

CHAPTER 275.

[H. B. 47.]

GENERATION OF ELECTRICITY BY STEAM—STUDY OF
PLANT CONSTRUCTION.

AN ACT relating to studies for the undertaking of construction of plants for generation of electricity by steam; providing for the construction of a steam power electric generating plant and the financing thereof; adding seventeen new sections to chapter 43.21 RCW; and making an appropriation.

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

SECTION 1. There is hereby appropriated to the Washington state power commission from the general fund for the biennium commencing July 1, 1957 and ending June 30, 1959, the sum of two hundred seventy-five thousand dollars, or so much thereof as may be necessary, for the purpose of paying, along with such other funds as may be made available to it, the cost of engineering, financial, economic and legal studies that may be determined necessary by the commission in the undertaking of the construction of a plant or plants for the generation of electricity by steam. No part of the money herein appropriated shall be used by the commission until the commission has determined that such construction is feasible and should be undertaken, and further that it would be advantageous to draw on such appropriation preceding revenue bond financing or other utility financing for such project. The appropriation herein made, or so much thereof as may be drawn upon by the commission, shall be repaid to the general fund from the proceeds of revenue bond financing or other utility financing as soon as practicable subsequent to the issuance of such bonds or other utility financing. The appropriation herein made shall be reduced by whatever amount is appropriated for like purposes in the omnibus bill, Substitute Senate Bill No. 400.

Appropriation to state power commission for study of plant construction for generation of electricity.

Construction
for generation
of electricity.
Appropriation
transferable to
other agency.

SEC. 2. In the event that the Washington state power commission's powers and duties are transferred to another department or state agency by the thirty-fifth legislature, the appropriation provided for in section 1 of this act shall be used, for the purposes specified therein, by the department or agency to which such powers and duties are transferred. In the event that the Washington state power commission is abolished by the thirty-fifth legislature, then the appropriation made by section 1 of this act for the purposes specified therein shall be used by the state agency concerned for such purpose in proportions determined by the governor.

New section.

SEC. 3. There is added to chapter 43.21 RCW a new section to read as follows:

Study relating
to construction
of steam
power gen-
erating plant
continued
—Authority
to construct.

The director of conservation and development shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director of conservation and development, the director of conservation and development may construct such plant at a site determined by him to be feasible and operate it as a state owned facility. The advisory committee provided for in Senate Bill No. 281 shall advise the director of conservation and development in connection with the steam electric generating plant provided for herein.

New section.

SEC. 4. There is added to chapter 43.21 RCW a new section to read as follows:

Statement of
intention—
Determining
agency to con-
struct plant.

Before the director of conservation and development shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, he shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such proj-

ect is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director of conservation and development thereof within ten days after the last date of publication of such notice. If the director of conservation and development determines that it is in the best public interest that the director of conservation and development proceed with such construction rather than the public utility or operating agency, he shall so notify the director of commerce and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the director of commerce and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction, and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, he shall enter an order so finding and such order shall divest the director of conservation and development of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director of conservation and development or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director of conservation and development shall have the same authority to proceed as though the director had originally entered an order so authorizing the director of conservation and development to proceed. If, after considering the evidence intro-

Statement of
intention—
Determining
agency to con-
struct plant.

Construction
for generation
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Determining
agency to con-
struct plant.

duced, the director of commerce and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, he shall then enter an order so finding and authorizing the director of conservation and development to proceed with the construction or acquisition of the facility.

New section.

SEC. 5. There is added to chapter 43.21 RCW a new section to read as follows:

Director of
conservation
and develop-
ment—Author-
ity under act.

In order to construct, operate and maintain the single steam power electric generating plant provided for in section 3 hereof the director of conservation and development shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director of conservation and development shall not be authorized to acquire by condemnation any plant, work and facility owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the

state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

Director of conservation and development—Authority under act.

(4) To establish rates for electric energy sold or transmitted by the director of conservation and development. When any revenue bonds or warrants are outstanding the director of conservation and development shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director of conservation and development which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director of conservation and development is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director of conservation and development and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director of conservation and development may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director.

SEC. 6. There is added to chapter 43.21 RCW a New section. new section to read as follows:

For the purpose of carrying out any or all of the

Construction
for generation
of electricity.
Power of
eminent
domain.

powers herein granted the director of conservation and development shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to this chapter shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04. The director of conservation and development may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director of conservation and development into possession of any property condemned.

New section.

SEC. 7. There is added to chapter 43.21 RCW a new section to read as follows:

State not to
be obligated—
Revenue, ex-
penditure and
separation of.

The director of conservation and development shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of this chapter.

No revenues received by the director of conservation and development for the sale of electricity or otherwise, shall be expended except for the payment

of lawful obligations of the director of conservation and development and all such revenues and receipts shall be kept and maintained in a separate fund.

SEC. 8. There is added to chapter 43.21 RCW a New section.
new section to read as follows:

For the purposes provided for in this chapter, the state finance committee shall, upon being notified to do so by the director of conservation and development, issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in section 3 of this chapter. When the director of conservation and development deems it advisable that he acquire or construct said steam electric plant or make additions or betterments thereto, he shall so notify the state finance committee and he shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of this chapter shall distinctly state that they are not a general obligation of the state.

Revenue bonds and warrants authorized—Procedure for issuance.

SEC. 9. There is added to chapter 43.21 RCW a New section.
new section to read as follows:

When the state finance committee issues revenue bonds as provided in section 8 above, it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray

Special funds—Payment of bonds and interest.

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Revenue bonds
and warrants.
Payment.

the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director of conservation and development to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross revenue of the steam electric utility and all additions or betterments thereto or extensions thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at such rates payable semiannually as the state finance committee shall determine.

New section.

SEC. 10. There is added to chapter 43.21 RCW a new section to read as follows:

Considerations
in issuing
bonds—
Limitations.

In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director of conservation and development will be available over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto,

but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it.

SEC. 11. There is added to chapter 43.21 RCW a new section to read as follows:

The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

Resolution
authorizing
issuance of
bonds—
Contents—
Covenants.

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services, facilities and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or

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Resolution
authorizing.

any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director of conservation and development from the operation, ownership, and management of its steam electric utility.

New section.

SEC. 12. There is added to chapter 43.21 RCW a new section to read as follows:

Sale of bonds.

All bonds issued under or by authority of this chapter shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests. The aggregate interest cost to maturity of the money received for such an issue shall not exceed six percent per annum.

New section.

SEC. 13. There is added to chapter 43.21 RCW a new section to read as follows:

Examination,
registration of
bonds by state
auditor—De-
fects, irreg-
ularities.

Prior to the issuance and delivery of any revenue bonds, such bonds and a certified copy of the resolution authorizing them shall be delivered to the state auditor together with any additional information that he may require. When the bonds have been examined they shall be registered by the auditor in books to be kept by him for that purpose, and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him for the purpose. The bonds shall

then be prima facie valid and binding obligations of the state finance committee in accordance with their terms, notwithstanding any defects or irregularities in the authorization and issuance of the bonds, or in the sale, execution or delivery thereof.

SEC. 14. There is added to chapter 43.21 RCW a new section to read as follows:

When revenue bonds are outstanding the director of conservation and development shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director of conservation and development which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director of conservation and development is obligated to make to the state treasurer for deposit in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof.

Rates or charges.

SEC. 15. There is added to chapter 43.21 RCW a new section to read as follows:

When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director of conservation and development, may by resolution provide for the issuance of refunding revenue bonds with which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric

Refunding revenue bonds.

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Refunding.

utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance committee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in this chapter with respect to revenue bonds.

New section.

SEC. 16. There is added to chapter 43.21 RCW a new section to read as follows:

Signature on
bonds.

All revenue bonds, including refunding revenue bonds, shall be signed by the governor and the state auditor under the seal of the state, one of which signatures shall be made manually and the other signature may be in printed facsimile, and any coupons may have printed or lithographic facsimile of the signatures of such officers.

New section.

SEC. 17. There is added to chapter 43.21 RCW a new section to read as follows:

Law and
resolutions
constitute
contract.

The provisions of this chapter and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of this chapter and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction.

New section.

SEC. 18. There is added to chapter 43.21 RCW a new section to read as follows:

Bonds as legal
securities, in-
vestments,
negotiable
instruments.

All revenue bonds issued hereunder shall be legal securities, which may be used by a bank or trust company for deposit with the state treasurer, or by a

county or city or town treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. They shall constitute legal investments for trustees and other fiduciaries other than corporations doing a trust business in this state, and for savings and loan associations, banks and insurance companies doing business in this state. All revenue bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes of the negotiable instruments law.

Bonds as legal investments, negotiable instruments.

SEC. 19. There is added to chapter 43.21 RCW a new section. new section.

Nothing in this chapter shall authorize or empower the director of conservation and development to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation.

Restrictions on director under act.

Passed the House March 14, 1957.

Passed the Senate March 13, 1957.

Approved by the Governor March 26, 1957.