the filing of said proposed budget and the date and place of hearing on the same shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in said county. On the first Monday in October, the Commission shall hold a public hearing on said proposed budget at which any taxpayer may appear and be heard against the whole or any part of the proposed budget. Upon the conclusion of said hearing, the Commission shall, by resolution, adopt the budget as finally determined, and fix the final amount of expenditures for the ensuing year. Taxes levied by the Commission shall be certified to and collected by the proper county officer of the county in which such public utility district is located in the same manner as is or may be provided by law for the certification and collection of port district taxes. The Commission is authorized, prior to the receipt of taxes raised by levy, to borrow money or issue warrants of the district in anticipation of the revenue to be derived by such district from the levy of taxes for the purpose of such district, and such warrants shall be redeemed from the first money available from such taxes when collected, and such warrants shall not exceed the anticipated revenues of one year, and shall bear interest at a rate of not to exceed six per cent per annum.

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(h) To enter into any contract with the United States Government, or any state, municipality or other utility district, or any department of those governing bodies, for carrying out any of the powers authorized by this act.

(i) To acquire by gift, devise, bequest, lease or purchase, real and personal property necessary or convenient for the purposes of the district or any local district therein.

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(j) To make contracts, employ engineers, attorneys and other technical or professional assistance; to print and publish information or literature and to do all other things necessary to carry out the provisions of this act.

The Public Utility District Commission shall appoint a manager, who shall be appointed for an indefinite time and be removable at the will of the Commission. Appointments and removals shall be by resolution, introduced at a regular meeting and adopted at a subsequent regular meeting by a majority vote. He shall receive such salary as the Commission shall fix by resolution.

The manager shall be the chief administrative officer of the public utility district, and shall have control of administrative functions of the district, and shall be responsible to the Commission for the efficient administration of all the affairs of the district placed in his charge. He shall be an experienced executive with administrative ability. In case of the absence or temporary disability of the manager, he shall, with the approval of the president of the Commission, designate some competent person as acting manager.

The manager shall be entitled to attend all meetings of the Commission and its committees, and to take part in the discussion of any matters pertaining to the duties of his department, but shall have no vote.

The public utility district manager shall have power, and it shall be his duty:

To carry out the orders of the Commission, and to see that all the laws of the state pertaining to matters within the functions of his department are duly enforced.

To keep the Commission fully advised as to the financial condition and needs of the district. To prepare, each year, an estimate for the ensuing fiscal year of the probable expenses of his department, and to recommend to the Commission what development work should be undertaken, and what extensions and additions, if any, should be made, during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions. To certify to the Commission all bills, allowances and payrolls, including claims due contractors of public works. To recommend to the Commission salaries of the employees of his office, and a scale of salaries or wages to be paid for the different classes of service required by the district. To hire and discharge clerks, laborers and other employees under his direction. To perform such other duties as may be imposed upon him by resolution of the Commission. It shall be unlawful for him to make any contribution of money in aid of or in opposition to the election of any candidate for public utility commissioner or to advocate or oppose any such election.

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(k) To sue and be sued in any court of competent jurisdiction: *Provided*, That all suits against the public utility district shall be brought in the county in which the public utility district is located. No suit for damages shall be maintained against such public utility district except on the basis of a claim therefor filed with the Commission of such district complying in all respects with the terms and requirements for claims for damages filed pursuant to general law against cities of the second class.

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(1) By resolution to establish and define the boundaries of local assessment districts to be known as Local Utility District No..... for distribution, under the general supervision and control of the Commission, of water for domestic use and (or) irrigation and (or) electric energy, and in like manner to provide for the purchasing, or otherwise acquiring, or constructing and equipping distribution systems for said purposes and for extensions and betterments thereof, and to levy and collect in accordance with the special benefits conferred thereon, special assessments and reassessments on property specially benefited thereby, for paying the cost and expense of the same, or any portions thereof, as herein provided, and to issue local improvement bonds and (or) warrants to be repaid wholly or in part by collection of local improvement assessments.

The Commission shall, by resolution, establish the method of procedure in all matters relating to local utility districts. Any public utility district may determine by resolution what work shall be done or improvements made at the expense, in whole or in part, of the property specially benefited thereby; and to adopt and provide the manner, machinery and proceedings in any way relating to the making and collecting assessments therefor in pursuance of this act. Except as herein otherwise provided, or as may hereafter be set forth by resolution, all matters and proceedings relating to the local utility district, the levying and collection of assessments, the issuance and redemption of local improvement warrants and bonds, and the enforcement of local assessment liens hereunder, shall be governed, as nearly as may be, by the laws relating to local improvements for cities of the first class: *Provided*, That no protest against a local utility district improvement shall be received by the Commission after twelve o'clock noon of the day set for hearing.

Any improvement authorized by this act may be ordered only by resolution of the Commission either upon petition or resolution therefor. Whenever a petition, signed by ten per cent of the owners of land in the district to be therein described, shall be filed with the Commission, asking that the plan or improvement therein set forth be adopted and ordered, and defining the boundaries of a local improvement district to be assessed in whole or in part to pay the cost thereof, it shall be the duty of the Commission to fix the date of hearing on such petition, and give not less than two (2) weeks notice thereof by publication. The Commission may, in its discretion, deny such petition or order the improvement unless a majority of the owners of lands in said district shall file prior to 12:00 o'clock noon of the day of said hearing with secretary thereof a petition protesting against said improvement; and if the Commission shall order the improvement, then it may alter the boundaries of such proposed district and prepare and adopt detail plans of any such local improvement, declare the estimated cost thereof, what proportion of such cost shall be borne by such local improvement district, and what proportion of the cost, if any, shall be borne by the entire public utility district. Whenever such a petition signed by a majority of the landowners in such a proposed local improvement district shall be filed with the Commission, asking that the improvement therein described be ordered, the Commission shall forthwith fix a date for hearing on said petition, after which the Commission must, by resolution, order such improvement, and may alter the boundaries of such proposed district, prepare and adopt such improvement, prepare and adopt detail plans thereof, declare the estimated cost thereof, what proportion of such cost shall be borne by such proposed local improvement district, and what proportion of the cost, if any, shall be

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borne by the entire public utility district, and provide the general funds thereof to be applied thereto, if any, acquire all lands and other properties therefor, pay all damages caused thereby, and commence in the name of the public utility district such eminent domain proceedings and supplemental assessments or re-assessment proceedings to pay all eminent domain awards as may be necessary to entitle said district to proceed with such work, and shall thereafter proceed with such work, and shall make and file with the County Treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within such local improvement district in proportion to the special benefits to be derived by the property in such local improvement district from such improvement. Before the approval of such roll, a notice shall be published ten (10) days stating that such roll is on file and open to inspection in the office of secretary of the district, and fixing a time not less than fifteen (15) nor more than thirty (30) days from the date of the first publication of such notice, within which protests must be filed with the secretary of said district against any assessments shown thereon, and fixing a time when a hearing shall be held by said Commission on said protests. After such hearing the Commission may alter any and all assessments shown on such roll and may then, by resolution, approve the same, but if any assessment be raised, a new notice, similar to such first notice, shall be given, and a hearing had thereon, after which final approval of such roll may be made by the Commission. Any person feeling aggrieved by such assessments shall perfect an appeal to the Superior Court of such county within ten (10) days after such approval in the manner now provided by law for appeals from assessments levied by cities of the first class in this state. Engineering, office and other

expenses necessary or incident to said improvement shall be borne by the public utility district: *Provided*, That where any municipal corporation included within such public utility district already owns or operates a utility of like character for which such assessments are levied hereunder, then all such engineering and other expenses mentioned above shall be borne by the local assessment district.

Whenever any improvement shall be ordered hereunder, payment for which shall be made in part from assessments against property specially benefited, not more than fifty per cent (50%) of the cost thereof shall ever be borne by the entire public utility district, nor shall any sum be contributed by it to any improvement acquired or constructed with or by any other body, exceed such amount, unless a majority of the electors of such district shall consent to or ratify the making of such expenditure.

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(m) It is, and shall be lawful for any public utility district organized hereunder to sell and convey, lease or otherwise dispose of all or any part of the works, plants, systems, utilities and properties authorized by this act and owned by it after proceedings and approval by the voters of the district as provided for in chapter 137, Laws of 1917, (sections 9512, 9513 and 9514 of Remington's Revised Statutes of Washington): *Provided*, That the affirmative vote of three-fifths ($\frac{3}{5}$) of the voters voting at an election on the question of approval of such proposed sale, shall be necessary to authorize such sale: *Provided further*, That any public utility district may sell, convey, lease or otherwise dispose of all or any part of the property owned by it, located outside its boundaries, to any other public utility district, city, town or other municipal corporation without the approval of the voters; or may sell, convey, lease or otherwise dispose of, to any person, firm, corporation or public body, any part either

within or without its boundaries, which shall have become unserviceable, inadequate, obsolete, worn out or unfit to be used in the operations of the system and which is no longer necessary, material to and useful in such operations without the approval of the voters. Public utility districts shall be held to be municipal corporations within the meaning of said sections and the Commission of such public utility district shall be held to be the legislative body within the meaning of said sections, and the president and secretary of such district shall have the same powers and perform the same duties as the Mayor and City Clerk referred to in said sections, and the resolutions of the public utility districts shall be held to mean ordinance within the meaning of said sections.

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(n) The Commission of each public utility district may adopt general resolutions to carry out the purposes, objects and provisions of this act.

Amend-
ment.

SEC. 2. Section 3, chapter 182, Laws of 1941 (section 11611-3, Remington's Revised Statutes, also Pierce's Perpetual Code 833-29), is amended to read as follows:

Section 3. Any resolution creating any such special fund and authorizing the issue of revenue bonds or warrants payable therefrom shall specify the title of such bonds or warrants as determined by the Commission and may contain covenants by the district to protect and safeguard the security and the rights of the holders of such bonds and warrants, including covenants as to, among other things (a) the purpose or purposes to which the proceeds of sale of such bonds or warrants may be applied and the use and disposition thereof; (b) the use and disposition of the gross revenues of the public utility, and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation

of the public utility and for renewals and replacements to the public utility; (c) the amount, if any, of additional bonds or warrants payable from such fund which may be issued and the terms and conditions on which such additional bonds or warrants may be issued; (d) the establishment and maintenance of adequate rates and charges for electric energy, water and other services, facilities and commodities sold, furnished or supplied by the public utility; (e) the operation, maintenance, management, accounting and auditing of the public utility; (f) the terms upon which such bonds or warrants or any of them may be redeemed at the election of the district; (g) limitations upon the right to dispose of such public utility or any part thereof without providing for the payment of the outstanding bonds; and (h) the appointment of trustees, depositaries and paying agents to receive, hold, disburse, invest and reinvest all or any part of the income, revenues, receipts and profits derived by the district from the operation, ownership and management of its public utility.

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Passed the House February 28, 1945.

Passed the Senate March 7, 1945.

Approved by the Governor March 15, 1945.