

# Referendum Measure No. 12

## BALLOT TITLE

"AN ACT providing for the issuance of certificates of necessity and convenience by the director of public works to public service companies in cases where similar service is being rendered the localities proposed to be served by other public service companies."

AN ACT to amend an act entitled "An Act relating to public service properties and utilities, providing for the regulation of the same, fixing penalties for the violations thereof, making an appropriation, and repealing certain acts," the same being Chapter 117 of the Session Laws of 1911, approved by the Governor, March 18th, 1911, by repealing Section 105 of said act and by adding thereto a new section to be designated Section 74a, to prevent waste by the unnecessary duplication of public utilities.

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

SECTION 1. An act entitled "An Act relating to public service properties and utilities, providing for the regulation of the same, fixing penalties for the violation thereof, making an appropriation and repealing certain acts," the same being Chapter 117 of the Session Laws of 1911, approved by the Governor, March 18th, 1911, be and the same is hereby amended by adding thereto a new section designated Section 74a, as follows:

SEC. 74a. No public service company or prospective public service company shall hereafter construct, extend or thereafter maintain or operate any part of its plant, system or facilities for the purpose of rendering service in a locality wherein similar service is then being rendered by any other public service company in this state, without first applying for and obtaining the certificate of public necessity and convenience from

the director of public works, as herein provided. Upon the filing of an application for such certificate the director of public works shall give reasonable notice in writing to the public service company then furnishing such service in such locality or vicinity of the time and place when such application will be heard, and after hearing and investigation if the director of public works finds from the evidence that the public necessity and convenience require that such service be furnished by the public service company or prospective public service company applying for such certificate, the director of public works shall by order grant such certificate of public necessity and convenience. Such order shall specify and define the character, extent and location of the service to be furnished under said certificate and the time within which such service shall be furnished; and any such certificate may be recalled and made null and void in whole or in part by the director of public works in the event that the grantee of such certificate shall fail to comply with any of the provisions or conditions thereof. *Provided, however,* that this section shall not be construed as requiring such application or certificate for the extension by any public service company, whether privately or municipally owned or operated, of its physical property or service within the locality in which such public service company may now be furnishing similar service to the public or as requiring such application or certificate for the construction of additional plants or extensions of existing plants outside the limits of such locality for

## Referendum Measure No. 12

---

making such service within such locality. It shall be the duty of the director of public works, either upon his own motion or upon the complaint of any public service company, to enforce the provisions of this section. Any public service company or prospective public service company may appeal from any order of the director of public works rendered under this section in the same manner and under the same procedure as specified in this act; *Provided, however,* that the superior court shall require the filing of an adequate supersedeas bond and the pendency of any writ of review shall stay or suspend the operation of any order of the director of public works granting such certificate of necessity and convenience. *Provided, however,* that until such time as the director of public works shall be appointed and qualified and shall assume and exercise the duties of his office, all of the powers and duties imposed upon the director of public works by the provisions of this act shall be exercised and performed by the Public Service Commission of the State of Washington. *Provided, further,* that nothing

in this act shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the safety, adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or enforced affecting any water system owned and operated by any city or town. *Provided, further,* that any municipal corporation may perfect an appeal without the filing of a supersedeas bond.

Passed by the House, February 23, 1921.—E. H. Guie, Speaker of the House.

Passed by the Senate, March 1, 1921.—Wm. J. Coyle, President of the Senate.

The House has sustained the veto of the Governor, Yeas 78, Nays 1.—C. R. Maybury, Chief Clerk of the House.

Section 1 approved, Section 2 vetoed, March 10, 1921.—Louis F. Hart, Governor.

---

STATE OF WASHINGTON—ss.

Filed in the office of Secretary of State, March 26, 1921.

J. GRANT HINKLE, *Secretary of State.*

## ARGUMENT AGAINST REFERENDUM MEASURE NO. 12

### THE "CERTIFICATE OF NECESSITY" BILL.

This measure is chapter 59 of the Session Laws of 1921 of the State of Washington (House Bill No. 174). Its result is, really, though not ostensibly, to secure to the water power companies operating in this state, a monopoly of our water power.

This act in effect prohibits every new public service company from operating unless it gets from the state a "Certificate of public necessity and convenience." The companies now operating in this state are permitted by this proposed law to extend their plants in the localities served by them without being required to get such a certificate. While the new company is getting ready for business and applying for the certificate, and notice of hearing is being given, the existing company can make its extensions and by the time the hearing comes on will be in a position to make such a showing of capacity to serve all the wants of the locality in which the new company seeks to operate, that the state will be obliged to refuse the certificate.

The power lines of existing companies now cross almost every region of the state. This bill would reserve for them all the water power in the state until they are ready to use it and would allow them to hold rates at their present level or higher.

The water power of this state is estimated at 9,500,000 horse power, the largest possessed by any state in the Union, and larger than that of any industrial nation in the world except Norway and Canada. It is fifty per cent more than the entire water power of the United States, east of the Mississippi river.

Of the 9,500,000 horse power of water power in this state 361,000 horse power have been developed, and Seattle and Tacoma are planning to develop 600,000 horse power more, leaving upwards of 8,500,000 horse power which this act warns all except the existing water power companies not to touch. In other words, this act bids the people of the State of Washington to refrain from developing their own water power unless they first get the

permission of their water power companies.

The monopoly value of this water power is \$40.00 per year, per horse power as developed, or potentially \$340,000,000 a year, quite a reward for obtaining this legislation. Also a sum both of money and water power worth keeping by the people to aid the industrial development of their state and to diminish drudgery and domestic toil in their homes.

Moreover current is being brought into this state from Canada on a large scale, and this bill helps to protect this procedure against home industry, and thus enables Canada to develop her water power with money from Washington consumers.

One of the evils of this act is that it limits the marketing of the water power produced by our municipal utilities. These have difficulties enough to contend with without the state throwing obstacles in their path.

Our water power is perhaps the greatest of our natural resources. Every ton of coal extracted from our mines and consumed is gone forever. But the supply of water power is continuous and no amount of consumption of it can deplete it. Our magnificent forests are being cut down, but our water power can be used as the basis of an unequaled manufacturing and industrial development and is renewed month after month and year after year through all time.

In 1915 a "Certificate of Necessity and Convenience" act was passed in this state. A referendum was ordered and in the election of November, 1916, the people vetoed the act by a vote of over 202,000 against it, as against less than 47,000 for it.

Article 12, section 22, of the Washington Constitution declares "Monopolies and Trusts shall never be allowed in this state."

Should not all good citizens help enforce their constitution?

JAMES A. HAIGHT,  
OLIVER T. ERICKSON,  
C. E. BOGARDUS,

House Bill No. 174 Referendum  
Committee.

STATE OF WASHINGTON—ss.

Filed in the office of Secretary of State June 15, 1921.

J. GRANT HINKLE, *Secretary of State.*