

WORKING DRAFT

HOUSE BILL NO. _____

Electric power authorities.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to cities and towns; allowing for the
2 creation of electric power authorities as separate
3 governmental entities for the purpose of effecting the
4 development of electric energy resources and/or production
5 and transmission of electric energy for the benefit of such
6 contracting municipalities and customers thereof;
7 specifying powers of electric power authorities; specifying
8 financing options; restricting the authority of the public
9 service commission to regulate electric power authorities;
10 and providing for an effective date.

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12 *Be It Enacted by the Legislature of the State of Wyoming:*

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14 **Section 1.** W.S. 15-7-801 through 15-7-805 are created

15 to read:

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2

ARTICLE 8

3

ELECTRIC POWER AUTHORITIES

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15-7-801. Definitions.

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(a) As used in this act:

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(i) "Authority" means an electric power authority created pursuant to this act;

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(ii) "Cities and towns of an adjoining state" means any city or town located in any state sharing a common border with the state of Wyoming which owns an electric system and which is located not more than fifty (50) miles from the common border of the state of Wyoming and the adjoining state;

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(iii) "This act" means W.S. 15-7-801 through 15-7-805.

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15-7-802. Electric power authorities; creation; limitation.

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1 (a) Any combination of cities and towns of this state
2 are authorized to acquire, own and operate electric systems
3 and may, by contract with each other or with cities and
4 towns of any adjoining state, establish an electric power
5 authority to be used by the contracting municipalities to
6 effect the development of electric energy resources and
7 production and transmission of electric energy in whole or
8 in part for the benefit of the contracting municipalities
9 and the customers thereof. The authority shall be a body
10 politic and corporate and a political subdivision of the
11 state of Wyoming, separate from the parties to the
12 contract, irrespective of whether a contracting
13 municipality, including a city or town of an adjoining
14 state, withdraws voluntarily or otherwise from the
15 authority subsequent to its creation under circumstances
16 not resulting in the rescission or termination of the
17 contract. The authority shall have the duties, privileges,
18 immunities, rights, liabilities and disabilities of a
19 public body politic and corporate.

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21 (b) Any contract establishing an electric power
22 authority shall specify:

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24 (i) The name and purpose of the authority and

1 the functions or services to be provided by the authority;

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3 (ii) The establishment and organization of a
4 governing body of the entity, which shall be a board of
5 directors in which all legislative power of the entity is
6 vested, including, but not limited to:

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8 (A) The number, manner of appointment,
9 terms of office, compensation if any and procedure for
10 filling vacancies of directors;

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12 (B) The number, manner of selection, terms
13 of office, compensation if any and procedure for filling
14 vacancies of officers of the board;

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16 (C) The voting requirements for action by
17 the board. Unless otherwise provided, a majority of
18 directors shall constitute a quorum, and a majority of the
19 quorum shall be necessary for any action taken by the
20 board; and

21

22 (D) The duties of the board, which shall
23 include the obligation to comply with the provisions of
24 this article.

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2 (iii) Provisions for the disposition, division
3 or distribution of any property or assets of the authority;

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5 (iv) The term of the contract and the method by
6 which the contract may be rescinded or terminated. A
7 contract to create an electric power authority made or
8 entered into pursuant to this act may be continued for a
9 definite term or until rescinded or terminated, provided
10 that the contract shall not be rescinded or terminated so
11 long as the authority has bonds, notes or other obligations
12 outstanding unless provision for full payment of the
13 obligations has been made pursuant to the terms of the
14 obligations.

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16 (c) The contracting municipalities may provide in the
17 contract for payment to the authority of funds from
18 proprietary revenues for services rendered by the
19 authority, from proprietary revenues or other public funds
20 as contributions to defray the cost of any purpose set
21 forth in the contract, and from proprietary revenues or
22 other public funds as advances for any purpose subject to
23 repayment by the authority.

24

1 (d) An electric power authority established by
2 contracting municipalities shall, if the contract
3 establishing the authority provides, succeed any nonprofit
4 corporation, agency or other entity previously organized by
5 the contracting municipalities to provide the same
6 function, service or facility as the electric power
7 authority. An electric power authority created to succeed
8 another entity shall be entitled to all rights and
9 privileges and shall assume all obligations and liabilities
10 of the entity.

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12 (e) The authority granted pursuant to this section
13 shall in no manner limit the powers of governments to enter
14 into intergovernmental cooperation or contracts or to
15 establish separate legal entities pursuant to the Wyoming
16 Joint Powers Act or any other applicable law or otherwise
17 to carry out their powers under applicable statutory
18 provisions, nor shall such authority limit the powers
19 reserved to cities and towns by the state constitution.
20 Nothing in this act shall be construed to constitute a
21 legislative declaration of preference for electric systems
22 owned by separate governmental entities over electric
23 systems owned by other or different entities.

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1 **15-7-803. Powers of the authority.**

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3 (a) In exercising the rights and powers granted to
4 it, the authority shall be vested with power to:

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6 (i) Develop electric energy resources and
7 produce and transmit electric energy in whole or in part
8 for the benefit of the contracting municipalities and
9 customers thereof;

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11 (ii) Make and enter into contracts, including
12 contracts with cities and towns of an adjoining state,
13 irrespective of whether the cities and towns are parties to
14 the contract establishing the authority;

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16 (iii) Employ and contract with persons to carry
17 out the provisions of this act;

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19 (iv) Acquire, construct, manage, maintain or
20 operate electric energy facilities, works and improvements
21 or any interest therein;

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23 (v) Acquire, hold, lease, sell or otherwise
24 dispose of any real or personal property, commodity or

1 service;

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3 (vi) Condemn property for public use if the
4 property to be condemned is not owned by any public utility
5 and devoted to public use pursuant to state authority;

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7 (vii) Incur debts, liabilities or obligations;

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9 (viii) Sue and be sued in its own name;

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11 (ix) Have and use a corporate seal;

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13 (x) Fix, maintain and revise fees, rates and
14 charges for functions, services or facilities provided by
15 the authority;

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17 (xi) Adopt rules or regulations necessary for
18 the exercise of its powers and the carrying out of its
19 purposes;

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21 (xii) Exercise any other powers which are
22 necessary for the provision of functions, services or
23 facilities by the authority and which are specified in the
24 contract;

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15-7-804. Bonds.

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(xiii) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person, firm, or corporation;

(xiv) Deposit monies of the authority not then needed in the conduct of its affairs in any depository authorized in W.S. 9-4-817. For the purpose of making deposits, the board of directors may appoint by written resolution one (1) or more persons to act as custodians of the monies of the authority. A person appointed pursuant to this paragraph shall give surety bonds in the amounts and form and for such purposes as the board requires.

(a) To carry out the purposes for which the authority was established, the authority is authorized to issue bonds, notes or other obligations payable solely from the revenues derived or to be derived from the function, service or facility or the combined functions, services, or facilities of the authority or from any other available funds of the authority. The terms, conditions and details

1 of the bonds, notes and other obligations, the procedures
2 related thereto, and the refunding thereof shall be set
3 forth in the resolution authorizing the bonds, notes or
4 other obligations. The bonds, notes and other obligations
5 maybe sold at public or private sale.

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7 (b) Bonds, notes or other obligations issued under
8 this section shall not constitute an indebtedness of the
9 authority or the cooperating or contracting municipalities
10 within the meaning of any constitutional or statutory
11 limitation or other provision. Each bond, note or other
12 obligation issued hereunder shall recite in substance that
13 the bond, note or other obligation, including the interest
14 thereon, is payable solely from the revenues and other
15 available funds of the authority pledged for the payment
16 thereof and that the bond, note or other obligation does
17 not constitute a debt of the authority or the cooperating
18 or contracting municipalities within the meaning of any
19 constitutional or statutory limitations or provisions.

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21 (c) Notwithstanding anything in this section to the
22 contrary, the bonds, notes and other obligations may be
23 issued to mature at times not to exceed forty (40) years
24 from their respective issue dates, shall bear interest at

1 rates and shall be sold at, above, or below the principal
2 amount thereof, all as shall be determined by the board.
3 Notwithstanding any provision of this section to the
4 contrary, in the case of short term notes or other
5 obligations maturing not later than one (1) year from the
6 date of issuance thereof, the board may authorize officials
7 of the authority to fix principal amounts, maturity dates,
8 interest rates and purchase prices of any particular issue
9 of the short-term notes or obligations, subject to any
10 limitations as to maximum term, maximum principal amount
11 outstanding, and maximum net effective interest rates as
12 the board shall prescribe by resolution. Actions pursuant
13 to this section may be taken by the board only at a public
14 meeting preceded by adequate notice, and the action of the
15 board shall be properly recorded on the permanent records
16 of the board.

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18 (d) The resolution, trust, indenture or other
19 security agreement under which any bonds, notes or other
20 obligations are issued shall constitute a contract with the
21 holders thereof, and it may contain provisions as shall be
22 determined by the board to be appropriate and necessary in
23 connection with the issuance thereof and to provide
24 security for the payment thereof including, without

1 limitation, any mortgage or other security interest in any
2 revenues, funds, rights or properties of the authority.
3 The bonds, notes and other obligations of the authority and
4 the income therefrom shall be exempt from taxation, except
5 inheritance, estate and transfer taxes.

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7 (e) The bonds, notes and other obligations of the
8 authority shall not be the debts, liabilities or
9 obligations of the contracting municipalities.

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11 **15-7-805. Authority not subject to public service**
12 **commission.**

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14 Notwithstanding any other provisions of law to the
15 contrary, the authority shall not be subject to the
16 supervision, regulation, control or jurisdiction of the
17 public service commission, and the fees, rates, rental and
18 other charges and services of the authority shall not be
19 subject to regulation by the public service commission.

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21 **Section 2.** This act is effective immediately upon
22 completion of all acts necessary for a bill to become law
23 as provided by Article 4, Section 8 of the Wyoming
24 Constitution.

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(END)