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HOUSE BILL 1407

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Ryu, Hope, Dunshee, Angel, and Kagi

Read first time 01/20/11. Referred to Committee on Local Government.

1            AN ACT Relating to the negotiated sale and conveyance of all or  
2 part of water systems owned by a municipal corporation; and amending  
3 RCW 54.16.180 and 35.92.070.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 54.16.180 and 2008 c 198 s 5 are each amended to read  
6 as follows:

7            (1) A district may sell and convey, lease, or otherwise dispose of  
8 all or any part of its works, plants, systems, utilities and  
9 properties, after proceedings and approval by the voters of the  
10 district, as provided for the lease or disposition of like properties  
11 and facilities owned by cities and towns. The affirmative vote of  
12 three-fifths of the voters voting at an election on the question of  
13 approval of a proposed sale((~~r~~)) shall be necessary to authorize such  
14 a sale.

15            (2) A district may, without the approval of the voters, sell,  
16 convey, lease, or otherwise dispose of all or any part of the property  
17 owned by it that is located:

18            (a) Outside its boundaries, to another public utility district,  
19 city, town or other municipal corporation; or

1 (b) Within or without its boundaries, which has become  
2 unserviceable, inadequate, obsolete, worn out or unfit to be used in  
3 the operations of the system and which is no longer necessary, material  
4 to, and useful in such operations, to any person or public body.

5 (3) A district may sell, convey, lease or otherwise dispose of  
6 items of equipment or materials to any other district, to any  
7 cooperative, mutual, consumer-owned or investor-owned utility, to any  
8 federal, state, or local government agency, to any contractor employed  
9 by the district or any other district, utility, or agency, or any  
10 customer of the district or of any other district or utility, from the  
11 district's stores without voter approval or resolution of the  
12 district's board, if such items of equipment or materials cannot  
13 practicably be obtained on a timely basis from any other source, and  
14 the amount received by the district in consideration for any such sale,  
15 conveyance, lease, or other disposal of such items of equipment or  
16 materials is not less than the district's cost to purchase such items  
17 or the reasonable market value of equipment or materials.

18 (4) A district located within a county with a population of from  
19 one hundred twenty-five thousand to less than two hundred ten thousand  
20 may sell and convey to a city of the first class, which owns its own  
21 water system, all or any part of a water system owned by the district  
22 where a portion of it is located within the boundaries of the city,  
23 without approval of the voters, upon such terms and conditions as the  
24 district shall determine.

25 (5) A district located in a county with a population of from twelve  
26 thousand to less than eighteen thousand and bordered by the Columbia  
27 river may, separately or in connection with the operation of a water  
28 system, or as part of a plan for acquiring or constructing and  
29 operating a water system, or in connection with the creation of another  
30 or subsidiary local utility district, provide for the acquisition or  
31 construction, additions or improvements to, or extensions of, and  
32 operation of, a sewage system within the same service area as in the  
33 judgment of the district commission is necessary or advisable to  
34 eliminate or avoid any existing or potential danger to public health  
35 due to lack of sewerage facilities or inadequacy of existing  
36 facilities.

37 (6) A district located within a county with a population of from  
38 one hundred twenty-five thousand to less than two hundred ten thousand

1 bordering on Puget Sound may sell and convey to any city or town with  
2 a population of less than ten thousand all or any part of a water  
3 system owned by the district without approval of the voters upon such  
4 terms and conditions as the district shall determine.

5 (7) A district located within a county with a population of from  
6 six hundred fifty thousand to less than seven hundred fifty thousand  
7 bordering on Puget Sound may sell and convey to any city or town with  
8 a population of less than sixty-five thousand which owns its own water  
9 system all or any part of a water system owned by the district without  
10 approval of the voters upon such terms and conditions as the district  
11 shall determine.

12 (8) A district may sell and convey, lease, or otherwise dispose of,  
13 to any person or entity without approval of the voters and upon such  
14 terms and conditions as it determines, all or any part of an electric  
15 generating project owned directly or indirectly by the district,  
16 regardless of whether the project is completed, operable, or operating,  
17 as long as:

18 (a) The project is or would be powered by an eligible renewable  
19 resource as defined in RCW 19.285.030; and

20 (b) The district, or the separate legal entity in which the  
21 district has an interest in the case of indirect ownership, has:

22 (i) The right to lease the project or to purchase all or any part  
23 of the energy from the project during the period in which it does not  
24 have a direct or indirect ownership interest in the project; and

25 (ii) An option to repurchase the project or part thereof sold,  
26 conveyed, leased, or otherwise disposed of at or below fair market  
27 value upon termination of the lease of the project or termination of  
28 the right to purchase energy from the project.

29 ~~((+8))~~ (9) Districts are municipal corporations for the purposes  
30 of this section. A commission shall be held to be the legislative  
31 body, a president and secretary shall have the same powers and perform  
32 the same duties as a mayor and city clerk, and the district resolutions  
33 shall be held to be ordinances within the meaning of statutes governing  
34 the sale, lease, or other disposal of public utilities owned by cities  
35 and towns.

36 **Sec. 2.** RCW 35.92.070 and 1987 c 145 s 1 are each amended to read  
37 as follows:

1       When the governing body of a city or town deems it advisable that  
2 the city or town purchase, acquire, or construct any such public  
3 utility, or make any additions and betterments thereto or extensions  
4 thereof, it shall provide therefor by ordinance, which shall specify  
5 and adopt the system or plan proposed, and declare the estimated cost  
6 thereof, as near as may be, and the ordinance shall be submitted for  
7 ratification or rejection by majority vote of the voters of the city or  
8 town at a general or special election.

9       (1) No submission shall be necessary:

10       (a) When the work proposed is an addition to, or betterment of,  
11 extension of, or an increased water supply for existing waterworks, or  
12 an addition, betterment, or extension of an existing system or plant of  
13 any other public utility;

14       (b) When in the charter of a city a provision has been adopted  
15 authorizing the corporate authorities thereof to provide by ordinance  
16 for acquiring, opening, or operating any of such public utilities;  
17 (~~(e)~~)

18       (c) When the corporate authority of a first-class city or code city  
19 adopts an ordinance approving the negotiated purchase of such public  
20 utility within that city which is owned by another city or town; or

21       (d) When in the judgment of the corporate authority, the public  
22 health is being endangered by the discharge of raw or untreated sewage  
23 into any body of water and the danger to the public health may be  
24 abated by the construction and maintenance of a sewage disposal plant.

25       (2) Notwithstanding subsection (1) of this section, submission to  
26 the voters shall be necessary if:

27       (a) The project or work may produce electricity for sale in excess  
28 of present or future needs of the water system;

29       (b) The city or town does not own or operate an electric utility  
30 system;

31       (c) The work involves an ownership greater than twenty-five percent  
32 in a new water supply project combined with an electric generation  
33 facility; and

34       (d) The combined facility has an installed capacity in excess of  
35 five megawatts.

36       (3) Notwithstanding subsection (1) of this section, submission to  
37 the voters shall be necessary to make extensions to a public utility

1 which would expand the previous service capacity by fifty percent or  
2 more, where such increased service capacity is financed by the issuance  
3 of general obligation bonds.

4 (4) Thirty days' notice of the election shall be given in the  
5 official newspaper of the city or town, by publication at least once  
6 each week in the paper during such time.

7 (5) When a proposition has been adopted, or in the cases where no  
8 submission is necessary, the corporate authorities of the city or town  
9 may proceed forthwith to purchase, construct, and acquire the public  
10 utility or make additions, betterments, and extensions thereto and to  
11 make payment therefor.

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