

CHAPTER 245.

[H. B. 302.]

PUBLIC UTILITY DISTRICTS.

AN ACT relating to public utility districts and the government thereof; providing for the levying, collection, distribution and expenditure of a privilege tax on public utility districts engaged in the distribution and sale of electric energy and authorizing voluntary payments by public utility districts for tax purposes; authorizing cities and towns to levy and collect a tax from public utility districts which distribute and sell electricity within the limits of such cities; prescribing the time of election and term of office of Public Utility District Commissioners; authorizing public utility districts to compensate their Commissioners and reimburse them for expenses incurred; pertaining to the determination of compensation to be paid by such districts in eminent domain proceedings; authorizing such districts to enter into group insurance contracts for their employees; validating public utility districts heretofore formed and prescribing the manner in which the existence of such districts now or hereafter formed may be challenged; amending sections 4 and 5 of chapter 1, Laws of 1931; and declaring that this act shall take effect immediately.

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

SECTION 1. The following terms used in this act shall be construed as follows: "district" means any public utility district now or hereafter organized pursuant to chapter 1, Laws of 1931; "Tax Commission" means the Tax Commission of the State of Washington; "operating property" means all of the property utilized by a district in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale; "taxing districts" means counties, cities, towns, school districts and road districts of this state. Definitions.

SEC. 2. (a) From and after May 1, 1941, there is hereby levied and there shall be collected from every district a tax for the act or privilege of engaging within this state in the operation of works, plants or facilities for the distribution and sale of electric Privilege tax.

Rate.	energy. Such tax shall be two per cent (2%) of the gross revenues derived from the sale of electric energy within this state, exclusive of the revenues from sales of electric energy for resale, and shall be
Additional to other taxes.	in addition to any other tax to which such district is subject under existing law.
Report of district.	(b) On or before the 15th day of March, 1942, and of each year thereafter, each district subject to this tax shall file with the Tax Commission a report verified by the affidavit of its manager or secretary on forms prescribed by the Tax Commission. Such report shall state (1) the taxing districts wherein the operating property of the district is located, (2) as to the entire property and as to each such taxing district, the reproduction cost new and less depreciation of such operating property so far as that information is available from the district's existing records without taking additional inventory or procuring an engineering report or survey, (3) actual cost and general description of operating property purchased, (4) the district's gross revenues and operating expenses for each of the three calendar years last past, and (5) such other and further information as the Tax Commission reasonably may require in order to administer the provisions of this act. In case of failure by the district to file such report, the Commission may proceed to determine the information, which determination shall be contestable by the district only for actual fraud. The Tax Commission shall proceed to determine the cash market value of the district's operating property as of the December 31st last past, and the percentage thereof located in each of the taxing districts.
Contents.	
Duty of Tax Commission.	
Computation of tax.	(c) Prior to August 15, the Tax Commission shall compute the tax imposed by this act for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or
Notice to district. Date payable.	before October 1. Upon receipt of the amount of the

tax from the district, the Tax Commission shall deposit the same with the State Treasurer, who shall deposit four per cent (4%) thereof in the general fund of the state and transmit the remainder to the County Treasurer of each county in which any operating property of the district is located, in proportion to the value of such property located in such county, as directed by the Tax Commission. The State Treasurer shall send a duplicate copy of the letter of transmittal to the Tax Commission, and the Tax Commission shall instruct the County Treasurer or Treasurers as to the distribution of the money, as hereinafter provided.

Treasurer to deposit and transmit.

(d) Prior to the 15th day of January, 1942, and of each year thereafter, the County Treasurer of each county in which operating property of a district is located shall transmit to the Tax Commission a statement of the tax levies made on real and personal property in each taxing district of the county. The Tax Commission shall determine the amount of money which each taxing district in which operating property of the district is located would have received if the levies made for county, city, town, school district and road district purposes had been applied to the value of the district's operating property in the taxing district. These amounts are referred to herein as the "taxing district's tentative tax" and their total for any county is referred to as the "county districts' tentative tax." The money received by the County Treasurer from the State Treasurer shall be apportioned by him among the taxing districts in which operating property of the district is located in the proportion that the particular taxing district's tentative tax bears to the county districts' tentative tax. All money received by the county shall be used exclusively for maintenance and operation of the Superior Court and Sheriff's office of the county; all money received by a city or town shall be

Duty of County Treasurers.

Statement of levies.

Tax Commission to compute tentative tax.

Apportionment by County Treasurer.

Money used for Superior Court and Sheriff.

Money used for city fire and police departments.

expended exclusively for maintenance and operation of the Fire and Police Departments of the particular city or town to which the same is thus apportioned; all money received by a school district shall be expended exclusively for maintenance and operation of the public schools in the particular school district to which the same is thus apportioned; all money transmitted to the County Treasurer for road districts shall be expended exclusively for the maintenance and construction of public roads in the particular road districts to which the same is thus apportioned.

School districts.

Road districts.

Interest on delinquency.

(e) Interest at the rate of six per cent (6%) per annum shall be added to the tax hereby imposed after the due date. The tax shall constitute a debt to the State of Washington and may be collected as such.

Deemed a debt.

Districts authorized to pay tax.

(f) Districts are hereby authorized, from operating revenues accumulated prior to or subsequent to May 1, 1941, to make voluntary payments to the Tax Commission to be handled and distributed as is provided above for the tax herein imposed.

Cities and towns may levy tax.

SEC. 3. Any city or town in which a public utility district operates works, plants or facilities for the distribution and sale of electricity shall have the power to levy and collect from such district a tax on the gross revenues derived by such district from the sale of electricity within the city or town, exclusive of the revenues derived from the sale of electricity for purposes of resale. Such tax when levied shall be a debt of the district, and may be collected as such. Any such district shall have the power to add the amount of such tax to the rates or charges it makes for electricity so sold within the limits of such city or town.

Gross revenues.

SEC. 3a. No public utility district under the powers granted it by chapter 1, Laws of 1931, to construct and maintain operating properties upon the

streets, alleys and public places within a city or town, shall construct any such properties without having first obtained the consent of the governing body of such city or town and approval of the plan and location of such construction, which shall be made under such reasonable terms as may be imposed by such city or town.

Cities to approve construction.

All operating properties of a public utility district within a city or town shall be operated and maintained subject to the power of the city or town to make regulations under its police power with respect thereto.

Subject to police power.

SEC. 4. That section 4 of chapter 1, Laws of 1931, be amended to read as follows:

Amendments.

Section 4. Within five days after such election, the Election Board of the county shall canvass the returns, and if at such election a majority of the voters voting upon such proposition shall vote in favor of the formation of such district, the Election Board shall so declare in its canvass of the returns of such election and such public utility district shall then be and become a municipal corporation of the State of Washington, and the name of such public utility district shall be Public Utility District No. of County. The powers of the public utility district shall be exercised through a commission consisting of three members, one from each of the three county commissioner districts of the county in which the public utility district is located, when the public utility district is coextensive with the limits of such county. When the public utility district comprises only a portion of the county, three commissioner districts, numbered consecutively, having approximately equal population and boundaries, following ward and precinct lines, as far as practicable, shall be described in the petition for the formation of the public utility district, and one Commissioner shall be elected from each of said com-

Board to canvass vote.

Majority establishes district.

P. U. D. Commission.

Districts.

Qualification
of commis-
sioner.

missioner districts. No person shall be eligible to hold the office of Public Utility District Commissioner unless he is a qualified voter and a freeholder within such public utility district, and is and has been a resident for a period of three years, except as hereinafter provided, of the commissioner district from which he is elected.

Term of
office.

Except as in this section otherwise provided, the term of office of each Public Utility District Commissioner shall be six (6) years, such term to be computed from the first day of December following his election, and one such Commissioner shall be elected at each biennial general election for the term of six (6) years and until his successor has been elected and has qualified. All candidates shall be voted upon by the entire public utility district.

First
election.

In any public utility district hereafter formed, three (3) Public Utility District Commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such public utility district shall be formed. The Commissioner residing in commissioner district number one shall hold office for the term of six (6) years; the Commissioner residing in commissioner district number two shall hold office for the term of four (4) years; and the Commissioner residing in commissioner district number three shall hold office for the term of two (2) years. The terms of all Commissioners first to be elected as above provided shall include the time intervening between the date that the results of their election are declared in the canvass of returns thereof, and the date from which the length of their terms is computed as above specified.

Rotation of
terms of com-
missioners.

General
election.

No election of Commissioners in any public utility district, except to fill vacancies, shall be held until the biennial general election on the first Tuesday following the first Monday in November, 1942, at which time and thereafter such elections shall be held as

herein provided. At said general election, there shall be elected two (2) Public Utility District Commissioners in each public utility district, one for a term of four (4) years commencing December 1, 1942, in such commissioner district where the Public Utility District Commissioner resides whose successor, but for this act, would be elected on the second Saturday in December, 1941, and one for a term commencing on the second Monday in January, 1943, and expiring December 1, 1948, in such commissioner district where the Utility District Commissioner resides whose successor, but for this act, would be elected on the second Saturday in December, 1942; and at the general election to be held on the first Tuesday following the first Monday in November, 1944, there shall be elected one Public Utility District Commissioner for a term of six (6) years commencing December 1, 1944, in such commissioner district of each such utility district where the Commissioner resides whose successor, but for this act, would be elected on the second Saturday in December, 1943.

General election.

Commissioners.

Terms of office.

All Commissioners shall hold office until their successors shall have been elected and have qualified.

All expenses of elections for the formation of such public utility districts shall be paid by the county holding such election, and such expenditure is hereby declared to be for a county purpose, and the money paid out for such purpose shall be repaid to such county by the public utility district, if formed. Nominations for Public Utility District Commissioners shall be by petition signed by one hundred (100) qualified electors of the public utility district to be filed in the office of the County Auditor not more than sixty (60) days, and not less than thirty (30) days prior to the day of such election: *Provided, however,* That in any public utility district having a population of less than four thousand, such nominating petition shall be signed by a number of

Expenses of election.

Nomination by petition.

Proviso.

Ten per cent
of electors.

qualified electors equaling ten per cent (10%) or more of the qualified electors of the public utility district. A vacancy in the office of Public Utility

Vacancies.

District Commissioner shall occur by death, resignation, removal, conviction of a felony, non-attendance at meetings of the Public Utility District Commission for a period of sixty (60) days unless excused by the Public Utility District Commission, by any statutory disqualification, or by any permanent disability preventing the proper discharge of his duty. In the event of a vacancy in said office, such vacancy shall be filled at the next general election, the vacancy in the interim to be filled by appointment by the remaining Commissioners. If there should be at the same time such number of vacancies that there are not in office a majority of the full number of Commissioners fixed by law, a special election shall be called by the County Election Board upon the request of the remainder, or, that failing, by the County Election Board, such election to be held not more than forty (40) days after the occurring of such vacancies.

Special
election.

Quorum.

A majority of the persons holding the office of Public Utility District Commissioner at any time shall constitute a quorum of the commission for the transaction of business, and the concurrence of a majority of the persons holding such office at the time shall be necessary and shall be sufficient for the passage of any resolution, but no business shall be transacted, except in usual and ordinary course, unless there are in office at least a majority of the full number of Commissioners fixed by law.

Boundaries
of commis-
sioners'
districts.

The boundaries of the Commissioners' districts shall not be changed oftener than once in four (4) years, and only when all members of the Commission are present: *Provided*, That any proposed change therein must be made by resolution and notice of the time of a public hearing thereon shall be pub-

Change by
resolution
and notice.

lished for two (2) weeks prior thereto: *And provided further*, That upon a referendum petition signed by six per cent (6%) of the qualified voters of the public utility district being filed with the Clerk, the Commission shall submit such proposed change to the voters of the public utility district for their approval or rejection. The checking of said petition as to its sufficiency or insufficiency shall be governed by the provisions in this act relating thereto.

Referendum.

SEC. 5. That section 5 of chapter 1, Laws of 1931, be amended to read as follows:

Amendments.

Section 5. The term general election as used in this act shall be held and construed to mean biennial general elections at which state and county officers are elected. The Election Board of the county shall give notice of all elections held under the provisions of this act for the time and in the manner and form provided by law for city, school district and port district elections. Whenever in the judgment of the Election Board of the county an emergency exists, and such board is requested so to do by a resolution of the Public Utility District Commission, it may call a special election at any time in such public utility district, and at any such special election said board may combine, unite or divide precincts for the purpose of holding such special election, and every such special election so called shall be conducted and notice thereof given in the manner provided by law.

Definition: General election.

Duty of County Election Board.

Special election in emergency.

The chairman of the Board of County Commissioners, the County Auditor and the Prosecuting Attorney of the county in which the election is held shall constitute an Election Board for all elections held under the provisions of this act; and it shall be the duty of such board to provide polling places for holding elections under this act, to appoint the election officers, to provide their compensation, to provide ballot boxes, and ballots or voting machines,

County Election Board.

Duties of
County
Election
Board.

poll books and tally sheets, and deliver them to the election officers at the polling places, to publish and post notices of calling such elections in the manner provided by law, and to apportion to the public utility district its share of the expense of holding such election.

Election
officers.

The election officers appointed by the Election Board of the county shall conduct such elections and shall receive and deposit ballots cast thereat in a separate ballot box, and shall count said ballots and make returns thereof to the Election Board of the county, which board shall constitute a canvassing board for all elections held under the provisions of this act. The manner of conducting and voting at elections under this act, opening and closing of polls, keeping of poll lists, canvassing the votes, declaring the result, and certifying the returns, shall be the same as provided by the general election laws governing the election of state and county officers, except as otherwise provided in this act.

County
Board to
canvass vote.

General laws
to govern.

Commission
to certify
offices to be
filled.

The Public Utility District Commission shall certify to the Election Board a list of offices to be filled at any election to be held under the provisions of this act, and such commission, if it desires to submit to the voters of such public utility district any proposition for their approval or adoption, or rejection, at any election held under the provisions of this Act, shall require the secretary of such commission to certify the same to the Election Board at the time and in the manner and form now provided by law for certifying propositions to said board by the governing board of cities, towns and port districts.

Propositions.

Compensa-
tion for
Commis-
sioners.

Rate.

Sec. 6. Each public utility district may provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding \$10.00 for each day or major part thereof devoted to the business of the district, and days upon which he attends meetings of the Commission of his own

district or meetings attended by one or more Commissioners of two or more districts called to consider business common to them. Each Public Utility District Commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging while away from his place of residence and mileage for use of personal automobile at the rate of five cents (5¢) per mile.

Expenses.

Mileage.

SEC. 7. Whenever, in any eminent domain proceeding heretofore or hereafter instituted by a public utility district or districts for the acquisition of any public utility or works, plants or facilities, a verdict has been returned, or, if the case is tried by the Court without a jury, a judgment has been entered, fixing the amount to be paid as compensation for the property taken or damaged, such verdict or judgment shall bear interest at the rate of six per cent (6%) per annum from the date of entry to the date of payment thereof, and there shall be added thereto the amount, with like interest thereon, expended for reasonable additions and betterments to and extensions of such property made between the dates last mentioned after notice of intention to make such additions, betterments and improvements and approval thereof by the Court having jurisdiction of the eminent domain proceeding: *Provided*, That there shall be offset against and deducted from such interest and the amount added thereto for additions, betterments and extensions made as aforesaid, the amount of net earnings, before allowance for depreciation, derived from such properties between such dates; and the Court, by order or decree, shall make provision for the adjustment, determination and payment of such items. In the event objection is made to the entry or the form of any decree of appropriation, the Court shall hear and rule upon such objection and thereafter payment shall be made in

Vetoed.

Vetoed. { accordance with such ruling. The provisions of this section shall apply in all cases where a decree of appropriation shall be entered after the effective date of this act.

Group insurance.

May pay premiums.

Restriction.

Proviso.

SEC. 8. Any public utility district engaged in the operation of electric or water utilities may enter into contracts of group insurance for the benefit of its employees, and pay all or any part of the premiums for such insurance. Such premiums shall be paid out of the revenues derived from the operation of such properties: *Provided*, That no contract shall be entered into for the benefit of a group of less than ten employees: *And provided further*, That if the premium is to be paid by the district and employees jointly, and the benefits of the policy are offered to all eligible employees, not less than seventy-five per centum (75%) of such employees may be so insured.

Vetoed. { SEC. 9. The incorporation of each and all public utility districts in this state heretofore had or attempted under chapter 1, Laws of 1931, under which attempted incorporation an organized government, by and through persons claiming to occupy the offices of Public Utility District Commissioners, has been maintained since the date thereof, is hereby declared for all purposes legal and valid, and such public utility districts are hereby declared duly incorporated.

Limitation of action on legality of district.

SEC. 10. The existence of any public utility district now or hereafter formed under chapter 1, Laws of 1931, cannot hereafter be legally questioned by any person except the State of Washington in an appropriate Court action brought within six months from the date that the County Election Board shall have canvassed the returns of the election held on the proposition of creating such district. If the existence of a district is not challenged within the period above specified, by the filing and service of petition or complaint in the action aforesaid, the State of

Washington thereafter shall be barred forever from questioning the legal existence and validity of such district by reason of any defect in the organization thereof, and the same shall be deemed duly and regularly organized under the laws of this state.

Limitation
of action.

SEC. 11. If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged to be invalid.

Partial
invalidity.

SEC. 12. This act is necessary for the promotion of the public welfare, the immediate support of the state government and its existing public institutions and shall take effect immediately.

Effective
immediately.

Passed the House February 27, 1941.

Passed the Senate March 11, 1941.

Approved by the Governor March 25, 1941, with the exception of sections 7 and 9, which are vetoed.

CHAPTER 246.

[H. B. 15.]

APPROPRIATIONS FOR SECONDARY HIGHWAYS.

AN ACT relating to secondary state highways, making appropriations from the motor vehicle fund for location, right of way, improvement, construction, reconstruction, maintenance, special maintenance, emergencies, and all proper highway purposes for secondary highways, amending section 6, chapter 181, Laws of 1939 (section 6600-2b Remington's Revised Statutes), repealing section 21, chapter 181, Laws of 1939, (section 6600-25e Remington's Revised Statutes), and declaring an emergency, and that this act shall take effect April 1, 1941.

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

SECTION 1. That section 6, chapter 181, Laws of 1939 (section 6600-2b Remington's Revised Statutes), be and it is hereby amended to read as follows:

Amend-
ments.