Chapter 54.04 RCW
GENERAL PROVISIONS

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RCW 54.04.010 Definitions. As used in this title "revenue obligation" or "revenue obligations" mean and include bonds, notes, warrants, certificates of indebtedness, or any other evidences of indebtedness issued by a district which, by the terms thereof, shall be payable from the revenues of its public utilities. [1959 c 218 s 14.]

"Wholesale power" defined: RCW 54.04.100.

RCW 54.04.020 Districts authorized. Municipal corporations, to be known as public utility districts, are hereby authorized for the purposes of chapter 1, Laws of 1931 and may be established within the limits of the state of Washington, as provided herein. [1931 c 1 s 2; RRS s 11606.]

Purpose—1931 c 1: "The purpose of this act is to authorize the establishment of public utility districts to conserve the water and power resources of the State of Washington for the benefit of the people thereof, and to supply public utility service, including water and electricity for all uses." [1931 c 1 s 1.]

Severability—Construction—1931 c 1: "Adjudication of invalidity of any section, clause or part of a section of this act shall not impair or otherwise affect the validity of the act as a whole or any other part thereof.

The rule of strict construction shall have no application to this act, but the same shall be liberally construed, in order to carry out the purposes and objects for which this act is intended.

When this act comes in conflict with any provision, limitation or restriction in any other law, this act shall govern and control." [1931 c 1 s 11.]

RCW 54.04.030 Restrictions on invading other municipalities. Chapter 1, Laws of 1931, shall not be deemed or construed to repeal or affect any existing act, or any part thereof, relating to the construction, operation and maintenance of public utilities by irrigation or water-sewer districts or other municipal corporations,

but shall be supplemental thereto and concurrent therewith. No public utility district created hereunder shall include therein any municipal corporation, or any part thereof, where such municipal corporation already owns or operates all the utilities herein authorized: PROVIDED, that in case it does not own or operate all such utilities it may be included within such public utility district for the purpose of establishing or operating therein such utilities as it does not own or operate: PROVIDED, FURTHER, That no property situated within any irrigation or water-sewer districts or other municipal corporations shall ever be taxed or assessed to pay for any utility, or part thereof, of like character to any utility, owned or operated by such irrigation or water districts or other municipal corporations. [1999 c 153 s 64; 1931 c 1 s 12; RRS s 11616.]

Part headings not law—1999 c 153: See note following RCW 57.04.050.

Irrigation districts: Title 87 RCW.

Municipal utilities: RCW 80.04.500, 81.04.490 and chapter 35.92 RCW.

Water-sewer districts: Title 57 RCW.

RCW 54.04.035 Annexation of territory. In addition to other powers authorized in Title 54 RCW, public utility districts may annex territory as provided in this section.

The boundaries of a public utility district may be enlarged and new contiguous territory added pursuant to the procedures for annexation by cities and towns provided in RCW 35.13.015 through 35.13.110. The provisions of these sections concerning *community municipal corporations, review boards, and comprehensive plans, however, do not apply to public utility district annexations. For purposes of conforming with such procedures, the public utility district is deemed to be the city or town and the board of commissioners is deemed to be the city or town legislative body.

Annexation procedures provided in this section may only be used to annex territory that is both: (1) Contiguous to the annexing public utility district; and (2) located within the service area of the annexing public utility district. As used in this section, a public utility district's "service area" means those areas whether located within or outside of the annexing public utility district's boundaries that were generally served with electrical energy by the annexing public utility district on January 1, 1987. Such service area may, or may not, have been recognized in an agreement made under chapter 54.48 RCW, but no area may be included within such service area that was generally served with electrical energy on January 1, 1987, by another public utility as defined in RCW 54.48.010. An area proposed to be annexed may be located in the same or a different county as the annexing public utility district.

If an area proposed to be annexed is located within the boundaries of another public utility district, annexation may be initiated only upon petition of registered voters residing in the area in accordance with RCW 35.13.020 and adoption by the boards of commissioners of both districts of identical resolutions stating (a) the boundaries of the area to be annexed, (b) a determination that

annexation is in the public interest of the residents of the area to be annexed as well as the public interest of their respective districts, (c) approval of annexation by the board, (d) the boundaries of the districts after annexation, (e) the disposition of any assets of the districts in the area to be annexed, (f) the obligations to be assumed by the annexing district, (g) apportionment of election costs, and (h) that voters in the area to be annexed will be advised of lawsuits that may impose liability on the annexed territory and the possible impact of annexation on taxes and utility rates.

If annexation is approved, the area annexed shall cease to be a part of the one public utility district at the same time that it becomes a part of the other district. The annexing public utility district shall assume responsibility for providing the area annexed with the services provided by the other public utility district in the area annexed. [1987 c 292 s 2; 1983 c 101 s 1.]

***Reviser's note:** RCW 35.13.015 through 35.13.110 were amended by 2022 c 26, deleting the provisions for "community municipal corporations."

Consolidation and annexation: Chapter 54.32 RCW.

RCW 54.04.037 Annexation of territory—Coordination among county officials. When territory has been added to a public utility district in accordance with RCW 54.04.035, the supervisor of elections and other officers of the county in which the public utility district first operated shall coordinate elections, the levy and collection of taxes, and other necessary duties with the appropriate county officials of the other county. [1987 c 292 s 3.]

RCW 54.04.039 County with federal nuclear reservation within its boundaries—Special procedure for addition or withdrawal of territory from public utility district. (1) Any voting precinct located within a county that has a federal nuclear reservation within its boundaries is:

(a) Withdrawn from a public utility district if the precinct receives at least one electric distribution, water, or sewer service from a city, and no electric distribution, water, or sewer service from a public utility district;

(b) Included in a public utility district if any portion of the precinct receives at least one electric distribution, water, or sewer service from the public utility district.

(2) For voting precincts that meet the requirements of subsection (1) of this section, within ten days after March 24, 2004, and for voting precincts that later meet the requirements of subsection (1) of this section, within thirty days of meeting the requirements:

(a) The city that provides any electric distribution, water, or sewer service to a precinct that is withdrawn from a public utility district under subsection (1) of this section shall submit to the public utility district and the county auditor a list of street addresses, or map of the areas to which any service is provided;

(b) The public utility district that provides any electric distribution, water, or sewer service to a precinct that is included in the public utility district under subsection (1) of this section shall submit to the city or town and the county auditor a list of

street addresses, or map of the areas to which any service is provided.

(3) Within ten days of receipt of the information required under subsection (2) of this section, the auditor shall determine which voting precincts are required to be withdrawn from or included in the public utility district, and provide that information to the public utility district commissioners who shall, within ten days, revise the boundaries of the district in conformance with RCW 54.12.010 without dividing any voting precinct.

(4) Unless otherwise provided in an agreement between the public utility district and the city or town, taxes or assessments levied or assessed against property located in an area withdrawn from a public utility district shall remain a lien and be collected as by law (a) if the taxes or assessments were levied or assessed before the withdrawal or (b) if the levies or assessments were made to pay or secure an obligation of the district duly incurred or issued before the withdrawal. The withdrawal of an area from the boundaries of a district does not exempt any property therein from taxation or assessment for the purpose of paying the costs of retiring or redeeming any obligation of the district duly incurred or issued before the withdrawal.

(5) Except as set forth in subsection (4) of this section, a public utility district may not levy or impose any taxes upon property located within those voting precincts withdrawn from the public utility district.

(6) Nothing in chapter 113, Laws of 2004 limits the authority of public utility districts and cities or towns to enter into service agreements that are otherwise permitted by law. [2004 c 113 s 2.]

Effective date—2004 c 113: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 24, 2004]." [2004 c 113 s 3.]

RCW 54.04.040 Utilities within a city or town—Restrictions. A district shall not construct any property to be utilized by it in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale, on the streets, alleys, or public places within a city or town without the consent of the governing body of the city or town and approval of the plan and location of the construction, which shall be made under such reasonable terms as the city or town may impose. All such properties shall be maintained and operated subject to such regulations as the city or town may prescribe under its police power. [1957 c 278 s 9. Prior: (i) 1941 c 245 s 3a; Rem. Supp. 1941 s 11616-4. (ii) 1941 c 245 s 1, part; Rem. Supp. 1941 s 11616-1.]

RCW 54.04.045 Locally regulated utilities—Attachments to poles—Rates—Contracting. (1) As used in this section:

(a) "Attachment" means the affixation or installation of any wire, cable, or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications or television, including, but not limited to cable, and any related device, apparatus, or auxiliary equipment upon any

pole owned or controlled in whole or in part by one or more locally regulated utilities where the installation has been made with the necessary consent.

(b) "Licensee" means any person, firm, corporation, partnership, company, association, joint stock association, or cooperatively organized association, which is authorized to construct attachments upon, along, under, or across public ways.

(c) "Locally regulated utility" means a public utility district not subject to rate or service regulation by the utilities and transportation commission.

(d) "Nondiscriminatory" means that pole owners may not arbitrarily differentiate among or between similar classes of licensees approved for attachments.

(2) All rates, terms, and conditions made, demanded, or received by a locally regulated utility for attachments to its poles must be just, reasonable, nondiscriminatory, and sufficient. A locally regulated utility shall levy attachment space rental rates that are uniform for the same class of service within the locally regulated utility service area.

(3) A just and reasonable rate must be calculated as follows:

(a) One component of the rate shall consist of the additional costs of procuring and maintaining pole attachments, but may not exceed the actual capital and operating expenses of the locally regulated utility attributable to that portion of the pole, duct, or conduit used for the pole attachment, including a share of the required support and clearance space, in proportion to the space used for the pole attachment, as compared to all other uses made of the subject facilities and uses that remain available to the owner or owners of the subject facilities;

(b) The other component of the rate shall consist of the additional costs of procuring and maintaining pole attachments, but may not exceed the actual capital and operating expenses of the locally regulated utility attributable to the share, expressed in feet, of the required support and clearance space, divided equally among the locally regulated utility and all attaching licensees, in addition to the space used for the pole attachment, which sum is divided by the height of the pole; and

(c) The just and reasonable rate shall be computed by adding one-half of the rate component resulting from (a) of this subsection to one-half of the rate component resulting from (b) of this subsection.

(4) For the purpose of establishing a rate under subsection (3)(a) of this section, the locally regulated utility may establish a rate according to the calculation set forth in subsection (3)(a) of this section or it may establish a rate according to the cable formula set forth by the federal communications commission by rule as it existed on June 12, 2008, or such subsequent date as may be provided by the federal communications commission by rule, consistent with the purposes of this section.

(5) Except in extraordinary circumstances, a locally regulated utility must respond to a licensee's application to enter into a new pole attachment contract or renew an existing pole attachment contract within forty-five days of receipt, stating either:

(a) The application is complete; or

(b) The application is incomplete, including a statement of what information is needed to make the application complete.

(6) Within sixty days of an application being deemed complete, the locally regulated utility shall notify the applicant as to whether the application has been accepted for licensing or rejected. In extraordinary circumstances, and with the approval of the applicant, the locally regulated utility may extend the sixty-day timeline under this subsection. If the application is rejected, the locally regulated utility must provide reasons for the rejection. A request to attach may only be denied on a nondiscriminatory basis (a) where there is insufficient capacity; or (b) for reasons of safety, reliability, or the inability to meet generally applicable engineering standards and practices.

(7) Nothing in this section shall be construed or is intended to confer upon the utilities and transportation commission any authority to exercise jurisdiction over locally regulated utilities. [2008 c 197 s 2; 1996 c 32 s 5.]

Intent—2008 c 197: "It is the policy of the state to encourage the joint use of utility poles, to promote competition for the provision of telecommunications and information services, and to recognize the value of the infrastructure of locally regulated utilities. To achieve these objectives, the legislature intends to establish a consistent cost-based formula for calculating pole attachment rates, which will ensure greater predictability and consistency in pole attachment rates statewide, as well as ensure that locally regulated utility customers do not subsidize licensees. The legislature further intends to continue working through issues related to pole attachments with interested parties in an open and collaborative process in order to minimize the potential for disputes going forward." [2008 c 197 s 1.]

RCW 54.04.050 Group employee insurance—Deferred compensation plans—Supplemental savings plans. (1) Subject to chapter 48.62 RCW, 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 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 percent of such employees may be so insured.

(2) A public utility district engaged in the operation of electric or water utilities may establish and maintain for the benefit of its eligible employees and officials any plan of deferred compensation or supplemental savings plan for retirement, and make contributions or pay benefits thereunder out of the revenue derived from the operation of its properties. For purposes of this section, "contributions" includes contributions on behalf of an eligible employee equal to the amount by which the employee agrees to a reduction in salary or wages and also includes contributions made by the public utility district separate from amounts otherwise intended as salary or wages. Coverage of an employee under a plan under this section does not render the employee or official ineligible for simultaneous membership and participation in any pension system for public employees.

(3) Contributions must be deposited in designated accounts, held in trust, or remitted to an insurer. When deposited to an account or held in trust, the account or trust fund is considered a public retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of money into the account or trust.

(4) Contributions may be deposited or invested in a credit union, savings and loan association, bank, mutual savings bank, purchase life insurance, shares of an investment company, or fixed or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state. To the extent a plan is an individual account plan, participants in the plan may be permitted to self-direct the investment of assets allocated to their account through the selection of investment options authorized under the plan, and an employee, official, or commissioner of the district is not liable for any loss or deficiency resulting from participant investments. An "individual account plan" is a plan that provides for an individual account for each participant and for benefits based upon the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts or other participants which may be allocated to that participant's account. [2011 c 30 s 1; 1991 sp.s. c 30 s 23; 1984 c 15 s 1; 1959 c 233 s 1; 1941 c 245 s 8; Rem. Supp. 1941 s 11616-6.]

Intent—2011 c 30: "This act is intended to clarify existing authority of public utility districts to provide deferred compensation and supplemental savings plans for retirement for their employees, commissioners, and other officials." [2011 c 30 s 2.]

Effective date, implementation, application—1991 sp.s. c 30: See RCW 48.62.900.

Severability—1941 c 245: "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." [1941 c 245 s 11.]

Group insurance: Chapters 48.21 and 48.24 RCW.

Hospitalization and medical insurance authorized: RCW 41.04.180.

RCW 54.04.055 Employee benefits—District may continue to pay premiums after employee retires. Any public utility district which provides for the coverage of any of its employees under any plan for individual annuity contracts, retirement income policies, group annuity contracts, group insurance for the benefit of its employees, or any other contract for the benefit of its employees, and pays all or any part of the premiums or other payments required therefor, is hereby authorized to continue to make such payments for such employees after their retirement from employment. Such payments agreed to by the public utility district shall be considered as deferred compensation. Such payments shall not be retroactive but shall only be available for those employees employed on or after August 6, 1965 provided that such payments for retired employees shall not exceed those being paid for regular employees. [1965 ex.s. c 149 s 1.]

RCW 54.04.060 District elections. The supervisor of elections or other proper officer of the county shall give notice of all elections held under this title, for the time and in the manner and form provided for city, town, school district, and port district elections. When the supervisor or other officer deems an emergency exists, and is requested so to do by a resolution of the district commission, he or she may call a special election at any time in the district, and he or she may combine or divide precincts for the purpose of holding special elections, and special elections shall be conducted and notice thereof given in the manner provided by law.

The supervisor or other officer shall provide polling places, appoint the election officers, provide their compensation, provide ballot boxes, and ballots or voting machines, poll books and tally sheets, and deliver them to the election officers at the polling places, publish and post notices of the elections in the manner provided by law, and apportion to the district its share of the expense of the election.

The manner of conducting and voting at the elections, opening and closing of polls, keeping of poll lists, canvassing the votes, declaring the result, and certifying the returns, shall be the same as for the election of state and county officers, except as otherwise provided herein.

The district commission shall certify to the supervisor a list of offices to be filled at a district election and the commission, if it desires to submit to the voters of the district a proposition, shall require the secretary of the commission to certify it at the time and in the manner and form provided for certifying propositions by the governing board of cities, towns, and port districts. [2010 c 8 s 17001; 1951 c 207 s 1; 1941 c 245 s 5; 1931 c 1 s 5; RRS s 11609.]

RCW 54.04.070 Contracts for work or materials—Notice—Exemptions—Unit priced contracts. (1) Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of $30,000, exclusive of sales tax, shall be by contract. However, a district may make purchases of the same kind of items of materials, equipment, and supplies not exceeding $12,000 in any calendar month without a contract, purchasing any excess thereof over $12,000 by contract.

(2) Any work ordered by a district commission, the estimated cost of which is in excess of $150,000 exclusive of sales tax if more than a single craft or trade is involved with the public works project, or a public works project in excess of $75,500 exclusive of sales tax if only a single craft or trade is involved with the public works project, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this subsection, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding $300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) Until January 1, 2045, any work ordered by a district commission for the construction, maintenance, operation, or repair of new or existing nonemitting electric generation, electric generation from a renewable resource, energy storage, or transmission or distribution projects, the estimated cost of which is in excess of $500,000 exclusive of sales tax, shall be by contract. However, a district commission may have its own regularly employed personnel perform work described in this subsection which is an accepted industry practice under prudent utility management without a contract. For purposes of this subsection, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding $1,000,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel does not include the value of individual items of equipment. For the purposes of this subsection, "equipment" includes but is not limited to conductor, cabling, wire, lines, parts, components, or other devices used in nonemitting electrical generation, transmission, or distribution. For purposes of this subsection, "nonemitting electric generation" and "renewable resource" have the definitions provided in RCW 19.405.020.

(4) Before awarding a contract required under subsection (1), (2), or (3) of this section, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least 13 days before the last date upon which bids will be received, inviting sealed proposals for the work or materials. Plans and specifications for the work or materials shall at the time of publication be on file at the office of the district and subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may, at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

(5) As an alternative to the competitive bidding requirements of this section and RCW 54.04.080, a district may let contracts using the small works roster process under RCW 39.04.151 through 39.04.154.

(6) Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission, and may consider such price as a bid without a deposit or bond.

(7) Pursuant to RCW 39.04.280, the commission may waive the competitive bidding requirements of this section and RCW 54.04.080 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

(8)(a) A district may procure public works with a unit priced contract under this section, RCW 54.04.080, or 54.04.085 for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Where electrical facility construction or improvement work is anticipated, contractors on a unit priced contract shall comply with the requirements under RCW 54.04.085 (1) through (5). Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous 12-month period of the unit priced contract.

(9) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district commission issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the commission does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the commission may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder. [2026 c 183 s 2. Prior: 2023 c 395 s 32; 2023 c 255 s 1; 2019 c 434 s 7; 2017 c 85 s 1; 2008 c 216 s 2; 2002 c 72 s 2; 2000 c 138 s 211; 1998 c 278 s 7; 1993 c 198 s 14; 1990 c 251 s 1; 1971 ex.s. c 220 s 4; 1955 c 124 s 2; prior: 1951 c 207 s 2; 1931 c 1 s 8, part; RRS s 11612, part.]

Intent—Findings—2026 c 183: "The legislature finds that the state has committed to achieving carbon neutrality by 2030 and becoming carbon-free by 2045. At the same time, electricity demand in Washington is rising sharply and current regional forecasts project an increase in electricity demand of over 30 percent in the next decade.

The legislature also finds that Washington's existing transmission system lacks the capacity to meet existing demand and integrate future intermittent clean energy generation, and that significant cost increases and supply chain delays in the electric utility sector require urgent action to maintain affordability for electric ratepayers. This challenge is especially heightened during extreme weather events, which increases the need for heating and cooling and places sustained pressure on the grid during peak periods.

Therefore, it is the intent of the legislature to streamline certain procurement laws for consumer-owned utilities until the 2045 carbon-free compliance date under the clean energy transformation act. These changes are intended to expedite needed energy generation, storage, transmission, and distribution to support Washington's

growing energy demand and its clean energy commitments in the most timely and cost-effective manner." [2026 c 183 s 1.]

Effective date—2023 c 395 ss 1-30, 32-34, 36, and 37: See note following RCW 39.04.010.

Findings—Intent—2023 c 395: See note following RCW 39.04.010.

Effective date—2023 c 255 ss 1-5: "Sections 1 through 5 of this act take effect June 30, 2024." [2023 c 255 s 7.]

Finding—Intent—2019 c 434: See note following RCW 35.23.352.

Findings—Intent—2008 c 216: "The legislature finds that public utility districts provide customer-owned, nonprofit utility services throughout Washington state. The legislature further finds that statutory bid limits for public utility districts have not been increased to address inflation and dramatic cost increases in construction materials. The legislature further finds that existing bid limits and high construction material costs often preclude public utility districts from maintaining and repairing their utility infrastructure, providing training and experience to utility workers, and accommodating high contract administrative costs. The legislature further finds that existing bid limits result in increased costs to both public utility districts and utility customers. Therefore, it is the intent of the legislature to amend the bid limits for public utility districts to address inflation and increased material costs." [2008 c 216 s 1.]

Purpose—Part headings not law—2000 c 138: See notes following RCW 39.04.010.

Contracts with state department of transportation: RCW 47.01.210.

Emergency public works: Chapter 39.28 RCW.

Prevailing wages on public works: Chapter 39.12 RCW.

Public purchase preferences: Chapter 39.24 RCW.

RCW 54.04.080 Bids—Deposit—Low bidder claiming error—Contract—Bond—Definitions. Any notice inviting sealed bids shall state generally the work to be done, or the material to be purchased and shall call for proposals for furnishing it, to be sealed and filed with the commission on or before the time named therein. Utilities with a purchasing department are authorized to receive hard copy or electronic bids. Each bid shall be accompanied by a certified or cashier's check, payable to the order of the commission, for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond unless he or she enters into a contract in accordance with his or her bid and furnishes the performance bond within ten days from the date on which he or she is notified that he

or she is the successful bidder. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

At the time and place named, the bids shall be publicly opened and read, and the commission shall canvass the bids, and may let the contract to the lowest responsible and responsive bidder upon the plans and specifications on file, or to the best bidder submitting his or her own plans or specifications; or if the contract to be let is to construct or improve electrical facilities, the contract may be let to the lowest bidder prequalified according to the provisions of RCW 54.04.085 upon the plans and specifications on file, or to the best bidder submitting his or her own plans and specifications: PROVIDED, That no contract shall be let for more than 25 percent in excess of the estimated cost of the materials or work. The commission may reject all bids and readvertise, and in such case all checks shall be returned to the bidders. The commission may procure materials in the open market, have its own personnel perform the work or negotiate a contract for such work to be performed by others, in lieu of readvertising, if it receives no bid. If the contract is let, all checks shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract is entered into and a bond to perform the work furnished, with sureties satisfactory to the commission, in an amount to be fixed by the commission, not less than 25 percent of the contract price, in accordance with the bid. If the bidder fails to enter into the contract and furnish the bond within ten days from the date at which he or she is notified that he or she is the successful bidder, his or her check and the amount thereof shall be forfeited to the district.

The commission shall, by resolution, define the term "same kind of materials, equipment, and supplies" with respect to purchase of items under the provisions of RCW 54.04.070.

The term "construction or improvement of any electrical facility" as used in this section and in RCW 54.04.085, shall mean the construction, the moving, maintenance, modification, or enlargement of facilities primarily used or to be used for the transmission or distribution of electricity at voltages above seven hundred fifty volts, including structures directly supporting transmission or distribution conductors but not including site preparation, housing, or protective fencing associated with but not included in a contract for such construction, moving, modification, maintenance, or enlargement of such facilities.

The commission shall be the final authority with regard to whether a bid is responsive to the call for bids and as to whether a bidder is a responsible bidder under the conditions of his or her bid. No award of contract shall be invalidated solely because of the failure of any prospective bidder to receive an invitation to bid. [2026 c 183 s 3; 1996 c 18 s 12; 1972 ex.s. c 41 s 1; 1971 ex.s. c 220 s 3; 1955 c 124 s 3. Prior: 1951 c 207 s 3; 1931 c 1 s 8, part; RRS s 11612, part.]

Intent—Findings—2026 c 183: See note following RCW 54.04.070.

RCW 54.04.082 Alternative bid procedure. For the awarding of a contract to purchase any item, or items of the same kind of materials,

equipment, or supplies in an amount exceeding thirty thousand dollars per calendar month, but less than one hundred twenty thousand dollars per calendar month, exclusive of sales tax, the commission may, in lieu of the procedure described in RCW 54.04.070 and 54.04.080 requiring public notice to invite sealed proposals for such materials, equipment, or supplies, pursuant to commission resolution use the process provided in RCW 39.04.190. Waiver of the deposit or bid bond required under RCW 54.04.080 may be authorized by the commission in securing such bid quotations. [2019 c 434 s 14; 2008 c 216 s 3; 2002 c 72 s 1; 1995 c 354 s 1; 1993 c 198 s 15; 1977 ex.s. c 116 s 1.]

Finding—Intent—2019 c 434: See note following RCW 35.23.352.

Findings—Intent—2008 c 216: See note following RCW 54.04.070.

RCW 54.04.083 Alternative bid procedure—Applicable to new or existing nonemitting electric generation, electric generation from a renewable resource, energy storage, transmission, or distribution projects. (1) For the awarding of a contract to purchase any item, or items of the same kind of materials, equipment, or supplies in an amount exceeding $50,000 per calendar month, but less than $250,000 per calendar month, exclusive of sales tax, the district commission may, in lieu of the procedure described in RCW 54.04.070 and 54.04.080 requiring public notice to invite sealed proposals for such materials, equipment, or supplies, pursuant to commission resolution, use the process provided in RCW 39.04.190. Waiver of the deposit or bid bond required under RCW 54.04.080 may be authorized by the commission in securing such bid quotations.

(2) This section applies only to new or existing nonemitting electric generation, electric generation from a renewable resource, energy storage, transmission, or distribution projects as defined in RCW 54.04.070. [2026 c 183 s 4.]

Intent—Findings—2026 c 183: See note following RCW 54.04.070.

RCW 54.04.085 Electrical facility construction or improvement—Bid proposals—Contract proposal forms—Conditions for issuance—Appeals. A district shall require that bid proposals upon any construction or improvement of any electrical facility shall be made upon contract proposal form supplied by the district commission, and in no other manner. The district commission shall, before furnishing any person, firm or corporation desiring to bid upon any electrical work with a contract proposal form, require from such person, firm or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of such person, firm, or corporation in performing electrical work. Such questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgment of deeds, and shall be submitted once a year and at such other times as the district commission may require. Whenever the district commission is not satisfied with the sufficiency of the answers contained in such questionnaire and financial statement or whenever the district commission determines that such person, firm, or corporation does not meet all of the requirements hereinafter set

forth it may refuse to furnish such person, firm or corporation with a contract proposal form and any bid proposal of such person, firm or corporation must be disregarded. In order to obtain a contract proposal form, a person, firm or corporation shall have all of the following requirements:

(1) Adequate financial resources, or the ability to secure such resources;

(2) The necessary experience, organization, and technical qualifications to perform the proposed contract;

(3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;

(4) A satisfactory record of performance, integrity, judgment and skills; and

(5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Such refusal shall be conclusive unless appeal therefrom to the superior court of the county where the utility district is situated or Thurston county be taken within fifteen days, which appeal shall be heard summarily within ten days after the same is taken and on five days' notice thereof to the district commission. [1971 ex.s. c 220 s 2.]

RCW 54.04.090 Minimum wages. Each contractor and subcontractor performing work for a public utility district or a local utility district within a public utility district shall pay or cause to be paid to its employees on the work or under the contract or subcontract, not less than the minimum scale fixed by the resolution of the commission prior to the notice and call for bids on the work. The commission, in fixing the minimum scale of wages, shall fix them as nearly as possible to the current prevailing wages within the district for work of like character. [1955 c 124 s 4. Prior: 1931 c 1 s 8, part; RRS s 11612, part.]

Prevailing wages on public works: Chapter 39.12 RCW.

RCW 54.04.092 Application of RCW 54.04.070 through 54.04.090 to certain service provider agreements under chapter 70A.140 RCW. RCW 54.04.070 through 54.04.090 shall not apply to agreements entered into under authority of chapter 70A.140 RCW provided there is compliance with the procurement procedure under RCW 70A.140.040. [2021 c 65 s 60; 1986 c 244 s 14.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

RCW 54.04.100 Wholesale power—Procedure as to rate filing—Definition—Duty to furnish to district. Whenever a decree of public use and necessity heretofore has been or hereafter shall be entered in condemnation proceedings conducted by a public utility district for the acquisition of electrical distribution properties, or whenever it has executed a contract for the purchase of such properties, the district may cause to be filed with the utilities and transportation commission a copy of such contract or a certified copy of the decree,

together with a petition requesting that the commission cause a rate to be filed with it for the sale of wholesale power to the district. Thereupon the utilities and transportation commission shall order that a rate be filed with the commission forthwith for the sale of wholesale power to such district. The term "wholesale power" means electric energy sold for purposes of resale. The commission shall have authority to enter such order as to any public service corporation which owns or operates the electrical distribution properties being condemned or purchased or as to any such corporation which owns or operates transmission facilities within a reasonable distance of such distribution properties and which engages in the business of selling wholesale power, pursuant to contract or otherwise. The rate filed shall be for the period of service specified by the district, or if the district does not specify a particular period, such rate shall apply from the commencement of service until the district terminates same by thirty days' written notice.

Upon reasonable notice, any such public service corporation shall furnish wholesale power to any public utility district owning or operating electrical distribution properties. Whenever a public service corporation shall furnish wholesale power to a district and the charge or rate therefor is reviewed by the commission, such reasonable rate as the commission finally may fix shall apply as to power thereafter furnished and as to that previously furnished under such charge or rate from the time that the complaint concerning the same shall have been filed by the commission or the district, as the case may be. [1983 c 4 s 5; 1945 c 130 s 2; Rem. Supp. 1945 s 10459-12. Formerly RCW 54.04.010, 54.04.100, and 54.04.110.]

Purpose—1945 c 130: "The legislature has found that the public utility districts of this state, including several which at the present moment are completing the acquisition of electrical properties and the sale of revenue bonds, have immediate need for this act, in order to effectuate timely arrangements for their wholesale power requirements, clarify their condemnation procedure, and plan their operations." [1945 c 130 s 1.]

Severability—1945 c 130: "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." [1945 c 130 s 5.]

RCW 54.04.120 Planning powers. In order that the commissioners of a public utility district may be better able to plan for the marketing of power and for the development of resources pertaining thereto, they shall have the same powers as are vested in a board of county commissioners as provided in *chapter 44, Laws of 1935 (sections 9322-2 to 9322-4, both inclusive, and 9322-10 to 9322-11 inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 776-3 to -7, 776-19 and -21), entitled: "An Act relating to city, town, county and regional planning and the creation, organization, duties and powers of planning commissions." For the purposes of such act, the president of a public utility district shall have the powers of the chair of the board of county commissioners, and a planning commission created hereunder shall have the same powers, enumerated in the above sections, with reference to a public utility district as a

county planning commission has with reference to a county. However, this section shall not be construed to grant the power to adopt, regulate, or enforce comprehensive plans, zoning, land use, or building codes. [2010 c 8 s 17002; 1985 c 95 s 1; 1945 c 130 s 4; Rem. Supp. 1945 s 10459-14.]

***Reviser's note:** The portions of chapter 44, Laws of 1935 compiled as RRS ss 9322-2 to 9322-4 and 9322-10 to 9322-11 are codified in RCW 35.63.020 through 35.63.070.

Purpose—Severability—1945 c 130: See notes following RCW 54.04.100.

RCW 54.04.130 Employee benefit plans when private utility acquired—Rights, powers and duties as to existing private employee benefit plans. Whenever any municipal corporation acquires by condemnation or otherwise any utility which at the time of acquisition is in private ownership and the employees of such private utility have been for at least two years and are at the time of acquisition covered by any plan for individual annuity contracts, retirement income policies, group annuity contracts, group insurance for the benefit of employees, or any other contract for the benefit of employees, such district shall, when the personnel is retained by the district, assume all of the obligations and liabilities of the private utility acquired with relation to such plan and the employees covered thereby at the time of acquisition; or the municipal corporation may by agreement with a majority of the employees affected substitute a plan or contract of the same or like nature. The municipal corporations acquiring such private utility shall proceed in such manner as is necessary so as not to reduce or impair any benefits or privileges which such employees would have received or be entitled to had such acquisition not been effected. The district may pay all or any part of the premiums or other payments required therefor out of the revenue derived from the operation of its properties. [1961 c 139 s 1.]

RCW 54.04.140 Employee benefit plans when private utility acquired—Admission to district's employee plan—Service credit—Contributions—Benefits. Any person affected by RCW 54.04.130 who was employed by the private utility at the time of acquisition may, at his or her option, apply to the district and/or appropriate officers, for admission to any plan available to other employees of the district. Every such person who was covered at the time of acquisition by a plan with the private utility shall have added and accredited to his or her period of employment his or her period of immediately preceding continuous service with such private utility if he or she remains in the service of the municipal corporation until such plan for which he or she seeks admission becomes applicable to him or her.

No such person shall have added and accredited to his or her period of employment his or her period of service with said private utility unless he or she or a third party shall pay to the appropriate officer or fund of the plan to which he or she requests admission his or her contribution for the period of such service with the private utility at the rate provided in or for such plan to which he or she desires admission, or if he or she shall be entitled to any private benefits, as a result of such private service, unless he or she agrees

at the time of his or her employment with the district to accept a reduction in the payment of any benefits payable under the plan to which he or she requests entry that are based in whole or in part on such added and accredited service by the amount of benefits received. For the purposes of contributions, the date of entry of service shall be deemed the date of entry into service with the private utility, which service is accredited by this section, and the amount of contributions for the period of accredited service shall be based on the wages or salary of such person during that added and accredited period of service with the private utility.

The district may receive such payments from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable it to assume its obligations.

After such contributions have been made and such service added and accredited such employee shall be established in the plan to which he or she seeks admission with all rights, benefits, and privileges that he or she would have been entitled to had he or she been a member of the plan from the beginning of his or her immediately preceding continuous employment with the private utility or of his or her eligibility. [2010 c 8 s 17003; 1961 c 139 s 2.]

RCW 54.04.150 Employee benefit plans when private utility acquired—Agreements and contracts—Prior rights preserved. The municipal corporation may enter into any agreements and contracts necessary to carry out the powers and duties prescribed by RCW 54.04.130 and 54.04.140, but nothing in RCW 54.04.130 through 54.04.160 shall be so construed as requiring without consent the modification of the obligation of any contract or as requiring any third party to modify the rights, privileges or obligations acquired or incurred under a prior agreement. [1961 c 139 s 3.]

RCW 54.04.160 Assumption of obligations of private pension plan when urban transportation system acquired. Any municipal corporation which has heretofore or shall hereafter acquire from a private owner any urban transportation system which at the time of such acquisition has or had in effect any pension or retirement system for its employees, shall assume all such obligations with respect to continued contributions to and/or administration of, such retirement system, as the private owner bore or shall bear at such time, insofar as shall be necessary to discharge accrued obligations under such retirement system to beneficiaries who are not thereafter made members of a municipal or state retirement system. [1961 c 139 s 4.]

RCW 54.04.170 Collective bargaining authorized for employees. Employees of public utility districts are hereby authorized and entitled to enter into collective bargaining relations with their employers with all the rights and privileges incident thereto as are accorded to similar employees in private industry. [1963 c 28 s 1.]

RCW 54.04.180 Collective bargaining authorized for districts. Any public utility district may enter into collective bargaining relations with its employees in the same manner that a private

employer might do and may agree to be bound by the result of such collective bargaining. [1963 c 28 s 2.]

RCW 54.04.190 Production and distribution of biodiesel, ethanol, and ethanol blend fuels—Crop purchase contracts for dedicated energy crops—Production and utilization of renewable natural gas and renewable hydrogen—Sale of renewable natural gas, green electrolytic hydrogen, renewable hydrogen, and biogenic carbon dioxide. (1) In addition to any other authority provided by law, public utility districts are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

(2) In addition to any other authority provided by law:

(a) Public utility districts are authorized to produce renewable natural gas, green electrolytic hydrogen, and renewable hydrogen and utilize the renewable natural gas, green electrolytic hydrogen, or renewable hydrogen they produce for internal operations.

(b) Public utility districts may sell renewable natural gas, green electrolytic hydrogen, or renewable hydrogen that is delivered into a gas transmission pipeline located in the state of Washington or delivered in pressurized containers:

(i) At wholesale;

(ii) To an end-use customer; or

(iii) If delivered in a pressurized container, or if the end-use customer takes delivery of the renewable natural gas, green electrolytic hydrogen, or renewable hydrogen through a pipeline, and the end-use customer is an eligible purchaser of natural gas from sellers other than the gas company from which that end-use customer takes transportation service and:

(A) When the sale is made to an end-use customer in the state of Washington, the sale is made pursuant to a transportation tariff approved by the Washington utilities and transportation commission; or

(B) When the sale to an end-use customer is made outside of the state of Washington, the sale is made pursuant to a transportation tariff approved by the state agency which regulates retail sales of natural gas.

(c) Public utility districts may sell renewable natural gas, green electrolytic hydrogen, or renewable hydrogen at wholesale or to an end-use customer through a pipeline directly from renewable natural gas, green electrolytic hydrogen, or renewable hydrogen production facilities to facilities that compress, liquefy, or dispense compressed natural gas, liquefied natural gas, green electrolytic hydrogen, or renewable hydrogen fuel for end use as a transportation fuel.

(d) Public utility districts may sell green electrolytic hydrogen or renewable hydrogen at wholesale or to an end-use customer in pressurized containers directly from green electrolytic hydrogen or renewable hydrogen production facilities to facilities that utilize green electrolytic hydrogen or renewable hydrogen as a nonutility related input for a manufacturing process.

(e) Public utility districts may sell to an end-use customer or at wholesale biogenic carbon dioxide, and other marketable coproducts resulting from the processing of biogas from landfills, anaerobic digesters, and wastewater treatment facilities.

(3) Except as provided in subsection (2)(b)(iii) of this section, nothing in this section authorizes a public utility district to sell renewable natural gas, green electrolytic hydrogen, or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(4)(a) Except as provided in this subsection (4), nothing in this section authorizes a public utility district to own or operate natural gas distribution pipeline systems used to serve retail customers.

(b) For the purposes of subsection (2)(b) of this section, public utility districts are authorized to own and operate interconnection pipelines that connect renewable natural gas, green electrolytic hydrogen, or renewable hydrogen production facilities to gas transmission pipelines.

(c) For the purposes of subsection (2)(c) of this section, public utility districts may own and/or operate pipelines to supply, and/or compressed natural gas, liquefied natural gas, green electrolytic hydrogen, or renewable hydrogen facilities to provide, renewable natural gas, green electrolytic hydrogen, or renewable hydrogen for end use as a transportation fuel if all such pipelines and facilities are located in the county in which the public utility district is authorized to provide utility service.

(5) Exercise of the authorities granted under this section to public utility districts does not subject them to the jurisdiction of the utilities and transportation commission, except that public utility districts are subject only to administration and enforcement by the commission of state and federal requirements related to pipeline safety and fees payable to the commission that are applicable to such administration and enforcement.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Green electrolytic hydrogen" means hydrogen produced through electrolysis, and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(b) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(c) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(d) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(e) "Gas company" has the same meaning as in RCW 80.04.010.

(f) "Biogenic carbon dioxide" means (i) carbon dioxide produced from the decomposition or oxidation of organic materials from landfills, wastewater treatment facilities, or anaerobic digesters; (ii) carbon dioxide produced from the decomposition or processing of biomass; and (iii) carbon dioxide produced as a byproduct from biological processes in an industrial or manufacturing facility.

Biogenic carbon dioxide does not include carbon dioxide produced from the combustion or processing of fossil fuels. [2024 c 271 s 1; 2022 c 292 s 404; 2019 c 24 s 1; 2015 c 31 s 1; 2007 c 348 s 210.]

Findings—Intent—2022 c 292: See note following RCW 43.330.565.

Findings—2007 c 348: See RCW 43.325.005.

RCW 54.04.200 Public utility district as captive owner. A public utility district may be a captive owner as defined in RCW 48.201.020. [2025 c 53 s 4.]

RCW 54.04.210 Residential project permit application review—Required time frame. (1) Whenever a public utility district imposes a fee on an applicant for the review of a project permit application related to a residential project, the district must complete its review within the time frames provided for in RCW 36.70B.080(3).

(2) If a public utility district does not complete its review within the required time frame, it must refund or forgo 20 percent of the fee that it charged, or would have charged, the applicant for the review. A district that does not collect a fee for its review of a portion of a project permit application is not required to provide any refund under this section.

(3) For the purposes of this section, "project permit" has the same meaning as in RCW 36.70B.020. [2026 c 235 s 6.]