

CHAPTER 390.

[ S. B. 367. ]

PUBLIC UTILITY DISTRICTS.

AN ACT relating to powers of public utility districts and amending section 1, chapter 143, Laws of 1945, as last amended by sections 1 and 2, chapter 209, Laws of 1951 and RCW 54.16.010 through 54.16.190.

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

SECTION 1. Section 1, chapter 143, Laws of 1945, as last amended by sections 1 and 2, chapter 209, Laws of 1951 (heretofore codified as RCW 54.16.010 through 54.16.190) is divided and amended as set forth in sections 2 through 20 of this act.

Division and amendment.

SEC. 2. (RCW 54.16.010) A district may make a survey of hydroelectric power, irrigation, and domestic water supply resources within or without the district, and 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 coordinated to make a complete and systematic whole.

Enacted without amendment.

Survey authorized.

SEC. 3. (RCW 54.16.020) A district may 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; plants, plant facilities, and systems for developing, conserving, and distributing water for domestic use and irrigation; buildings, structures, poles and pole lines, and cables and conduits and any and all other facilities; and may exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and

Enacted without amendment.

Powers of district.

Right of eminent domain exercised.

damaging of such property and rights, 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 all persons and municipalities. The right of eminent domain shall be exercised pursuant to resolution of the commission and conducted in the same manner and by the same procedure as is provided for the exercise of that power by cities and towns of the state in the acquisition of like property and property rights. It shall be no defense to a condemnation proceeding that a portion of the electric current generated or sold by the district will be applied to private purposes, if the principal uses intended are public: *Provided*, That no public utility owned by a city or town shall be condemned, and none shall be purchased without submission of the question to the voters of the utility district. In a condemnation proceeding, the court shall submit to the jury the values placed upon the property by the taxing authority for taxation purposes, and in respect to property, plants, and facilities of persons using public highways for furnishing public service without franchises, shall consider in determining the value thereof the fact that the property, plants, and facilities are subject to be removed from the highways by reason of being so operated without a franchise.

Considerations for jury in condemnation proceedings.

Enacted without amendment.

SEC. 4. (RCW 54.16.030) A district may construct, purchase, condemn and purchase, acquire, add to, maintain, conduct, and operate water works and irrigation plants and systems, within or without its limits, for the purpose of furnishing the 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 purposes, public and private, including water power, domestic use, and irrigation, with full and

Authority to supply water.

exclusive authority to sell and regulate and control the use, distribution, and price thereof.

SEC. 5. (RCW 54.16.040) A district may purchase, within or without its limits, electric current for sale and distribution within or without its limits, and 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 the district, and the inhabitants thereof and any other persons, 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 public service commission, in all things, together with the right to purchase, handle, sell, or lease motors, lamps, transformers and all other kinds of equipment and accessories 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, but may supply, directly or indirectly, to an instrumentality of the United States Government or any publicly or privately owned public utilities which sell electric energy or water to the public, any amount of electric energy or water under its control, and contracts therefor shall extend over such period of years and contain such terms and conditions for the sale thereof as the commission of the district shall elect; such contract shall only be made pursuant to a resolution of the commission authorizing such contract, which resolution shall be introduced at a meeting of the commission at least ten days prior to the date of the adoption of the resolu-

Authority to purchase electric current; to furnish electric current.

Proviso.

Contracts; committee resolution.

tion: *Provided further*, That it shall first make adequate provision for the needs of the district, both actual and prospective.

Enacted without amendment.

Rights and powers of district.

Use of water authorized.

Dams.

Proviso.

SEC. 6. (RCW 54.16.050) A district may take, condemn and purchase, purchase and acquire any 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 all other facilities necessary or convenient, and, in connection with the construction, maintenance, or operation of any such utilities, may 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, public or private, navigable or nonnavigable, or held, owned, or used by the state, or any subdivision thereof, or by any person for any public or private use, or any underflowing water within the state; and the district may erect, 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, or for any other purpose authorized hereunder, the district may occupy and use the beds and shores up to the high water mark of any such lake, river, or watercourse, and acquire by purchase or by condemnation and purchase, or otherwise, any water, water rights, easements, or privileges named herein or necessary for any of such purposes, and a district may acquire by purchase, or condemnation and purchase, or otherwise, any lands, property, or privileges necessary to protect the water supply of the district from pollution: *Provided*, That should private property be necessary for any

of its purposes, or for storing water above high water mark, the district may condemn and purchase, or purchase and acquire such private property.

SEC. 7. (RCW 54.16.060) A district may build and maintain intertie 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 connect with the power plants and distribution systems owned by any municipal corporation in the district, and from any such intertie line, sell electric energy to any person, public utility district, city, town or other corporation, public or private, and, by means of transmission or pole lines, conduct electric energy from the place of production to the point of distribution, and construct and lay aqueducts, pipe or pole lines, and transmission lines along and upon public highways, roads, and streets, and condemn and purchase, purchase or acquire, lands, franchises, and rights of way necessary therefor.

Enacted  
without  
amendment.

Intertie lines.

SEC. 8. (RCW 54.16.070) A district may contract indebtedness or borrow money for corporate purposes on its credit or on the revenues of its public utilities, and issue general obligation or utility bonds therefor, bearing interest at a rate not exceeding six percent per annum, payable semiannually, the bonds not to be sold for less than par and accrued interest; may purchase with surplus funds, local utility district bonds of districts created by the commission and sell them, giving preference to residents of the district, and may create a revolving fund to insure the prompt payment of all local utility district bonds.

Enacted  
without  
amendment.

Contracting  
indebtedness  
permitted;  
obligation or  
utility bonds  
issued.

SEC. 9. (RCW 54.16.080) A district may raise revenue by the levy of an annual tax on all taxable property within the district, not exceeding two mills in any one year, exclusive of interest and re-

Enacted  
without  
amendment.

Revenue by  
taxation.

Proposed budget filed.

Notice by publication.

Public hearing.

demption for general obligation bonds. The commission shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file it in its records, on or before the first Monday in September. Notice of the filing of the proposed budget and the date and place of hearing thereon shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in the county. On the first Monday in October, the commission shall hold a public hearing on the proposed budget at which any taxpayer may appear and be heard against the whole or any part thereof. Upon the conclusion of the 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 officer of the county in which the district is located in the same manner as provided for the certification and collection of port district taxes. The commission may, prior to the receipt of taxes raised by levy, borrow money or issue warrants of the district in anticipation of the revenue to be derived from the levy of taxes for district purposes, and the warrants shall be redeemed from the first money available from such taxes. The warrants shall not exceed the anticipated revenue of one year, and shall bear interest at a rate of not to exceed six percent per annum.

Enacted without amendment.

SEC. 10. (RCW 54.16.090) A district may enter into any contract with the United States, or any state, municipality, or other utility district, or any department of those entities, 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 and do all other things necessary to carry out the provisions of this title.

SEC. 11. (RCW 54.16.100) The commission, by resolution introduced at a regular meeting and adopted at a subsequent regular meeting, shall appoint and may remove at will a district manager, and shall, by resolution, fix his salary.

Enacted  
without  
amendment.

District  
manager.

The manager shall be the chief administrative officer of the district, in control of all administrative functions and shall be responsible to the commission for the efficient administration of the affairs of the district placed in his charge. He shall be an experienced executive with administrative ability. In 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.

Manager;  
qualification  
and duties.

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

The manager shall carry out the orders of the commission, and see that the laws pertaining to matters within the functions of his department are enforced; keep the commission fully advised as to the financial condition and needs of the districts; prepare an annual estimate for the ensuing fiscal year of the probable expenses of his department, and 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 the development work, extensions, and additions; certify to the commission all bills, allowances, and payrolls, including claims due contractors of public

Specific duties  
of manager  
enumerated.

works; 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; hire and discharge employees under his direction; and perform such other duties as may be imposed upon him by resolution of the commission. It is 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.

Unlawful acts  
—manager.

Enacted  
without  
amendment.

Suit.

SEC. 12. (RCW 54.16.110) A district may sue in any court of competent jurisdiction, and may be sued in the county in which it is located. No suit for damages shall be maintained against a district except on a claim filed with the commission complying in all respects with the terms and requirements for claims for damages filed against cities of the second class.

Enacted  
without  
amendment.

Boundaries of  
local assess-  
ment districts  
established.

SEC. 13. (RCW 54.16.120) A district may, by resolution, 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, irrigation, and electric energy, and for providing street lighting, or any of them, and in like manner provide for the purchasing, or otherwise acquiring, or constructing and equipping of distribution systems for such purposes, and for extensions and betterments thereof, and may 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 thereof, or any portions thereof, as herein provided, and issue local improvement bonds or warrants or both to be repaid wholly or in part by collection of local improvement assessments.

SEC. 14. (RCW 54.16.130) The commission shall by resolution establish the method of procedure in all matters relating to local utility districts. A 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 adopt and provide the manner, machinery and proceedings in any way relating to the making and collecting of assessments therefor in pursuance thereof. 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 after twelve o'clock noon of the day set for hearing.

Enacted without amendment.

Method of procedure established by resolution.

Time limitation on receipt of protest.

The commission may determine to finance the project by bonds or warrants secured by assessments against the property within the local utility district: Or it may finance the project by revenue bonds, in which case no bonds or warrants shall be issued by the local utility district, but assessments shall be levied upon the taxable property therein on the basis of special benefits up to, but not exceeding the total cost of the improvement and in such cases the entire principal and interest of such assessments shall be paid into a revenue bond fund of the district, to be used for the sole purpose of the payment of revenue bonds.

Authority to determine financing.

SEC. 15. (RCW 54.16.140) Any such improvement shall be ordered by resolution of the commission either upon petition or resolution therefor. When a petition, signed by ten percent of the owners

Enacted without amendment.

Improvements.

Petition for improvement.

of land in the district to be therein described, is 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, the commission shall fix the date of hearing thereon, and give not less than two weeks notice thereof by publication. The commission may deny the petition or order the improvement, unless a majority of the owners of lands in the district file prior to twelve o'clock noon of the day of the hearing, with the secretary a petition protesting against the improvement. If the commission orders the improvement, it may alter the boundaries of the proposed local district and prepare and adopt detail plans of the local improvement, declare the estimated cost thereof, what proportion thereof shall be borne by the local improvement district, and what proportion, if any shall be borne by the entire public utility district.

Hearing. Publication.

Protest petition; time limitation on.

Enacted without amendment.

SEC. 16. (RCW 54.16.150) When a petition signed by a majority of the landowners in a proposed local improvement district is filed with the commission, asking that the improvement therein described be ordered, the commission shall forthwith fix a date for hearing thereon after which it shall, by resolution, order the improvement, and may alter the boundaries of the proposed district; prepare and adopt the improvement; prepare and adopt detail plans thereof; declare the estimated cost thereof, what proportion of the cost shall be borne by the local district, and what proportion, if any, shall be 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 supple-

Commission duties when resolution orders improvement made.

mental assessment or reassessment proceedings to pay all eminent domain awards necessary to entitle the district to proceed with the work, and shall thereafter proceed with the work, and shall file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property in the local improvement district in proportion to the special benefits to be derived by the property in the local district from the improvement.

SEC. 17. (RCW 54.16.160) Before approval of the roll, a notice shall be published ten days stating that the roll is on file and open to inspection in the office of the secretary, and fixing a time not less than fifteen nor more than thirty days from the date of the first publication of the notice, within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing shall be held by the commission on the protests. After the hearing the commission may alter any and all assessments shown on the roll and may, by resolution, approve it, but if an assessment is raised, a new notice, similar to the first, shall be given, and a hearing had thereon, after which final approval of the roll may be made. Any person aggrieved by the assessments shall perfect an appeal to the superior court of the county within ten days after the approval, in the manner now provided for appeals from assessments levied by cities of the first class. In the event such an appeal shall be taken, the judgment of the court shall confirm the assessment insofar as it affects the property of the appellant unless the court shall find from the evidence that such assessment is founded upon a fundamentally wrong basis and/or the decision of the commission thereon was arbitrary or capricious; in which event the judgment of the court shall correct, change, modify, or annul the assessment insofar as it affects

Enacted without amendment. Publication of notice; assessment roll open to inspection.

Hearing.

Altering assessments.

Right of appeal.

the property of the appellant. In the same manner as provided with reference to cities of the first class an appeal shall lie to the supreme court from the judgment of the superior court, as in other cases, if taken within fifteen days after the date of the entry of the judgment in the superior court. Engineering, office, and other expenses necessary or incident to the improvement shall be borne by the public utility district: *Provided*, That when a municipal corporation included in the public utility district already owns or operates a utility of a character like that for which the assessments are levied hereunder, all such engineering and other expenses shall be borne by the local assessment district.

Right of appeal to supreme court.

Expenses.

Enacted without amendment.

Limitation on cost burden.

SEC. 18. (RCW 54.16.170) When an improvement is ordered hereunder, payment for which shall be made in part from assessments against property specially benefited, not more than fifty percent 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 the district consent to or ratify the making of such expenditure.

Enacted without amendment.

Sale, lease, conveyance of property authorized; vote on proposed sale.

SEC. 19. (RCW 54.16.180) A district may sell and convey, lease, or otherwise dispose of all or any part of its works, plants, systems, utilities and properties, after proceedings and approval by the voters of the district, as provided for the lease or disposition of like properties and facilities owned by cities and towns: *Provided*, That the affirmative vote of three-fifths of the voters voting at an election on the question of approval of a proposed sale, shall be necessary to authorize such sale: *Provided further*, That a district may sell, convey, lease, or otherwise dispose of all or any part of the property owned by it, located outside its boundaries, to an-

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 or public body, any part, either within or without its boundaries, which has 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 are municipal corporations for the purpose of this section and the commission shall be held to be the legislative body and the president and secretary shall have the same powers and perform the same duties as the mayor and city clerk and the resolutions of the districts shall be held to be ordinances within the meaning of the statutes governing the sale, lease, or other disposal of public utilities owned by cities and towns.

Public utility districts—municipal corporations.

SEC. 20. (RCW 54.16.190) The commission of a district may adopt general resolutions to carry out the purposes, objects, and provisions of this title.

Enacted without amendment. General resolutions.

Passed the Senate March 9, 1955.

Passed the House March 8, 1955.

Approved by the Governor March 22, 1955.