

**Chapter 35.92 RCW
MUNICIPAL UTILITIES**

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Limitations upon indebtedness: State Constitution Art. 7 s 2 (Amendments 55, 59), Art. 8 s 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

Local improvement districts, creation: Chapter 35.43 RCW.

Public utility districts: Title 54 RCW.

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Special assessments or taxation for local improvements: State Constitution Art. 7 s 9.

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Water-sewer districts: Title 57 RCW.

RCW 35.92.010 Authority to acquire and operate waterworks—Generation of electricity—Classification of services for rates. A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain and operate waterworks, including fire hydrants as an integral utility service incorporated within general rates, within or without its limits, for the purpose of furnishing the city and its inhabitants, and any other persons, with an ample supply

of water for all purposes, public and private, including water power and other power derived therefrom, with full power to regulate and control the use, distribution, and price thereof: PROVIDED, That the rates charged must be uniform for the same class of customers or service. Such waterworks may include facilities for the generation of electricity as a by-product and such electricity may be used by the city or town or sold to an entity authorized by law to distribute electricity. Such electricity is a by-product when the electrical generation is subordinate to the primary purpose of water supply.

In classifying customers served or service furnished, the city or town governing body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the water furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful water use practices; capital contributions made to the system including, but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction. No rate shall be charged that is less than the cost of the water and service to the class of customers served.

For such purposes any city or town may take, condemn and purchase, purchase, acquire, and retain water from any public or navigable lake or watercourse, surface or ground, and, by means of aqueducts or pipe lines, conduct it to the city or town; and it may erect and build dams or other works across or at the outlet of any lake or watercourse in this state for the purpose of storing and retaining water therein up to and above high water mark; and for all the purposes of erecting such aqueducts, pipe lines, dams, or waterworks or other necessary structures in storing and retaining water, or for any of the purposes provided for by this chapter, the city or town may occupy and use the beds and shores up to the high water mark of any such watercourse or lake, and acquire the right by purchase, or by condemnation and purchase, or otherwise, to any water, water rights, easements or privileges named in this chapter, or necessary for any of said purposes, and the city or town may acquire by purchase or condemnation and purchase any properties or privileges necessary to be had to protect its water supply from pollution. Should private property be necessary for any such purposes or for storing water above high water mark, the city or town may condemn and purchase, or purchase and acquire such private property. For the purposes of waterworks which include facilities for the generation of electricity as a by-product, nothing in this section may be construed to authorize a city or town that does not own or operate an electric utility system to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner. [2002 c 102 s 2; 1991 c 347 s 18. Prior: 1985 c 445 s 4; 1985 c 444 s 2; 1965 c 7 s 35.92.010; prior: 1959 c 90 s 6; 1957 c 209 s 2; prior: 1951 c 252 s 1; 1947 c 214 s 1, part; 1933 c 163 s 1, part; 1931 c 53 s 1, part; 1923 c 173 s 1, part; 1913 c 45 s 1, part; 1909 c 150 s 1, part; 1899 c 128 s 1, part; 1897 c 112 s 1, part; 1893 c 8 s 1, part; 1890 p 520 s 1, part; Rem. Supp. 1947 s 9488, part. Formerly RCW 80.40.010.]

Purpose—Findings—2002 c 102: "The purpose of this act is to affirm the authority of cities and towns to operate fire hydrants and streetlights as part of their rate-based water and electric utilities, respectively. The legislature finds that it has been the practice of most, if not all, cities and towns, as well as water and sewer districts, to include the operation of fire hydrants for fire and maintenance purposes and to incorporate the cost of this operation as a normal part of the utility's services and general rate structure. The legislature further finds and declares that it has been the intent of the legislature that cities and towns, just as water and sewer districts, have the right to operate and maintain streetlights in the same manner as fire hydrants, that is, as a normal part of the electric utility and a normal part of that utility's general rate structure. The legislature therefore affirms that authority." [2002 c 102 s 1.]

Severability—2002 c 102: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 102 s 4.]

Purposes—1991 c 347: See note following RCW 90.42.005.

Intent—1985 c 444: "For the purposes of this act, the legislature finds it is the policy of the state of Washington that:
(1) The quality of the natural environment shall be protected and, where possible, enhanced as follows: Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(2) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public." [1985 c 444 s 1.]

Construction—Economic feasibility study—1985 c 444: "(1) Nothing in this act exempts any city or town, water district, or sewer district from compliance with applicable state and federal statutes and regulations including but not limited to: State environmental policy act, chapter 43.21C RCW; national environmental policy act, 42 U.S.C. Sec. 4321 et seq.; federal power act, 16 U.S.C. Sec. 791 et seq.; public utility regulatory policies act, 15 U.S.C. Sec. 717f; Pacific northwest electric power planning and conservation act, 16 U.S.C. Sec. 839; energy financing voter approval act, chapter 80.52 RCW; water resources act, chapter 90.54 RCW; federal clean water act, 33 U.S.C. Sec. 1251 et seq.; the public water system coordination act, chapter 70.116 RCW; and the state clean water act, chapter 90.48 RCW.

(2) In addition, if the work proposed under this act involves a new water supply project combined with an electric generation facility with an installed capacity in excess of five megawatts which may

produce electricity for sale in excess of present and future needs of the water system, then each of those with a greater than twenty-five percent ownership interest in the project shall jointly prepare an independent economic feasibility study evaluating the cost-effectiveness of the combined facility in the context of forecast regional water needs, alternate sources of water supply, and the potential impact of the combined facility on rates charged for water and electricity.

In addition to the economic feasibility study, the results of the environmental impact statement required by chapter 43.21C RCW and any review by the department of ecology made pursuant to chapter 90.54 RCW shall be made available to the public at least sixty days prior to any public vote on the new combined project.

(3) This act supplements the authority of cities and towns, water districts, and sewer districts and does not restrict or impose limits on any authority such municipal corporations may otherwise have under any laws of this state nor may the authority of such municipal corporations under other laws of this state be construed more narrowly on account of this act." [1985 c 444 s 7.]

Severability—1985 c 444: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 444 s 8.]

Validating—1917 c 12: "Whenever any city or town has heretofore issued or authorized to be issued by such vote of its electors as is required by law at any election duly and legally held to vote on such proposition, such utility bonds for the purpose of purchasing, paying for or acquiring any such utility as is described in this act, in every such case such utility bonds are hereby declared to be legal and valid, and such city or town is hereby authorized and empowered to proceed to issue and negotiate such bonds and to continue and conclude proceedings for the purchase or acquirement of such utility, and is hereby given full power to maintain and operate the same within all and every part of such contiguous territory whether incorporated or unincorporated." [1917 c 12 s 2.]

Validating—1909 c 150: "That in all cases where the qualified electors of any city or town have heretofore, at any election, ratified any plan or system of any public utility mentioned in section 1 of this act, and shall have authorized a general indebtedness of such city or town and the issuance of bonds therefor, or the creation of a special fund or funds out of the revenues of the public utility the plan or system of which was so ratified, and the issuance of bonds or warrants payable only out of such fund or funds; and pursuant to such authorization or ratification a general indebtedness shall have been incurred or authorized to be incurred, and bonds or other obligations issued or contracted to be issued or authorized to be issued, or a special fund or funds shall have been created out of the revenue of any such public utility by pledging or setting aside a fixed proportion of such revenues, or a fixed amount out of and not exceeding a fixed proportion or a fixed amount without regard to any fixed proportion, and bonds or warrants payable either upon the call of such city or town or at a fixed date, but only out of such special fund or funds, issued or contracted to be issued or authorized to be

issued, or a contract or contracts for the purchase, construction, acquisition, improvement, betterment, or addition to such public utility entered into; such general indebtedness, bonds or other obligations, contracts, special funds, and bonds or warrants, payable out of such special funds, and all proceedings relating thereto, are hereby ratified, confirmed and validated; and any bonds or other obligations constituting a general indebtedness, or bonds or warrants payable out of such special funds, heretofore so authorized, may be hereafter issued or sold as if all of said proceedings were taken pursuant to and under the authority of this act, and in full compliance therewith." [1909 c 150 s 5.]

Eminent domain by cities: Chapter 8.12 RCW.

Evaluation of application to appropriate water for electric generation facility: RCW 90.54.170.

RCW 35.92.012 May accept and operate water-sewer district's property when boundaries are identical. A city or town, whose boundaries are identical with those of a water-sewer district, or within which a water-sewer district is entirely located, which is free from all debts and liabilities except contractual obligations between the district and the town, may accept the property and assets of the district and operate such property and assets as a municipal waterworks, if the district and the city or town each participate in a summary dissolution proceedings for the district as provided in RCW 57.04.110. [1999 c 153 s 39; 1965 c 7 s 35.92.012. Prior: 1955 c 358 s 2. Formerly RCW 80.40.012.]

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

RCW 35.92.014 Acquisition of out-of-state waterworks. Municipalities of this state under ordinance of the governing body are empowered to acquire by purchase or lease, and to maintain and operate, in cooperation with neighboring municipalities of states bordering this state, the out-of-state property, plant and equipment of privately owned utilities supplying water to the purchasing municipalities from an out-of-state source: PROVIDED, The legislature of the state in which such property, plant, equipment and supply are located, by enabling legislation similar to this, authorizes its municipalities to join in such acquisition, maintenance and operation. [1965 c 7 s 35.92.014. Prior: 1951 c 39 s 1. Formerly RCW 80.40.014.]

RCW 35.92.015 Acquisition of out-of-state waterworks—Joint acquisition and operation. The governing bodies of the municipalities acting jointly under RCW 35.92.014 and this section shall have authority by mutual agreement to exercise jointly all powers granted to each individual municipality in the acquisition, maintenance and operation of a water supply system. [1965 c 7 s 35.92.015. Prior: 1951 c 39 s 2. Formerly RCW 80.40.015.]

RCW 35.92.017 Authority to assist customers in the acquisition of water conservation equipment—Limitations. Any city or town engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the city or town if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the city or town to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life-cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with [the] use charge or separately. Loans shall not exceed two hundred forty months in length. [2010 1st sp.s. c 5 s 1; 1989 c 421 s 3.]

Intent—Water conservation encouraged—1989 c 421: "The conservation and efficient use of water is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, public utility districts, water districts, and other political subdivisions of the state that are engaged in the sale or distribution of water should be granted the authority to develop and carry out programs that will conserve resources, reduce waste, and encourage more efficient use of water by consumers.

In order to establish the most effective statewide program for water conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water." [1989 c 421 s 1.]

Contingent effective date—1989 c 421: "This act shall take effect on the same date as the proposed amendment to Article VIII of the state Constitution, authorizing the use of public moneys or credit to promote conservation or more efficient use of water, is validly submitted and is approved and ratified by the voters at a general election held in November 1989. If the proposed amendment is not so approved and ratified, this act shall be void in its entirety." [1989 c 421 s 6.] Senate Joint Resolution No. 8210 was approved and ratified by the voters at the November 7, 1989, general election.

RCW 35.92.020 Authority to acquire and operate sewerage and solid waste handling systems, plants, sites, or facilities—Classification of services and facilities for rates—Assistance for low-income persons.

(1) A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage as defined in RCW 35.67.010, or solid waste handling as defined by RCW 70A.205.015. A city or town shall have full authority to manage, regulate, operate, control, and, except as provided in subsection (3) of this section, to fix the price of service and facilities of those systems, plants, sites, or other facilities within and without the limits of the city or town.

(2) Subject to subsection (3) of this section, the rates charged shall be uniform for the same class of customers or service and facilities. In classifying customers served or service and facilities furnished by a system or systems of sewerage, the legislative authority of the city or town may in its discretion consider any or all of the following factors:

(a) The difference in cost of service and facilities to customers;

(b) The location of customers within and without the city or town;

(c) The difference in cost of maintenance, operation, repair, and replacement of the parts of the system;

(d) The different character of the service and facilities furnished to customers;

(e) The quantity and quality of the sewage delivered and the time of its delivery;

(f) Capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments;

(g) The public benefit nonprofit corporation status, as defined in RCW 24.03A.245, of the land user; and

(h) Any other factors that present a reasonable difference as a ground for distinction.

(3) The rate a city or town may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(4) Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

(5) A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

(6) Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

(7) Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

(8) A city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law. [2021 c 176 s 5213; 2020 c 20 s 1014; 2003 c 394 s 2; 1997 c 447 s 9; 1995 c 124 s 5; 1989 c 399 s 6; 1985 c 445 s 5; 1965 c 7 s 35.92.020. Prior: 1959 c 90 s 7; 1957 c 288 s 3; 1957 c 209 s 3; prior: 1947 c 214 s 1, part; 1933 c 163 s 1, part; 1931 c 53 s 1, part; 1923 c 173 s 1, part; 1913 c 45 s 1, part; 1909 c 150 s 1, part; 1899 c 128 s 1, part; 1897 c 112 s 1, part; 1893 c 8 s 1, part; 1890 p 520 s 1, part; Rem. Supp. 1947 s 9488, part. Formerly RCW 80.40.020.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

Finding—Purpose—1997 c 447: See note following RCW 70.05.074.

RCW 35.92.021 Public property subject to rates and charges for stormwater control facilities. Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for stormwater control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.92.020. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property. [1986 c 278 s 56; 1983 c 315 s 2.]

Severability—1986 c 278: See note following RCW 36.01.010.

Severability—1983 c 315: See note following RCW 90.03.500.

Flood control zone districts—Stormwater control improvements: Chapter 86.15 RCW.

Rates and charges for stormwater control facilities—Limitations—Definitions: RCW 90.03.500 through 90.03.525. See also RCW 35.67.025, 36.89.085, and 36.94.145.

RCW 35.92.023 Solid waste—Compliance with chapter 70A.205 RCW required. See RCW 35.21.154.

RCW 35.92.025 Authority to make charges for connecting to water or sewerage system—Interest charges. Cities and towns are authorized to charge property owners seeking to connect to the water or sewerage system of the city or town as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the legislative body of the city or town shall determine proper in order that such property owners shall bear their equitable share of the cost of such system. The equitable share may include interest charges applied from the date of construction of the water or sewer system until the connection, or for a period not to exceed ten years, at a rate commensurate with the rate of interest applicable to the city or town at the time of construction or major rehabilitation of the water or sewer system, or at the time of installation of the water or sewer lines to which the property owner is seeking to connect but not to exceed ten percent per year: PROVIDED, That the aggregate amount of interest shall not exceed the equitable share of the cost of the system allocated to such property owners. Connection charges collected shall be considered revenue of such system. [1985 c 445 s 6; 1965 c 7 s 35.92.025. Prior: 1959 c 90 s 8. Formerly RCW 80.40.025.]

RCW 35.92.027 Extension of water and sewer facilities outside city subject to review by boundary review board. The extension of water or sewer facilities outside of the boundaries of a city or town may be subject to potential review by a boundary review board under chapter 36.93 RCW. [1989 c 84 s 34.]

RCW 35.92.030 Authority to acquire and operate stone or asphalt plants. A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate works, plants and facilities for the preparation and manufacture of all stone or asphalt products or compositions or other materials which may be used in street construction or maintenance, together with the right to use them, and also fix the price of and sell such products for use in the construction of municipal improvements. [1985 c 445 s 8; 1965 c 7 s 35.92.030. Prior: 1957 c 288 s 4; 1957 c 209 s 4; prior: 1947 c 214 s 1, part; 1933 c 163 s 1, part; 1931 c 53 s 1, part; 1923 c 173 s 1, part; 1913 c 45 s 1, part; 1909 c 150 s 1, part; 1899 c 128 s 1, part; 1897 c 112 s 1, part; 1893 c 8 s 1, part; 1890 p 520 s 1, part; Rem. Supp. 1947 s 9488, part. Formerly RCW 80.40.030.]

Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.92.040 Authority to acquire and operate public markets and cold storage plants—"Public markets" defined. A city or town may also construct, acquire, and operate public markets and cold storage plants for the sale and preservation of butter, eggs, meats, fish, fruits, vegetables, and other perishable provisions. Whenever the words "public markets" are used in this chapter and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing. [1990 c 189 s 4; 1965 c 7 s 35.92.040. Prior: 1957 c 288 s 5; 1957 c 209 s 5; prior: 1947 c 214 s 1, part; 1933 c 163 s 1, part; 1931 c 53 s 1, part; 1923 c 173 s 1, part; 1913 c 45 s 1, part; 1909 c 150 s 1, part; 1899 c 128 s 1, part; 1897 c 112 s 1, part; 1893 c 8 s 1, part; 1890 p 520 s 1, part; Rem. Supp. 1947 s 9488, part. Formerly RCW 80.40.040.]

RCW 35.92.050 Authority to acquire and operate utilities. A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate works, plants, facilities for the purpose of furnishing the city or town and its inhabitants, and any other persons, with gas, electricity, green electrolytic hydrogen as defined in RCW 54.04.190, renewable hydrogen as defined in RCW 54.04.190, and other means of power and facilities for lighting, including streetlights as an integral utility service incorporated within general rates, heating, fuel, and power purposes, public and private, with full authority to regulate and control the use, distribution, and price thereof, together with the right to handle and sell or lease, any meters, lamps, motors, transformers, and equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof; authorize the construction of such plant or plants by others for the same purpose, and purchase gas, electricity, or power from either within or without the city or town for its own use and for the purpose of selling to its inhabitants and to other persons doing business within the city or town and regulate and control the use and price thereof. [2022 c 292 s 405; 2002 c 102 s 3; 1985 c 445 s 9; 1965 c 7 s 35.92.050. Prior: 1957 c 288 s 6; 1957 c 209 s 6; prior: 1947 c 214 s 1, part; 1933 c 163 s 1, part; 1931 c 53 s 1, part; 1923 c 173 s 1, part; 1913 c 45 s 1, part; 1909 c 150 s 1, part; 1899 c 128 s 1, part; 1897 c 112 s 1, part; 1893 c 8 s 1, part; 1890 p 520 s 1, part; Rem. Supp. 1947 s 9488, part. Formerly RCW 80.40.050.]

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

Purpose—Findings—Severability—2002 c 102: See notes following RCW 35.92.010.

RCW 35.92.052 First-class cities operating electrical facilities—Participation in agreements to use or own high voltage transmission facilities and other electrical generating facilities—Terms—

Limitations. (1) Except as provided in subsection (3) of this section, cities of the first class which operate electric generating facilities and distribution systems shall have power and authority to participate and enter into agreements for the use or undivided ownership of high voltage transmission facilities and capacity rights in those facilities and for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, to be called "common facilities"; and for the planning, financing, acquisition, construction, operation, and maintenance with: (a) Each other; (b) electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any other state, to be called "regulated utilities"; (c) rural electric cooperatives, including generation and transmission cooperatives in any state; (d) municipal corporations, utility districts, or other political subdivisions in any state; and (e) any agency of the United States authorized to generate or transmit electrical energy. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output.

(2) A city using or owning common facilities under this section may issue revenue bonds or other obligations to finance the city's share of the use or ownership of the common facilities.

(3) Cities of the first class shall have the power and authority to participate and enter into agreements for the use or undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output of the facility. Cities may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with utility districts, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(4) The agreement must provide that each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition, and construction of any common facility, or any additions or betterments. The agreement shall provide

a uniform method of determining and allocating operation and maintenance expenses of a common facility.

(5) Each city participating in the ownership, use, or operation of a common facility shall pay all taxes chargeable to its share of the common facility and the electric energy generated under any applicable statutes and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, under agreement with such county or taxing district.

(6) In carrying out the powers granted in this section, each such city shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions, or obligations of others. No money or property supplied by any such city for the planning, financing, acquisition, construction, operation, or maintenance of, or addition or improvement to any common facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of any city in any common facility be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon any city unless authorized or approved by resolution or ordinance of its governing body.

(7) Any city acting jointly outside the state of Washington, by mutual agreement with any participant under authority of this section, shall not acquire properties owned or operated by any public utility district, by any regulated utility, or by any public utility owned by a municipality without the consent of the utility owning or operating the property, and shall not participate in any condemnation proceeding to acquire such properties. [1997 c 230 s 1; 1992 c 11 s 1; 1989 c 249 s 1.]

RCW 35.92.054 May acquire electrical distribution property from public utility district. Any city or town may acquire by purchase or condemnation from any public utility district or combination of public utility districts any electrical distribution property within the boundaries of such city or town: PROVIDED, That such right of condemnation shall not apply to a city or town located within a public utility district that owns the electric distribution properties sought to be condemned. [1965 c 7 s 35.92.054. Prior: 1953 c 97 s 1; 1951 c 272 s 1. Formerly RCW 80.40.054.]

Right of countywide utility district to acquire distribution properties: RCW 54.32.040.

RCW 35.92.060 Authority to acquire and operate transportation facilities. A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town, and a first-class city may also construct, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways beyond those corporate limits only within the boundaries of the county in which the city is located and of any adjoining county,

for the transportation of freight and passengers above, upon, or underneath the ground. It may also fix, alter, regulate, and control the fares and rates to be charged therefor; and fares or rates may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, persons with disabilities, and students. Without the payment of any license fee or tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, the city or town may engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business. [2020 c 274 s 15; 1995 c 42 s 1; 1991 c 124 s 1; 1990 c 43 s 49; 1985 c 445 s 10; 1981 c 25 s 2; 1965 c 7 s 35.92.060. Prior: 1957 c 288 s 7; 1957 c 209 s 7; prior: 1947 c 214 s 1, part; 1933 c 163 s 1, part; 1931 c 53 s 1, part; 1923 c 173 s 1, part; 1913 c 45 s 1, part; 1909 c 150 s 1, part; 1899 c 128 s 1, part; 1897 c 112 s 1, part; 1893 c 8 s 1, part; 1890 p 520 s 1, part; Rem. Supp. 1947 s 9488, part. Formerly RCW 80.40.060.]

Construction—Severability—Headings—1990 c 43: See notes following RCW 81.100.010.

Additional sales and use taxes: RCW 82.14.045.

Public transportation systems, financing, purchase of leased systems: Chapter 35.95 RCW.

RCW 35.92.070 Procedure—Election. When the governing body of a city or town deems it advisable that the city or town purchase, acquire, or construct any such public utility, or make any additions and betterments thereto or extensions thereof, it shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as near as may be, and the ordinance shall be submitted for ratification or rejection by majority vote of the voters of the city or town at a general or special election.

(1) No submission shall be necessary:

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

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

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

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

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

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

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

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

(3) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary to make extensions to a public utility which would expand the previous service capacity by fifty percent or more, where such increased service capacity is financed by the issuance of general obligation bonds.

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

(5) When a proposition has been adopted, or in the cases where no submission is necessary, the corporate authorities of the city or town may proceed forthwith to purchase, construct, and acquire the public utility or make additions, betterments, and extensions thereto and to make payment therefor. [1987 c 145 s 1. Prior: 1985 c 445 s 11; 1985 c 444 s 3; 1965 c 7 s 35.92.070; prior: 1941 c 147 s 1; 1931 c 53 s 2; 1909 c 150 s 2; 1901 c 85 s 1; 1897 c 112 s 2; 1893 c 8 s 2; 1891 c 141 s 1; 1890 p 520 s 2; Rem. Supp. 1941 s 9489. Formerly RCW 80.40.070.]

Intent—Construction—Severability—1985 c 444: See notes following RCW 35.92.010.

Elections: Title 29A RCW.

RCW 35.92.075 Indebtedness incurred on credit of expected utility revenues. A city or town may contract indebtedness and borrow money for a period not in excess of two years for any public utility purpose on the credit of the revenues expected from such public utility. [1982 c 24 s 1.]

RCW 35.92.080 General obligation bonds. General obligation bonds may be issued by a city or town for the purposes of providing all or part of the costs of purchasing, acquiring, or constructing a public utility or making any additions, betterments, or alterations thereto, or extensions thereof. The bonds shall be issued and sold in accordance with chapter 39.46 RCW.

There shall be levied each year a tax upon the taxable property of the city or town sufficient to pay the interest on and principal of the bonds then due, which taxes shall become due and collectible as other taxes: PROVIDED, That it may pledge to the payment of such principal and interest the revenue of the public utility being acquired, constructed, or improved out of the proceeds of sale of such bonds. Such pledge of revenue shall constitute a binding obligation, according to its terms, to continue the collection of such revenue so long as such bonds or any of them are outstanding, and to the extent that revenues are insufficient to meet the debt service requirements on such bonds, the governing body of the municipality shall provide for the levy of taxes sufficient to meet such deficiency. [1985 c 445

s 12; 1984 c 186 s 23; 1983 c 167 s 67; 1970 ex.s. c 56 s 47; 1969 ex.s. c 232 s 24; 1967 c 107 s 1; 1965 c 118 s 2; 1965 c 7 s 35.92.080. Prior: 1909 c 150 s 3, part; RRS s 9490, part. Formerly RCW 80.40.080.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

RCW 35.92.090 Limit of indebtedness. The total general indebtedness incurred under this chapter, added to all other indebtedness of a city or town at any time outstanding, shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters: PROVIDED, That a city or town may become indebted to a larger amount, but not exceeding the amount authorized therefor by chapter 39.36 RCW, as now or hereafter amended, for supplying it with water, artificial light, and sewers when works for supplying such water, light, and sewers are owned and controlled by the city or town. [1965 c 7 s 35.92.090. Prior: 1909 c 150 s 3, part; RRS s 9490, part. Formerly RCW 80.40.090.]

Limitations upon indebtedness: State Constitution Art. 7 s 2 (Amendments 55, 59), Art. 8 s 6 (Amendment 27), RCW 84.52.050.

RCW 35.92.100 Revenue bonds or warrants. (1) When the voters of a city or town, or the corporate authorities thereof, have adopted a proposition for any public utility and either no general indebtedness has been authorized or the corporate authorities do not desire to incur a general indebtedness, and when the corporate authorities are authorized to exercise any of the powers conferred by this chapter without submitting the proposition to a vote, the corporate authorities may create a special fund for the sole purpose of defraying the cost of the public utility or addition, betterment, or extension thereto, into which special fund they may obligate and bind the city or town to set aside and pay a fixed proportion of the gross revenues of the utility, or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount without regard to any fixed proportion, and issue and sell bonds or warrants bearing interest at a rate or rates as authorized by the corporate authorities; payable semiannually, executed in such manner and payable at such times and places as the corporate authorities shall determine, but the bonds or warrants and the interest thereon shall be payable only out of the special fund and shall be a lien and charge against payments received from any utility local improvement district assessments pledged to secure such bonds. Such bonds shall be negotiable instruments within the meaning of the negotiable instruments law, Title 62A RCW, notwithstanding same are made payable out of a particular fund contrary to the provisions of RCW 62A.3-105. Such bonds and warrants may be of any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030.

When corporate authorities deem it necessary to construct any sewage disposal plant, it may be considered as a part of the waterworks department of the city or town and the cost of construction and maintenance thereof may be chargeable to the water fund of the municipality, or to any other special fund which the corporate authorities may by ordinance designate.

In creating a special fund, the corporate authorities shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not set aside into such special fund a greater amount or proportion of the revenue and proceeds than in their judgment will be available above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Rates shall be maintained adequate to service such bonds and to maintain the utility in sound financial condition.

The bonds or warrants and interest thereon issued against any such fund shall be a valid claim of the owner thereof only as against the special fund and its fixed proportion or amount of the revenue pledged thereto, and shall not constitute an indebtedness of the city or town within the meaning of constitutional provisions and limitations. Each bond or warrant shall state upon its face that it is payable from a special fund, naming it and the ordinance creating it. The bonds and warrants shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town, and they may provide in any contract for the construction and acquirement of the proposed improvement that payment therefor shall be made only in such bonds and warrants at par value thereof.

When a special fund is created and any such obligation is issued against it, a fixed proportion, or a fixed amount out of and not exceeding such fixed proportion, or a fixed amount without regard to any fixed proportion, of revenue shall be set aside and paid into such fund as provided in the ordinance creating it, and in case the city or town fails to thus set aside and pay such fixed proportion or amount, the owner of any bond or warrant against the fund may bring action against the city or town and compel such setting aside and payment: PROVIDED, That whenever the corporate authorities of any city or town shall so provide by ordinance then all such bonds thereafter issued shall be on a parity, without regard to date of issuance or authorization and without preference or priority of right or lien with respect to participation of special funds in amounts from gross revenues for payment thereof.

(2) Notwithstanding subsection (1) of this section, such bonds and warrants may be issued and sold in accordance with chapter 39.46 RCW. [1983 c 167 s 68; 1983 c 3 s 57; 1970 ex.s. c 56 s 48; 1969 ex.s. c 232 s 25; 1967 c 52 s 25; 1965 c 7 s 35.92.100. Prior: 1953 c 231 s 1; 1931 c 53 s 3; 1909 c 150 s 4; RRS s 9491. Formerly RCW 80.40.100.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

Construction—Severability—1967 c 52: See notes following RCW 35.43.042.

Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.

Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

Instruments payable from a particular fund: RCW 62A.3-105.

Municipal revenue bond act: Chapter 35.41 RCW.

RCW 35.92.105 Revenue bonds, warrants, or other evidences of indebtedness for energy or water conservation programs. A city or town engaged in the sale or distribution of water or energy may issue revenue bonds, warrants, or other evidences of indebtedness in the manner provided by this chapter for the purpose of defraying the cost of financing programs for the conservation or more efficient use of energy or water. The bonds, warrants, or other evidences of indebtedness shall be deemed to be for capital purposes within the meaning of the uniform system of accounts for municipal corporations. [1992 c 25 s 1; 1981 c 273 s 1.]

Uniform system of accounts for local governments: RCW 43.09.200.

RCW 35.92.110 Funding or refunding bonds. The legislative authority of a city or town which has any outstanding warrants or bonds issued for the purpose of purchasing, acquiring, or constructing any such public utility or for making any additions or betterments thereto or extensions thereof, whether the warrants or bonds are general obligation warrants or bonds of the municipality or are payable solely from a special fund, into which fund the city or town is bound and obligated to set aside and pay any proportion or part of the revenue of the public utility, for the purchase, acquisition, or construction of which utility or the making of any additions and betterments thereto or extensions thereof such outstanding warrants or bonds were issued, may, without submitting the matter to the voters, provide for the issuance of funding or refunding bonds with which to take up, cancel, retire, and refund such outstanding warrants or bonds, or any part thereof, at maturity thereof, or before the maturity thereof, if they are subject to call for prior redemption. [1965 c 7 s 35.92.110. Prior: 1935 c 81 s 1; RRS s 9492-1. Formerly RCW 80.40.110.]

RCW 35.92.120 Funding or refunding bonds—Bonds not general obligation. Such funding or refunding bonds shall not be a general indebtedness of the city or town, but shall be payable solely from a special fund created therefor by ordinance. Each bond shall state upon its face that it is payable from a special fund, naming the fund and

the ordinance creating it. [1965 c 7 s 35.92.120. Prior: 1935 c 81 s 2; RRS s 9492-2. Formerly RCW 80.40.120.]

RCW 35.92.130 Funding or refunding bonds—Single issue may refund multiple series. At the option of the legislative authority of the city or town various series and issues of outstanding warrants or bonds, or parts thereof, issued for the purpose of acquiring or constructing any public utility, or for making any additions or betterments thereto or extensions thereof, may be funded or refunded by a single issue of funding or refunding bonds. No proportion or part of the revenue of any one such public utility shall be pledged for the payment of funding or refunding bonds issued to fund or refund warrants or bonds issued for the acquisition or construction, or the making of additions or betterments to or extensions of, any other public utility. [1965 c 7 s 35.92.130. Prior: 1935 c 81 s 3; RRS s 9492-3. Formerly RCW 80.40.130.]

RCW 35.92.140 Funding or refunding bonds—Issuance of bonds—Ordinance. When the legislative authority of a city or town determines to issue such funding or refunding bonds, it shall provide therefor by ordinance, which shall create a special fund for the sole purpose of paying the bonds and the interest thereon, into which fund the ordinance shall bind and obligate the city or town to set aside and pay a fixed amount without regard to any fixed proportion out of the gross revenue of the public utility as provided therein. In creating such special fund, the legislative authority shall have due regard to the cost of operation and maintenance of the utility as constructed or added to, and to any proportion or part of the revenue thereof previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not bind and obligate the city or town to set aside into the fund a greater amount of the revenue of the utility than in its judgment will be available above the cost of maintenance and operation and the amount or proportion of the revenue thereof so previously pledged. [1965 c 7 s 35.92.140. Prior: 1935 c 81 s 4, part; RRS s 9492-4, part. Formerly RCW 80.40.140.]

RCW 35.92.150 Funding or refunding bonds—Terms of bonds. (1) Such funding or refunding bonds, together with the interest thereon, issued against the special fund shall be a valid claim of the owner thereof only as against such fund, and the amount of the revenue of the utility pledged thereto, and shall not constitute an indebtedness of the city or town within the meaning of constitutional or statutory provisions and limitations. They shall be sold in such manner as the corporate authorities shall deem for the best interest of the municipality. The effective rate of interest on the bonds shall not exceed the effective rate of interest on warrants or bonds to be funded or refunded thereby. Interest on the bonds shall be paid semiannually. The bonds shall be executed in such manner and payable at such time and place as the legislative authority shall by ordinance determine. Nothing in this chapter shall prevent a city or town from funding or refunding any of its indebtedness in any other manner

provided by law. Such bonds may be of any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW. [1983 c 167 s 69; 1965 c 7 s 35.92.150. Prior: 1935 c 81 s 4, part; RRS s 9492-4, part. Formerly RCW 80.40.150.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

RCW 35.92.160 Funding or refunding bonds—Recourse of bond owners. When such funding or refunding bonds have been issued and the city or town fails to set aside and pay into the special fund from which they are payable, the amount without regard to any fixed proportion out of the gross revenue of the public utility which the city or town has, by ordinance, bound and obligated itself to set aside and pay into the special fund, the owner of any funding or refunding bond may bring action against the city or town and compel such setting aside and payment. [1983 c 167 s 70; 1965 c 7 s 35.92.160. Prior: 1935 c 81 s 5; RRS s 9492-5. Formerly RCW 80.40.160.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

RCW 35.92.170 City may extend water system outside limits. When a city or town owns or operates a municipal waterworks system and desires to extend such utility beyond its corporate limits it may acquire, construct and maintain any addition to or extension of the system, and dispose of and distribute water to any other municipality, water-sewer district, community, or person desiring to purchase it. [1999 c 153 s 40; 1965 c 7 s 35.92.170. Prior: 1933 ex.s. c 17 s 1; RRS s 9502-1. Cf. 1917 c 12 s 1. Formerly RCW 80.40.170.]

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

Water-sewer districts: Title 57 RCW.

RCW 35.92.180 City may extend water system outside limits—May acquire property outside city. A city or town may construct, purchase, or acquire any waterworks, pipe lines, distribution systems and any extensions thereof, necessary to furnish such outside service. [1965 c 7 s 35.92.180. Prior: 1933 ex.s. c 17 s 2; RRS s 9502-2. Cf. 1917 c 12 s 1. Formerly RCW 80.40.180.]

RCW 35.92.190 City may extend water system outside limits—Cannot condemn irrigation system. No city or town may exercise the power of eminent domain to take or damage any waterworks, storage reservoir, site, pipe line distribution system or any extension thereof, or any water right, water appropriation, dam, canal, plant, or any interest in, or to any of the above used, operated, held, or

owned by an irrigation district. [1965 c 7 s 35.92.190. Prior: 1933 ex.s. c 17 s 2A; RRS s 9502-2A. Formerly RCW 80.40.190.]

Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.92.200 City may extend water system outside limits—Contracts for outside service. A city or town may enter into a firm contract with any outside municipality, community, corporation, or person, for furnishing them with water without regard to whether said water shall be considered as surplus or not and regardless of the source from which such water is obtained, which contract may fix the terms upon which the outside distribution systems will be installed and the rates at which and the manner in which payment shall be made for the water supplied or for the service rendered. [1965 c 7 s 35.92.200. Prior: 1961 c 125 s 1; 1957 c 288 s 8; 1933 ex.s. c 17 s 3; RRS s 9502-3. Cf. 1917 c 12 s 1. Formerly RCW 80.40.200.]

RCW 35.92.220 Acquisition of water rights—Consolidation of irrigation assessment districts. (1) A city or town, situated within or served by, an irrigation project, or projects, owned or operated by the United States government, a water users' association, associations, corporation, or corporations or another city or town or towns, where the legislative authority deems it feasible to furnish water for irrigation and domestic purposes, or either, and where the water used for irrigation and domestic purposes or either, is appurtenant or may become appurtenant to the land located within such city or town, may purchase, lease, or otherwise acquire water or water rights for the purpose of furnishing the city or town and the inhabitants thereof with a supply of water for irrigation and domestic purposes, or either; purchase, construct, or otherwise acquire systems and means of distribution and delivery of water within and without the limits of the city or town, or for the delivery of water where the owner of land within the city or town owns a water right appurtenant to his or her land, with full power to maintain, repair, reconstruct, regulate, and control the same, and if private property is necessary for such purposes, the city or town may condemn and purchase or purchase and acquire property, enter into any contract, and order any and all work to be done that is necessary to carry out such purposes, and it may do so either by the entire city or town or by assessment districts, consisting of the whole or any portion thereof, as the legislative authority of the city or town may determine.

(2) The legislative authority of any city or town may by ordinance authorize the consolidation of separate irrigation assessment districts, previously established pursuant to this section, for the purposes of construction or rehabilitation of improvements, or of ongoing administration, service, repair, and reconstruction of irrigation systems. The separate irrigation assessment districts to be consolidated need not be adjoining, vicinal, or neighboring. If the legislative authority orders the creation of such consolidated irrigation assessment districts, the money received and on hand from assessments levied within the original districts shall be deposited in a consolidated fund to be used by the municipality for future expenses within the consolidated district. [1995 c 89 s 1; 1965 c 130 s 1;

1965 c 7 s 35.92.220. Prior: 1915 c 112 s 1; RRS s 9495. Formerly RCW 80.40.220.]

RCW 35.92.230 Acquisition of water rights—Special assessments.

For the purpose of paying for a water right purchased by the city or town from the United States government where the purchase price has not been fully paid; paying annual maintenance or annual rental charge to the United States government or any corporation or individual furnishing the water for irrigation and domestic purposes, or either; paying assessments made by any water users' association; paying the cost of constructing or acquiring any system or means of distribution or delivery of water for such purposes; and for the upkeep, repair, reconstruction, operation, and maintenance thereof; accumulating reasonable operating fund reserves to pay for system upkeep, repair, operation, and maintenance, in such amount as is determined by the city or town legislative authority; accumulating reasonable capital fund reserves in an amount not to exceed the total estimated cost of system construction, reconstruction, or refurbishment, over such period of time as is determined by the city or town legislative authority; and for any expense incidental to such purposes, the city or town may levy and collect special assessments against the property within any district created pursuant to RCW 35.92.220, to pay the whole or any part of any such costs and expenses. [1995 c 89 s 2; 1965 c 130 s 2; 1965 c 7 s 35.92.230. Prior: 1915 c 112 s 2; RRS s 9496. Formerly RCW 80.40.230.]

RCW 35.92.240 Acquisition of water rights—Levy of assessments.

All such assessments shall be levied upon the several parcels of land located within the local improvement district in accordance to the special benefits conferred on such property in proportion to the surface area, one square foot of surface to be the unit of assessment: PROVIDED, That where the water right is acquired or a special improvement is made for a portion of any district, the cost of the water right or the cost of such special improvement shall be levied in the same manner upon such portion of the district as shall be specially benefited thereby: PROVIDED FURTHER, That whenever a special improvement is made for a portion of any district, the land assessed for the cost thereof shall be entitled to an equitable reduction in the annual assessments in proportion to the reduced cost of operation on account of the construction of the improvement. [1965 c 7 s 35.92.240. Prior: 1915 c 112 s 3; RRS s 9497. Formerly RCW 80.40.240.]

RCW 35.92.250 Acquisition of water rights—District property need not be contiguous. One local improvement district may be established for any or all of the purposes embraced herein even though the area assessed for such purposes may not coincide or be contiguous: PROVIDED, That whenever the legislative body of the city or town decides to construct a special improvement in a distribution system, a separate local improvement district may be formed for such portion and bonds may be issued therefor as provided in the general local improvement law. [1965 c 7 s 35.92.250. Prior: 1915 c 112 s 4; RRS s 9498. Formerly RCW 80.40.250.]

Creation of local improvement districts: Chapter 35.43 RCW.

Issuance of bonds to pay for local improvements: Chapters 35.45, 35.48 RCW.

RCW 35.92.260 Acquisition of water rights—Mode of assessment.

When a city or town makes local improvements for any of the purposes specified in RCW 35.92.220 and 35.92.230, as now or hereafter amended, the proceedings relative to the creation of districts, financing of improvements, levying and collecting assessments and all other procedure shall be had, and the legislative authority shall proceed in accordance with the provisions of the laws relating to local improvement districts in cities of the first class: PROVIDED, That when the improvement is initiated upon petition, the petition shall set forth the fact that the signers are the owners according to the records in the office of the county auditor, of property to an aggregate amount of a majority of the surface area within the limits of the assessment district to be created: PROVIDED FURTHER, That when an assessment is made for any purpose other than the construction or reconstruction of any system or means of distribution or delivery of water, it shall not be necessary for the legislative authority to be furnished with a statement of the aggregate assessed valuation of the real estate exclusive of improvements in the district according to the valuation last placed upon it for purposes of general taxation, or the estimated amount of the cost of the improvement to be borne by each tract of land or other property, but a statement by the engineer or other officer, showing the estimated cost of the improvement per square foot, shall be sufficient: PROVIDED FURTHER, That when the legislative authority of a city or town shall deem it necessary to levy special assessments for the purposes specified in RCW 35.92.230, as now or hereafter amended, other than for the purpose of paying the costs of acquiring, constructing or reconstructing any system or means of distribution or delivery of water for irrigation or domestic purposes, the legislative authority for such city or town may hold a single hearing on the assessment rolls for all irrigation local improvement districts within the city or town. Such legislative authority shall fix the date of such hearing and shall direct the city or town clerk to give notice thereof, in the form prescribed by RCW 35.44.080, by publication thereof in a legal newspaper of general circulation in the city or town, once, not less than fifteen days prior to the date fixed for hearing; and by mailing, not less than fifteen days prior to the date fixed for hearing, notice thereof to the owner or reputed owner of each item of property described on the assessment roll whose name appears on such roll at the address of such owner or reputed owner shown on the tax rolls of the county treasurer for each such item of property: PROVIDED FURTHER, That when an assessment roll is once prepared and does not include the cost of purchase, construction, or reconstruction of works of delivery or distribution and the legislative authority of such city or town decides to raise a similar amount the ensuing year, it shall not be necessary to prepare a new assessment roll, but the legislative authority may pass a resolution of intention estimating the cost for the ensuing year to be the same as the preceding year, and directing the clerk to give notice stating the estimated cost per square foot of all land within the district and refer persons interested to the books

of the treasurer, and fixing the date for a hearing on such assessment roll. Notice of such hearing shall be given by the city or town clerk in the form and manner required in the preceding proviso. The treasurer shall be present at the hearing and shall note any changes on his or her books. The legislative authority shall have the same right to make changes in the assessment roll as in an original assessment, and after all changes have been made it shall, by ordinance, confirm the assessment and direct the treasurer to extend it on the books of his or her office. [2009 c 549 s 2132; 1965 c 130 s 3; 1965 c 7 s 35.92.260. Prior: 1915 c 112 s 5; RRS s 9499. Formerly RCW 80.40.260.]

RCW 35.92.263 Acquisition of water rights—Water rights acquired by purchase of shares in water users' association or corporation—Authority to acquire and hold shares. Whenever the public interest, welfare, convenience and necessity require that a city or town acquire water rights for the purposes set forth in RCW 35.92.220, as now or hereafter amended, and that such water rights be acquired through the purchases of shares in a water users' association or corporation, such city or town shall have full authority and power to acquire, or to hold in trust, such shares as shall be necessary for said purposes. [1965 c 130 s 4.]

RCW 35.92.265 Acquisition of water rights—Existing local improvement districts validated—Debts, obligations, assessments, etc., declared legal and valid. Each and all of the respective areas of land heretofore organized into local improvement assessment districts for irrigation or domestic water supply purposes including all areas annexed thereto, under the provisions of chapter 112, Laws of 1915, codified as RCW 35.92.220-35.92.260, whether organized by or within a city or town other than a city of the first class or by or within a city of the first class, are hereby validated and declared to be duly existing local improvement districts having the respective boundaries set forth in their organization or annexation proceedings as shown by the files in the office of the clerk of the city or town in which formed. All debts, contracts and obligations heretofore made or incurred by or in favor of any such local improvement district and any and all assessments or levies and all other things and proceedings done or taken by the city or town within, and by which such districts were organized, under or in pursuance of such organization, and under or in pursuance of the levy and collection of special assessments by the city or town to pay the whole or any part of the cost and expense or upkeep, repair, reconstruction, operation and maintenance of such local improvement districts and any expense incident to said purposes are hereby declared legal and valid and in full force and effect. [1965 c 130 s 5.]

RCW 35.92.270 Passenger transportation systems—Authority to make studies—Contracts with and acquisition of privately owned systems. Every passenger transportation system owned by a municipal corporation may:

(1) Engage in planning, studies and surveys with respect to areas within and beyond the corporate boundaries of such municipal

corporation, in order to develop a sound factual basis for any possible future adjustment or expansion of such municipally owned passenger transportation system;

(2) Purchase or lease privately owned passenger transportation systems: PROVIDED, That such purchases shall not, per se, extend the area of service of such municipally owned passenger transportation system;

(3) Contract with privately owned passenger transportation systems in order to provide adequate service in the service area of the municipal transportation system. [1965 c 7 s 35.92.270. Prior: 1957 c 114 s 1. Formerly RCW 80.40.270.]

RCW 35.92.275 Assumption of obligations of private pension plan when urban transportation system acquired. See RCW 54.04.160.

RCW 35.92.280 Cities over one hundred fifty thousand, joint undertaking with P.U.D. as to electric utility properties—"Electric utility properties" defined. As used in RCW 35.92.280 through 35.92.310 "electric utility properties" shall mean any and all permits, licenses, property rights, water rights and any and all works, plants, dams, powerhouses, transmission lines, switchyards, substations, property and facilities of every kind and character which may be used, or may be useful, in the generation and transmission of electric power and energy, produced by water power, steam or any other methods. [1965 c 7 s 35.92.280. Prior: 1957 c 287 s 1. Formerly RCW 80.40.280.]

RCW 35.92.290 Cities over one hundred fifty thousand, joint undertaking with P.U.D. as to electric utility properties—Agreements. Any city or town with a population over one hundred fifty thousand within the state of Washington owning an electric public utility is authorized to cooperate with any public utility district within this state in the joint acquisition, purchase, construction, ownership, maintenance and operation, within or without the respective limits of any such city or town or public utility district, of electric utility properties. The respective governing bodies of any such city or town and of any such public utility district desiring to cooperate in the joint ownership, maintenance and operation of electric utility properties pursuant to the authority contained in RCW 35.92.280 through 35.92.310, shall by mutual agreement provide for such joint ownership, maintenance and operation. Such agreement shall prescribe the rights and property interest which the parties thereto shall have in such electric utility properties, which property interest may be either divided or undivided; and shall further provide for the rights of the parties thereto in the ownership and disposition of the power and energy produced by such electric utility properties, and for the operation and management thereof. [1965 c 7 s 35.92.290. Prior: 1957 c 287 s 2. Formerly RCW 80.40.290.]

RCW 35.92.300 Cities over one hundred fifty thousand, joint undertaking with P.U.D. as to electric utility properties—Financing. Any city or town and any public utility district cooperating under the

provisions of RCW 35.92.280 through 35.92.310 may, without an election or other proceedings under any existing law, contribute money and property, both real and personal, to any joint undertaking pursuant hereto, and may issue and sell revenue bonds to pay its respective share of the costs of acquisition and construction of such electric utility properties. Such bonds shall be issued under the provisions of applicable laws authorizing the issuance of revenue bonds for the acquisition and construction of electric public utility properties by cities, towns and public utility districts, as the case may be. [1965 c 7 s 35.92.300. Prior: 1957 c 287 s 3. Formerly RCW 80.40.300.]

*Revenue bonds and warrants issued by
cities and towns to finance acquisition of public utilities:
RCW 35.92.100.
public utility districts: Chapter 54.24 RCW.*

RCW 35.92.310 Cities over one hundred fifty thousand, joint undertaking with P.U.D. as to electric utility properties—Authority granted is additional power. The authority and power granted by RCW 35.92.280 through 35.92.310 is an additional grant of power to cities, towns, and public utility districts to acquire and operate electric public utilities, and the provisions hereof shall be construed liberally to effectuate the authority herein conferred, and no restriction or limitation prescribed in any other law shall prohibit the cities, towns and public utility districts of this state from exercising the authority herein conferred: PROVIDED, That nothing in RCW 35.92.280 through 35.92.310 shall authorize any public utility district or city cooperating under the provisions of RCW 35.92.280 through 35.92.310 to condemn any property owned or operated by any privately owned utility. [1965 c 7 s 35.92.310. Prior: 1957 c 287 s 4. Formerly RCW 80.40.310.]

RCW 35.92.350 Electrical construction or improvement—Bid proposals—Contract proposal forms—Conditions for issuance—Refusal—Appeal. Any city or town owning an electrical utility shall require that bid proposals upon any electrical construction or improvement shall be made upon contract proposal form supplied by the governing authority of such utility, and in no other manner. The governing authority 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 governing authority may require. Whenever the governing authority is not satisfied with the sufficiency of the answers contained in such questionnaire and financial statement or whenever the governing authority 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 governing authority of the utility. [1971 ex.s. c 220 s 1.]

RCW 35.92.355 Energy conservation—Legislative findings—Tree plantings. The conservation of energy in all forms and by every possible means is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, quasi municipal corporations, and other political subdivisions of the state which are engaged in the generation, sale, or distribution of energy should be granted the authority to develop and carry out programs which will conserve resources, reduce waste, and encourage more efficient use of energy by consumers.

In order to establish the most effective statewide program for energy conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy including, but not limited to, materials and equipment installed as part of a utility cool roof program. The use of appropriate tree plantings for energy conservation is highly encouraged as part of these programs. It is the policy of the state of Washington that any tree planting program engaged in by a municipal utility where energy reduction is a goal as part of a broader energy conservation program under this section should accomplish the following:

- (1) Reduce the peak-load demand for electricity in residential and commercial business areas during the summer months through direct shading of buildings provided by strategically planted trees;
- (2) Reduce wintertime demand for energy in residential areas by blocking cold winds from reaching homes, which lowers interior temperatures and drives heating demand;
- (3) Protect public health by removing harmful pollution from the air and prioritize in communities with environmental health disparities;
- (4) Utilize the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide;

(5) Lower electric bills for residential and commercial business ratepayers by limiting electricity consumption without reducing benefits;

(6) Relieve financial and demand pressure on the utility that stems from large peak-load electricity demand;

(7) Protect water quality and public health by reducing and cooling stormwater runoff and keeping harmful pollutants from entering waterways, with special attention given to waterways vital for the preservation of threatened and endangered salmon;

(8) Ensure that trees are planted in locations that limit the amount of public funding needed to maintain public and electric infrastructure;

(9) Measure program performance in terms of the estimated present value benefit per tree planted and equitable and accessible community engagement consistent with the department of health's environmental health disparities map recommendations 12 and 13, and with the community engagement plan guidance in appendix C of the final report of the environmental justice task force established under chapter 415, Laws of 2019;

(10) Give special consideration to achieving environmental justice in goals and policies, avoid creating or worsening environmental health disparities, and make use of the department of health's environmental health disparities map to help guide engagement and actions; and

(11) Coordinate with the department of natural resources urban and community forestry program's efforts to identify areas of need related to urban tree canopy and to provide technical assistance and capacity building to encourage urban tree canopy. [2021 c 11 s 2; 1993 c 204 s 5; 1979 ex.s. c 239 s 1.]

Findings—Intent—2021 c 11: "(1) The legislature acknowledges the scientific consensus that there is a well-documented problem of urban heat islands. The buildings, roads, and infrastructure that comprise urban environments make cities hotter than surrounding rural areas. Concrete, asphalt, and shingled roofs can get much hotter than vegetated areas, causing surface temperatures in cities to be several degrees hotter in the midday than in rural areas. At night, these same materials release heat more slowly, keeping urban air temperatures higher than overnight temperatures in most rural areas. Cities tend to have fewer trees and less vegetation, resulting in a deficit of shade to keep areas cool. Cities also have more industrial heat sources, including cars and air conditioners.

(2) Cities tend to have many more extremely hot days each year, on average, than nearby rural areas. According to one recent study, over the past 10 years, cities had an average of at least eight more days over 90 degrees Fahrenheit each summer, compared to nearby rural areas. The difference between urban and surrounding rural temperatures is also widening; temperatures have been rising in urban areas faster than in the surrounding rural areas since 1970. Studies also conclude that areas historically redlined as a result of housing policy experience higher air temperatures than urban areas outside of redlined areas.

(3) The legislature finds that the phenomenon of urban heat island impact is detrimental to several significant and long-standing state policy goals, including the promotion of human health, energy conservation, and preserving the water quality that sustains salmon.

The legislature also finds that the urban heat island effects exacerbate the impacts of climate change. It is well understood that higher urban summer temperatures pose serious human health risks and that these health risks are inequitably distributed. Hotter urban summers can lead to increased energy demands to cool buildings, which runs counter to long-standing state policy of promoting energy conservation. Studies have also documented the impact of urban heat islands on the temperature of streams. Streams draining through urban heat islands tend to be hotter than rural and forested streams because of warmer urban air and ground temperatures, paved surfaces, and decreased riparian canopy. Urban infrastructure routes runoff over hot impervious surfaces and through storm drains directly into streams and can lead to rapid, dramatic increases in temperature, which can be lethal for aquatic life.

(4) The legislature recognizes that this problem is a clear and present danger that impacts the environment of our state. The Pacific Northwest, with its reputation for rain and temperate weather, is not immune to urban heat islands. Seattle is among the top 10 cities for most intense urban heat island effect, with greater than four degrees Fahrenheit difference between the city and nearby rural areas. Portland, Oregon was among the top 10 cities with the most intense summer nighttime heat island over the past 10 years.

(5) The legislature finds that organized shade tree and cool roof programs offered by utilities can reduce the amount of energy required to cool buildings. Energy conservation results in carbon dioxide reduction in areas where fossil fuels are part of the fuel mix that supplies the electricity. Secondary benefits of shade tree and cool roof programs are the mitigation of the urban heat island effect. Other nonenergy benefits include improvement in local and regional air quality, enhanced neighborhood aesthetics, and improved property values for program participants.

(6) From the utility perspective, incentives to implement tree planting programs represents a type of demand side management program that has a tangible economic value to the utility. This value can be quantified based on avoided supply costs of energy and capacity during high cost of summer peak load periods, or the decrease in supply costs to the utility due to reduced electrical loads.

(7) From the customers' perspective, these programs save money by reducing average summertime electricity bills. In 2008, researchers showed that the Sacramento municipal utility district tree program reduced summertime electricity bills by an average of \$25.16. Additionally, the utility's commercial cool roof program provided average energy cooling load savings of 20 percent.

(8) In consideration of the environmental, public, and customer benefits, the legislature intends to encourage policies for the state's utilities that will promote shade tree and cool roof programs to facilitate energy conservation and mitigate urban heat island impacts." [2021 c 11 s 1.]

Findings—1993 c 204: See note following RCW 35.92.390.

Effective date—Contingency—1979 ex.s. c 239: See note following RCW 35.92.360.

RCW 35.92.360 Energy conservation plan—Financing authorized for energy conservation projects in structures or equipment—Limitations.

(1) Any city or town engaged in the generation, sale, or distribution of energy is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the city or town if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the city or town could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. For the purposes of this section, "conservation purposes in existing structures" may include projects to allow a municipal electric utility's customers to generate all or a portion of their own electricity through the on-site installation of a distributed electricity generation system that uses as its fuel solar, wind, geothermal, or hydropower, or other renewable resource that is available on-site and not from a commercial source. Such projects shall not be considered "a conversion from one energy source to another" which is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier. Except where otherwise authorized, such assistance shall be limited to:

(a) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life-cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

(b) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards;

(c) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation; and

(d) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

(2) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed two hundred forty months in length. [2009 c 416 s 1; 2002 c 276 s 2; 1989 c 268 s 1; 1979 ex.s. c 239 s 2.]

Findings—Intent—2002 c 276: "The legislature finds that energy conservation can take many useful and cost-effective forms, and that

the types of conservation projects available to utilities and customers evolve with time as technologies are developed and market conditions change. In some cases, electricity conservation projects are most cost-effective when they reduce the total amount of electricity consumed by an individual customer, and in other cases they can be cost-effective by reducing the amount of electricity a customer needs to purchase from an electric utility.

The legislature intends to encourage and support a broad array of cost-effective energy conservation by electric utilities and customers alike by clarifying that public utilities may assist in the financing of projects that allow customers to generate their own electricity from renewable resources that do not depend on commercial sources of fuel thereby reducing the amount of electricity a public utility needs to generate or acquire on their customers' behalf." [2002 c 276 s 1.]

Effective date—Contingency—1979 ex.s. c 239: "This 1979 act shall take effect on the same date as the proposed amendment to Article VIII of the state Constitution, authorizing the use of public moneys or credit to promote conservation or more efficient use of energy, is validly submitted and is approved and ratified by the voters at a general election held in November, 1979. If the proposed amendment is not so approved and ratified, this 1979 act shall be null and void in its entirety." [1979 ex.s. c 239 s 4.] The referenced constitutional amendment (1979 Substitute Senate Joint Resolution No. 120) was approved by the voters on November 6, 1979. See Article VIII, section 10 of the state Constitution.

RCW 35.92.365 Tariff for irrigation pumping service—Authority to buy back electricity. The council or board may approve a tariff for irrigation pumping service that allows the municipal utility to buy back electricity from customers to reduce electricity usage by those customers during the municipal utility's particular irrigation season. [2001 c 122 s 3.]

Effective date—2001 c 122: See note following RCW 80.28.310.

RCW 35.92.370 Lease of real property under electrical transmission lines for private gardening purposes. A city or town owning facilities for the purpose of furnishing the city or town and its inhabitants with electricity may lease for private gardening purposes the real property under its electrical transmission and distribution lines for a nominal rent to any person who has an income of less than ten thousand dollars per year. [1981 c 100 s 1.]

RCW 35.92.380 Waiver or delay of collection of tap-in charges, connection or hookup fees for low-income persons and certain organizations. Whenever a city or town waives or delays collection of tap-in charges, connection fees, or hookup fees for low-income persons, a class of low-income persons, or a nonprofit organization, public development authority, housing authority, or local agency that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing as defined in RCW 35.92.385 to connect to lines or pipes used by the city or town to provide utility service,

the waiver or delay shall be pursuant to a program established by ordinance. As used in this section, the provision of "utility service" includes, but is not limited to, water, sanitary or storm sewer service, electricity, gas, other means of power, and heat. [2023 c 249 s 2; 1980 c 150 s 1.]

RCW 35.92.385 Connection charge waivers. (1) Municipal utilities formed under this chapter may waive connection charges for properties owned or developed by, or on the behalf of, a nonprofit organization, public development authority, housing authority, or local agency that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing, including a limited partnership as described in RCW 84.36.560(7)(f)(ii) and a limited liability company as described in RCW 84.36.560(7)(f)(iii).

(2) Connection charges waived under this chapter shall be funded using general funds, grant dollars, or other identified revenue stream.

(3) At such time as a property receiving a waiver under subsection (1) of this section is no longer operating under the eligibility requirements under subsection (1) of this section:

(a) The waiver of connection charges required under subsection (1) of this section is no longer required; and

(b) Any connection charges waived under subsection (1) of this section are immediately due and payable to the utility as a condition of continued service.

(4) For the purposes of this section:

(a) "Affordable housing" has the same meaning as in RCW 36.70A.030.

(b) "Connection charges" means the one-time capital and administrative charges, as authorized in RCW 35.92.025, that are imposed by a utility on a building or facility owner for a new utility service and costs borne or assessed by a utility for the labor, materials, and services necessary to physically connect a designated facility to the respective utility service.

(c) "Emergency shelter" means any facility that has, as its sole purpose, the provision of a temporary shelter for the homeless and that does not require occupants to sign a lease or occupancy agreement.

(d) "Permanent supportive housing" has the same meaning as in RCW 36.70A.030.

(e) "Transitional housing" has the same meaning as in RCW 84.36.043. [2023 c 249 s 1.]

RCW 35.92.390 Municipal utilities encouraged to provide customers with landscaping information and to request voluntary donations for urban forestry. (1) Municipal utilities under this chapter are highly encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2) (a) Municipal utilities under this chapter are highly encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of request for a voluntary donation.

(b) Voluntary donations collected by municipal utilities under this section may be used by the municipal utility to:

(i) Support the development and implementation of urban forestry ordinances, as that term is defined in RCW 76.15.010, for cities, towns, or counties within their service areas;

(ii) Complete projects consistent with the urban forestry management plans and ordinances developed under RCW 76.15.090; or

(iii) Fund a tree planting program for energy conservation that accomplishes the goals established under RCW 35.92.355.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW. [2021 c 209 s 12; 2021 c 11 s 3; 2008 c 299 s 19; 1993 c 204 s 2.]

Reviser's note: This section was amended by 2021 c 11 s 3 and by 2021 c 209 s 12, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—2021 c 209: See note following RCW 76.15.005.

Findings—Intent—2021 c 11: See note following RCW 35.92.355.

Short title—2008 c 299: See note following RCW 76.15.020.

Findings—1993 c 204: "The legislature finds that large-scale reduction of tree cover increases the temperature of urban areas, known as the "heat island effect." Planting trees in urban areas for shading and cooling mitigates the urban heat island effect and reduces energy consumption. Tree planting also can benefit the environment by combating global climate change, reducing soil erosion, and improving air quality. Urban forestry programs can improve urban aesthetics that will improve public and private property values.

The legislature also finds that urban forestry programs should consider the relationship between urban forests and public service facilities such as water, sewer, natural gas, telephone, and electric power lines. Urban forestry programs should promote the use of appropriate tree species that will not interfere with or cause damage to such public service facilities." [1993 c 204 s 1.]

RCW 35.92.395 Voluntary donations for purpose of supporting hunger programs. (1) Municipal utilities under this chapter may request voluntary donations from their customers for the purpose of supporting hunger programs.

(2) Voluntary donations collected by municipal utilities under this section must be used by the municipal utility to support the maintenance and operation of hunger programs.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

(4) Nothing in this section precludes a municipal utility from requesting voluntary donations to support other programs. [2011 c 226 s 2.]

RCW 35.92.400 Provision of water services and facilities—

Contract with Canadian corporation. A city or town contiguous with Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance, and supply of waterworks to furnish the city or town and other areas within its water service area, and inhabitants thereof, and residents of Canada with an ample supply of water. [1999 c 61 s 1.]

RCW 35.92.410 Provision of sewer services and facilities—

Contract with Canadian corporation. A city or town contiguous with Canada may contract with a Canadian corporation for the discharge of sewage from all or any portion of the city's or town's sewer service area into the sewer system of the Canadian corporation. A city or town contiguous with Canada may contract with a Canadian corporation for the construction, operation, or maintenance of sewers and sewage treatment and disposal facilities for their joint use and benefit upon such terms and conditions and for such period of time as the contracting parties may determine, which may include vesting one of the contracting parties with the sole authority to construct, operate, or maintain the facilities with the other contracting party or parties paying an agreed-upon portion of the expenses to the party with sole authority to construct, operate, or maintain the facilities. [1999 c 61 s 2.]

RCW 35.92.420 Purchase of electric power and energy from joint

operating agency. A city or town may contract to purchase from a joint operating agency electric power and energy required for its present or future requirements. For projects the output of which is limited to qualified alternative energy resources as defined by RCW 19.29A.090(3), the contract may include the purchase of capability of the projects to produce electricity in addition to the actual output of the projects. The contract may provide that the city or town must make the payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract are not subject to reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint operating agency or a city, town, or public utility district under the contract or other instrument. [2003 c 138 s 3.]

RCW 35.92.430 Environmental mitigation activities.

(1) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with water, with electricity for lighting and other purposes, or with service from sewerage, stormwater, surface water, or solid waste handling facilities, may develop and make publicly available a plan to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases that the utility owns, leases, uses, contracts for, or otherwise controls.

(2) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and

other persons with water, with electricity for lighting and other purposes, or with service from sewerage, stormwater, surface water, or solid waste handling facilities, may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation, including any power purchases. The mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a utility that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry. [2007 c 349 s 2.]

Finding—Intent—2007 c 349 s 2: "The legislature finds and declares that greenhouse gases offset contracts, credits, and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that section 2 of this act is intended to reverse the result of *Okeson v. City of Seattle* (January 18, 2007), by expressly granting municipal utilities the statutory authority to engage in mitigation activities to offset their utility's impact on the environment." [2007 c 349 s 1.]

RCW 35.92.440 Production and distribution of biodiesel, ethanol, and ethanol blend fuels—Crop purchase contracts for dedicated energy crops. In addition to any other authority provided by law, municipal utilities 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. [2007 c 348 s 209.]

Findings—2007 c 348: See RCW 43.325.005.

RCW 35.92.445 Green electrolytic hydrogen and renewable hydrogen—Power to produce, distribute, and use. (1) A city or town that acquires and operates transportation facilities as a city transportation authority consistent with RCW 35.92.060 may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c) (i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c) (i) of this subsection, city transportation authorities may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel if all such

pipelines and dispensing facilities are: (A) Located in the area where the city transportation authority is authorized to provide public transportation service; (B) located within the area where the city transportation authority is authorized to provide public transportation service and are service connected; or (C) located within the area where the city transportation authority is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a city transportation authority to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects a city transportation authority to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010. [2023 c 234 s 3.]

RCW 35.92.450 Electrification of transportation plan—

Considerations—Incentive programs. (1) The governing authority of an electric utility formed under this chapter may adopt an electrification of transportation plan that, at a minimum, establishes a finding that utility outreach and investment in the electrification of transportation infrastructure does not increase net costs to ratepayers in excess of one-quarter of one percent.

(2) In adopting an electrification of transportation plan under subsection (1) of this section, the governing authority may consider some or all of the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the utility's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) overall customer experience.

(3) An electric utility formed under this chapter may, upon making a determination in accordance with subsection (1) of this section, offer incentive programs in the electrification of transportation for its customers, including the promotion of electric vehicle adoption and advertising programs to promote the utility's services, incentives, or rebates. [2019 c 109 s 2.]

Findings—Intent—2019 c 287; 2019 c 109: "The legislature finds that:

(1) Programs for the electrification of transportation have the potential to allow electric utilities to optimize the use of electric

grid infrastructure, improve the management of electric loads, and better manage the integration of variable renewable energy resources. Depending upon each utility's unique circumstances, electrification of transportation programs may provide cost-effective energy efficiency, through more efficient use of energy resources, and more efficient use of the electric delivery system. Electrification of transportation may result in cost savings and benefits for all ratepayers.

(2) State policy can achieve the greatest return on investment in reducing greenhouse gas emissions and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles. Potential benefits associated with electrification of transportation include the monetization of environmental attributes associated with carbon reduction in the transportation sector.

(3) Legislative clarity is important for utilities to offer programs and services, including incentives, in the electrification of transportation for their customers. It is the intent of the legislature to allow all utilities to support transportation electrification to further the state's policy goals and achieve parity among all electric utilities, so each electric utility, depending on its unique circumstances, can determine its appropriate role in the development of electrification of transportation infrastructure." [2019 c 287 s 4; 2019 c 109 s 1.]

RCW 35.92.460 Utility fee or tax—Disclosure. (1) Any city or town that operates its own water, sewer or wastewater, or stormwater utility and imposes a fee or tax on the gross revenue of such a utility shall disclose the fee or tax rate to its utility customers. Such disclosure shall include statements, as applicable, that "the amount billed includes a fee or tax up to (dollar amount or percentage) calculated on the gross revenue of the water utility; a fee or tax up to (dollar amount or percentage) calculated on gross revenue of the sewer or wastewater utility; a fee or tax up to (dollar amount or percentage) calculated on the gross revenue of the stormwater utility."

(2) The disclosures required by this section must occur through at least one of the following methods:

(a) On regular billing statements provided electronically or in written form;

(b) On the city or town's website, if the city or town provides written notice to customers or taxpayers that such information is available on its website; or

(c) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change. [2020 c 135 s 1.]