

CHAPTER 295.

[Sub. S. B. 280.]

WATER AND POWER RESOURCES—OPERATING
AGENCIES—POWER COMMISSION ABOLISHED.

AN ACT relating to the conservation, development and utilization of the state's water and power resources; providing for the creation of joint operating agencies by public utility districts and/or cities; prescribing their powers, abolishing the Washington state power commission and transferring its powers to joint operating agencies; amending section 12, chapter 281, Laws of 1953 as amended by section 3, chapter 258, Laws of 1955, and RCW 43.52.360; amending section 13, chapter 281, Laws of 1953 and RCW 43.52.370; amending section 10, chapter 258, Laws of 1955 and RCW 43.52.343; adding new sections to chapter 43.52 RCW; repealing section 2, chapter 281, Laws of 1953 and RCW 43.52.270; repealing section 3, chapter 281, Laws of 1953 and RCW 43.52.280; repealing section 6, chapter 281, Laws of 1953 and RCW 43.52.310; repealing section 7, chapter 281, Laws of 1953 as amended by section 2, chapter 258, Laws of 1955, and RCW 43.52.320; repealing section 8, chapter 281, Laws of 1953 and RCW 43.52.330; repealing section 6, chapter 258, Laws of 1955 and RCW 43.52.341; repealing section 7, chapter 258, Laws of 1955 and RCW 43.52.3415; repealing section 8, chapter 258, Laws of 1955 and RCW 43.52.342; repealing section 9, chapter 258, Laws of 1955 and RCW 43.52.3425; repealing section 11, chapter 258, Laws of 1955 and RCW 43.52.344; repealing section 12, chapter 258, Laws of 1955 and RCW 43.52.345; repealing section 13, chapter 258, Laws of 1955 and RCW 43.52.346; repealing section 14, chapter 258, Laws of 1955 and RCW 43.52.347; repealing section 15, chapter 258, Laws of 1955 and RCW 43.52.348; repealing section 16, chapter 258, Laws of 1955 and RCW 43.52.349; repealing section 15, chapter 281, Laws of 1953 as amended by section 4, chapter 258, Laws of 1955, and RCW 43.52.390; and repealing section 18, chapter 281, Laws of 1953 and RCW 43.52.420; and declaring an emergency.

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

SECTION 1. Section 12, chapter 281, Laws of 1953 as amended by section 3, chapter 258, Laws of 1955, and RCW 43.52.360 are each amended to read as follows:

RCW 43.52.360
amended.

Any two or more cities or public utility districts or combinations thereof may form an operating

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Operating
agency—For-
mation—Addi-
tional projects
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agency (herein sometimes called a joint operating agency) 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 and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of conservation and development (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of conservation and development notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature,

extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of conservation and development not later than ten days after the date of last publication of such notice.

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mation—Addi-
tional projects
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Membership,
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Dissolution.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such projects; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a

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bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of conservation and development in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member

may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: *Provided*, That all contractual obligations incurred while a member shall remain in full force and effect. 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 obligations, shall thereupon hold the assets thereof as tenants in common.

Operating
agency—Disso-
lution.

Proviso.

SEC. 2. Section 13, chapter 281, Laws of 1953 and RCW 43.52.370 are each amended to read as follows:

RCW 43.52.370
amended.
Operating
agency board
—Members, ap-
pointment,
vote, term,
etc.—Rules—
Proceedings.

The management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. 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 its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion,

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rule or resolution 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 board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: *Provided*, That such board members are entitled to cast a majority of the votes of all members of the board. 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 RCW 43.52.290: *Provided*, That the per diem compensation to any member shall not exceed five thousand dollars in any year.

Proviso.

Proviso.

New section.

SEC. 3. There is added to chapter 43.52 RCW a new section to read as follows:

Executive
committee—
Composition,
powers and
duties, terms.

The board of an operating agency by rule may create an executive committee to be composed of not less than three nor more than seven members of the board. The board may provide by rule for the composition of the executive committee so as to afford, in its judgment, fair representation to the member public utility districts and cities. The executive committee shall administer the business of the board during intervals between its meetings in accordance with its rules, motions or resolutions. The executive committee shall have authority to acquire or construct only such properties as may be provided for by motion or resolution of the board. The terms of office of the members of the executive committee and the method of filling vacancies

therein shall be fixed by the rules of the board of the operating agency.

SEC. 4. There is added to chapter 43.52 RCW a New section.
new section to read as follows:

The board of each joint operating agency shall by resolution appoint a treasurer. Before entering upon his duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct. The board shall also appoint an auditor and may require him to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his duties. The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

Treasurer—
Auditor—Offi-
cial bonds—
Funds.

All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by him only on warrants issued by the auditor upon orders or vouchers approved by the board: *Provided*, That Proviso. the board by resolution may authorize the executive committee to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business and expenses incurred by the committee in the performance of such duties as the operating agency may authorize it to perform. All moneys of the operating agency shall be deposited forthwith by the treasurer in such

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—Funds.

depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he shall place all money of the joint operating agency as the board by resolution or motion may direct.

New section.

SEC. 5. There is added to chapter 43.52 RCW a new section to read as follows:

Powers and
duties of op-
erating agency.

Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create sub-districts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper. In addition to the power and authority granted in this chapter to an operating agency, it shall also have all power and authority heretofore granted, and shall be subject to all of the duties imposed upon, the Washington state power commission by RCW 43.52.300 and RCW 43.52.350.

Powers and duties of 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 six percent per annum.

SEC. 6. There is added to chapter 43.52 RCW a new section to read as follows:

New section.

For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed

Revenue bonds or warrants.

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and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the acquisition or construction of the utility and for repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in section 7 of this act, all the provisions of law as now or hereafter in effect relating to revenue bonds or warrants of public utility districts shall apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business in this state.

RCW 43.52.343
amended.

SEC. 7. Section 10, chapter 258, Laws of 1955 and RCW 43.52.343 are each amended to read as follows:

Bonds. Adver-
tisement, bid,
sale.

All bonds issued by an operating agency shall be sold to the highest and best bidder after such advertising for bids as the board of the operating agency may deem proper: *Provided*, That the board may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it may deem most advantageous to its own interests.

Proviso.

Power commis-
sion abolished.

SEC. 8. The Washington state power commission is hereby abolished.

Repeal.

SEC. 9. Section 2, chapter 281, Laws of 1953 and RCW 43.52.270; section 3, chapter 281, Laws of 1953

and RCW 43.52.280; section 6, chapter 281, Laws of 1953 and RCW 43.52.310; section 7, chapter 281, Laws of 1953 as amended by section 2, chapter 258, Laws of 1955, and RCW 43.52.320; section 8, chapter 281, Laws of 1953 and RCW 43.52.330; section 6, chapter 258, Laws of 1955 and RCW 43.52.341; section 7, chapter 258, Laws of 1955 and RCW 43.52.3415; section 8, chapter 258, Laws of 1955 and RCW 43.52.342; section 9, chapter 258, Laws of 1955 and RCW 43.52.3425; section 11, chapter 258, Laws of 1955 and RCW 43.52.344; section 12, chapter 258, Laws of 1955 and RCW 43.52.345; section 13, chapter 258, Laws of 1955 and RCW 43.52.346; section 14, chapter 258, Laws of 1955 and RCW 43.52.347; section 15, chapter 258, Laws of 1955 and RCW 43.52.348; section 16, chapter 258, Laws of 1955 and RCW 43.52.349; section 15, chapter 281, Laws of 1953 as amended by section 4, chapter 258, Laws of 1955, and RCW 43.52.390; and section 18, chapter 281, Laws of 1953 and RCW 43.52.420 are each repealed.

SEC. 10. Any joint operating agency formed under this section shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts: *Provided, however,* That such tax shall not apply to steam generated electricity.

SEC. 11. There is added to chapter 43.52 RCW a new section to read as follows:

Except as provided in section 1 of this act, the validity of the organization of any joint operating agency can be questioned only by action instituted within six months from the date that the joint operating agency is created. If the validity of the existence of any joint operating agency is not challenged within that period, by the filing and service of a petition or complaint in the action, the state shall be barred forever from questioning the validity

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of the joint operating agency by reason of any defect claimed to exist in the organization thereof, and it shall be deemed validly organized for all purposes. Any joint operating agency heretofore attempted to be organized pursuant to chapter 43.52 and which has maintained its existence since the date of such attempted organization, is hereby declared legal and valid and its organization and creation are validated and confirmed.

Severability.

SEC. 12. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, and its application to other persons or circumstances shall not be affected. This act shall be liberally construed to effectuate its purposes.

Emergency.

SEC. 13. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 7, 1957.

Passed the House March 12, 1957.

Approved by the Governor March 26, 1957.

CHAPTER 296.

[S. B. 135.]

EDUCATION—SCHOOL DISTRICT ORGANIZATION AND REORGANIZATION.

AN ACT relating to education; providing for the vote required for the approval of propositions at special elections in school districts; amending section 5, chapter 395, Laws of 1955 and RCW 28.57.090; and declaring an emergency.

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

RCW 28.57.090
amended.

SECTION 1. Section 5, chapter 395, Laws of 1955 and RCW 28.57.090 are amended to read as follows:

Whenever a special election is held to vote on a