

support of the state government and its existing public institutions, and sections 12 to 29, inclusive, shall take effect April 1, 1953. Effective date.

Passed the Senate March 11, 1953.

Passed the House March 10, 1953.

Approved by the Governor March 23, 1953.

CHAPTER 281.

[H. B. 462.]

WASHINGTON STATE POWER COMMISSION.

AN ACT relating to the conservation, development and utilization of the state's electric resources and of facilities for the generation, transmission and distribution thereof; creating a Washington State Power Commission and prescribing its powers and duties with respect to power and power facilities in the state; relating to cities and public utility districts and authorizing them to join in and exercise certain powers given to the Washington State Power Commission; repealing chapter 43.52, RCW; making an appropriation.

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

SECTION 1. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean: Definitions.

“Commission” means the Washington State Power Commission created hereunder.

“District” means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

“City” means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

“Canada” means the Dominion of Canada or any province thereof.

“Public Utility” means any person, firm or corporation, political subdivision or governmental sub-

division including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

Washington
State Power
Commission
created.

SEC. 2. There is hereby created the Washington State Power Commission, which shall be a body politic and corporate, a political subdivision of the state of Washington exercising governmental and public powers, having the right to sue and be sued and having such other powers and duties as are hereinafter enumerated, together with such other powers and duties as may be conferred upon it by law.

Members of
commission.

SEC. 3. The commission shall be composed of five members; one member to be appointed by the governor from a list of two or more nominees submitted by the districts; one member to be appointed by the governor from a list of two or more nominees submitted by the legislative body of the city owning and operating generating facilities larger than those of any other city; one member to be appointed by the governor from a list of two or more nominees submitted by the legislative body of the other city or, if there be more than one, to be jointly submitted by those cities owning and operating generating facilities having a capacity of more than 250,000 kilowatts of electricity; and two members at large to be appointed by the governor. In making such appointments the governor shall give due recognition to all public utilities doing business in the state and make appointments such that all classes of utilities, in so far as possible, may be represented in proportion to customers served and electricity furnished. The first term of the member appointed from nominees of the districts shall be four years. The first term of the member appointed from nominees of the city having the largest generating capacity shall be two years. The first term of the member appointed from nominees of the other city or cities shall be six years.

Terms of
members.

The first term of one member at large appointed by the governor shall be two years and the first term of the other member at large appointed by the governor shall be four years. After the first term all appointments shall be for a term of six years. The first term of each member shall commence on the first day of June, 1953. No member shall be removed except by the appointing power and for cause. In the event of vacancy in the office of any member, the balance of the term shall be filled by appointment by the appointing power as in the case of original appointments. The commission shall appoint one of its members to act as chairman.

Vacancies.

SEC. 4. Members of the commission shall be paid the sum of fifty dollars per day for each day or major part thereof devoted to the business of the commission, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the commission such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day.

Compensation.

SEC. 5. The commission shall have authority:

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

Powers of commission. Generate and sell electric energy.

(b) 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 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

Acquisition of real and personal property.

in the construction, maintenance or operation of any such works, plants and facilities; provided that the commission 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. The commission 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.

Contracts with U. S., state, or Canada for facilities.

(c) To negotiate and enter into contracts or compacts 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, 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, contracts or compacts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

Contracts with U. S., state, or Canada for energy or falling water.

(d) 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.

Permits, etc., to construct or operate facilities.

(e) To apply to the appropriate agencies of the state of Washington, the United States or any state 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.

(f) To establish rates for electric energy sold or transmitted by the commission. When any revenue bonds or warrants are outstanding the commission 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 commission 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 commission 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 commission and all necessary repairs, replacements and renewals thereof.

Establish rates or charges.

(g) 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.

Purchase and sale of electricity.

(h) 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 commission.

Fishways, etc.

(i) 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.

Canals, etc., flood control and fisheries facilities.

(j) To employ legal, engineering and other professional services and fix the compensation of a man-

Professional services and employees.

aging director and such other employees as the commission may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the commission shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the commission.

Analysis,
etc., and
reports.

(k) 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.

Retail distri-
bution, etc.,
provided.

SEC. 6. Nothing in this act shall authorize or empower the commission or any operating agency, as hereinafter provided for, to purchase or acquire any distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydro-electric generating plant owned by any city or district at the time of the effective date of this act or which thereafter may be acquired by any city or district by condemnation.

Notice
of construc-
tion or
acquisition.

SEC. 7. Before the commission shall construct or acquire any hydro-electric generating facility within the state, it shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency, as hereinafter provided for, desires to construct or acquire such facility or desires to construct a hydro-electric plant or reservoir in substantially the same location, such utility or operating agency shall notify the commission thereof within ten days after the last date of publication of such notice. If the commission determines that it is in the best public interest that the commission proceed with such construction or acquisition rather

Public utility
or operating
agency;
notice of
construction
or acquisi-
tion by.

than to permit the public utility or operating agency to do so, it shall so notify the director of conservation and development, who shall set a date for hearing thereon. If after considering the evidence introduced the director of conservation and development finds that the public utility or agency making the request intends to immediately proceed with such construction or acquisition and is financially capable of carrying out such construction or acquisition, and further finds that the plan of such utility or operating agency is equally well adapted to conserve and utilize in the public interest the water resources of this state, he shall specify a reasonable time, in no event less than one year, which time shall be extended for good cause shown, within which such public utility or operating agency shall complete such acquisition or commence such construction. If such utility or operating agency has not completed such acquisition or commenced such construction prior to the end of such period of time, the commission shall be authorized to proceed with such acquisition or construction and acquire by purchase or condemnation any rights which such public utility or operating agency has therein or which are necessary to such project.

SEC. 8. For the purpose of carrying out any or all of the powers herein granted the commission shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to this act shall be brought in any court of competent jurisdiction under the procedure set out in chapter 8.04, RCW: *Provided*, That the commission may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn prop-

Hearing.

Power
of eminent
domain.Condemna-
tion.

erty wherever located within the state: *Provided further*, That it shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the commission into possession of any property condemned.

SEC. 9. For the purpose of paying the cost of acquiring by lease, contract, purchase, condemnation or construction, all or any part of such electric systems and for rehabilitating, rebuilding, enlarging or improving all or any part of said system, the commission is hereby authorized by resolution to issue its revenue bonds which shall constitute obligations only of the commission and shall be payable solely and only from all or such part of the revenues from the operation of the system as may be provided in and by such resolution. Each such revenue bond shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by a direct charge and lien upon the revenues pledged for that purpose and that such bond does not constitute an indebtedness of the state of Washington. Such revenue bonds may bear such date or dates, may mature at such time or times as the commission shall determine, may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration and conversion privileges, may be made subject to such terms of redemption with or without premium, and may contain such other terms and covenants not inconsistent with this act as may be

Issuance
of revenue
bonds.

Lien on
revenues.

Contents,
terms and
form of
bonds.

provided in such resolution. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is non-negotiable, each such revenue bond shall at all times be and shall be treated as a negotiable instrument for all purposes. All such bonds shall be signed by the chairman of the commission and any interest coupons appertaining thereto shall bear the signature of the chairman: *Provided*, That the signature of the chairman on such coupons may be printed or lithographed facsimile signature. Pending the issuance of definitive bonds, temporary or interim bonds, certificates or receipts of any denomination and with or without coupons attached may be issued as may be provided by said resolution. All bonds issued under or by authority of this act shall be sold to the highest and best bidder after such advertising for bids as the commission may deem proper: *Provided*, That the commission may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the commission may deem most advantageous to its own interests. The purchase price of all bonds issued hereunder shall be paid to the state treasurer, as ex officio treasurer of the commission, consistent with the provisions of the resolution pursuant to which such bonds have been issued or to the trustee designated in the resolution and held as a separate trust fund to be disbursed on orders of the commission.

Negotiability.

Signatures on bonds.

Temporary bonds.

Payment of purchase price.

Separate trust fund.

In determining the amount of bonds required to be issued there may be included any expenses incurred by the commission in connection with and incidental to the issuance and sale of bonds and for the preparation of surveys and estimates and making inspections and examinations, interest during the estimated construction period, and for six months thereafter, and a reasonable amount for working capital and prepaid insurance. The commission is

Determination of amount of bonds required.

hereby empowered to include in any resolution authorizing the issuance of the bonds such covenants, stipulations and conditions as may be deemed necessary with respect to the continued use and application of the income and revenues from the undertaking.

Commission not empowered to obligate, etc., state of Washington.

The commission shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions.

Revenues received; disposition.

No revenues received by the commission for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the commission and all such revenues and receipts shall be kept and maintained in a separate fund.

Construction of act.

SEC. 10. The provisions of this act shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this act or any of the powers granted by this act.

Public service commission regulations not to govern rates, services and practices.

The rates, services and practices of the commission or any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the public service commission.

Maintenance and operation of fishways, etc.

SEC. 11. The commission shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of game and the director of fisheries may jointly find necessary to permit anadromous fish to pass any dam

or other obstruction operated by the commission or to replace fisheries damaged or destroyed by such dam or obstruction and the commission is further authorized to enter into contracts with the department of game and the department of fisheries to provide for the construction and/or operation of such fishways, facilities and hatcheries.

SEC. 12. Any two or more cities or districts may with the consent of the commission form an operating agency of the state power commission for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof for the generation and/or transmission of electric energy. Each such agency shall be a division of the state power commission with the right to sue and be sued in the name of the commission. Such operating agency shall be formed upon the adoption by two or more cities or districts of an enactment by each legislative body thereof, authorizing such city or district to become a member of an operating agency, and setting forth the name of such operating agency, the principal place of business, the names of the other cities and districts which shall be initial members thereof, and the purpose for which such operating agency is to be formed. After the formation of an operating agency, any other city or district may become a member thereof upon application after the adoption of an enactment of its legislative body, and with the consent of the operating agency by the affirmative vote of all its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interests which it may have in such operating agency or in any of the assets thereof. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obliga-

Operating agencies authorized.

Purpose.

Division of state power commission.

How formed.

Additional membership.

Withdrawal of members.

Dissolution of operating agency.

tions, shall thereupon hold the assets thereof as tenants in common.

Representation of members on board of operating agency.

SEC. 13. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of his regular representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a chairman, vice-chairman and secretary, who shall serve at the pleasure of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the members and a majority of the votes allocated to the members of an operating agency shall constitute a quorum for the transaction of business. The members of the board of an operating agency may be compensated by such agency to the same extent and subject to the same limitations as is provided for members of the commission in section 4 of this act.

Officers of board.

Rules and seal.

Quorum.

Compensation.

Preference rights of members.

SEC. 14. Members shall have a preference right to the purchase of all electric energy generated by an operating agency. As between members, the amount of electric energy to which each shall be entitled shall be computed annually and shall be based on

the same percentage as the purchases of such member bore to the total generation of the operating agency for the preceding year. Surplus electric energy, that is energy not contracted for by the members, may be sold to any public utility authorized by law to distribute and sell electric energy.

SEC. 15. An operating agency shall, through its board, have all of the powers granted to the state power commission under section 5, subsections a, b, d, e, f, h, i and j, and the provisions of sections 6 and 11 of this act shall be applicable to such agency. An operating agency, as a division of the commission, shall have the right of eminent domain in the same manner as is provided in section 8 of this act. An operating agency, as a division of the commission, shall be authorized, through its board, to issue revenue bonds in its own name in the same manner as is provided in section 9 of this act. All revenues received by an operating agency shall be held by and in the name of the operating agency and shall not be expended except for payment of lawful obligations of the operating agency. Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues, or from any other funds of the agency, together with interest not to exceed four per cent per annum.

Powers
of operating
agency.

Eminent
domain.

Revenue
bonds.

SEC. 16. One member of the commission appointed by the chairman thereof shall be ex officio member of the board of each operating agency and shall be entitled to be heard and to have one vote. No operating agency shall construct or acquire any generation plants, except with the consent of the commission.

Representa-
tion of
operating
agencies on
commission.

SEC. 17. Any city or district is authorized to enter into contracts or compacts with the commission or

Cities or
districts
authorized
to contract
with.

any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters.

Hearings of
commission.

SEC. 18. The commission may hold hearings, inquire into any matter relating to the business of the commission, administer oaths and affirmations, compel by subpoena the attendance of witnesses, the production of relevant books, records, papers and accounts and order the taking of depositions in accordance with the rules and laws regulating the taking of depositions to be used in superior court proceedings and the superior court of Thurston county, upon request of the commission, may enforce each subpoena and deposition proceedings. The commission may adopt necessary rules or regulations of practice and procedure governing its procedure and hearings and establish a schedule of fees and costs to be paid by the parties involved.

Court
appeals.

SEC. 19. Any party in interest deeming itself aggrieved by any order of the commission or of the director of conservation and development may appeal to the superior court of Thurston county by serving upon the commission or director, as the case may be, and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The commission or director shall within ten days after service of the notice of appeal file with the clerk of the court its or his return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the commission or director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the commission or director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appeal may be had to the supreme court as in the case of civil appeals.

SEC. 20. It is the intent of this act that the commission shall represent the state of Washington to the end that its water resources and other resources shall be properly developed for the best public interest in so far as they affect electric power, and to this end (1) the commission shall develop and integrate such resources as necessary whenever public utilities other than those owned by the United States and its agencies are not in a position so to do, and (2) the commission shall join with Canada, the United States, the states thereof, and their agencies to develop and integrate the water resources and other resources of the region, and particularly that area incorporated within the watershed of the Columbia river and its tributaries.

Legislative intent.

The authority granted in this act shall apply equally to the generating of electricity by water power, by steam power, by atomic power or by any other means whatsoever.

Authority extended to all power generation.

SEC. 21. There is hereby appropriated to the commission from the general fund the sum of one hundred thousand dollars or so much thereof as may be necessary to carry out the provisions of this act, the same to be repaid to the general fund as soon as the earnings from the facilities to be acquired by the commission will permit such repayment.

Appropriation.

SEC. 22. Chapter 43.52, RCW, as derived from sections 3 to 16, inclusive, chapter 227, Laws of 1949, is repealed.

Repealing clause.

SEC. 23. Nothing contained in this act shall be construed to amend, modify or repeal in any manner any of the terms and provisions of section 1, chapter 9, Laws of 1949, RCW 75.20.010, commonly known as the "Columbia River Sanctuary Act", and all mat-

Terms and provisions of "Columbia River Sanctuary Act" preserved.

ter herein contained shall be expressly subject to such act.

Passed the House March 5, 1953.

Passed the Senate March 9, 1953.

Approved by the Governor March 23, 1953.

CHAPTER 282.

[H. B. 495.]

EDUCATION—APPORTIONMENT OF STATE FUNDS.

AN ACT relating to education and apportionment of state funds; defining terms, and amending sections 28.41.010, 28.41.060, and 28.41.080, RCW.

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

Amendment.

SECTION 1. Section 28.41.010, RCW, as derived from sections 7 to 10, inclusive, page 312, Laws of 1909, as last amended by sections 1 and 2, chapter 212, Laws of 1949, is amended to read as follows:

Definitions.

Unless the context indicates otherwise the following words and phrases as used in this chapter have the meaning given in this section:

"Actual days attendance."

(1) "Actual days attendance" of a district means the aggregate of the days attended by all pupils in the common schools of the district during a given school year;

"Educational unit."

(2) An "educational unit" means one full time certificated employee for one school year; in case of part time employees, each hour's service per day for an entire school year, or one hundred eighty hours, shall equal one-sixth of a unit;

"Special service unit."

(3) A "special service unit" means an educational unit representing a full time certificated employee performing educational or related services in accordance with standards established by the state board of education;