
SUBSTITUTE SENATE BILL 5245

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Thorsness, Sutherland, Williams, Jesernig, Stratton, Bauer and Conner; by request of Governor Gardner).

Read first time March 5, 1991.

1 AN ACT Relating to state energy policy; amending RCW 39.35.030 and
2 43.84.090; adding new sections to chapter 43.21F RCW; adding a new
3 chapter to Title 39 RCW; adding new sections to chapter 39.35 RCW;
4 adding a new section to Title 28A RCW; creating a new section; and
5 repealing 1982 c 159 s 6 (uncodified).

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21F RCW
8 to read as follows:

9 The legislature finds that the citizens of the state are vitally
10 affected by the development and use of energy. In order to further the
11 interests of the state, a strategy to guide policies and actions
12 impacting energy is needed. A state energy strategy should foster the
13 development of adequate, reliable, secure, economical, and
14 environmentally acceptable energy supplies. A state energy strategy
15 must provide a means by which the various elements of public policy,

1 such as preservation of the quality of the environment, public health
2 and welfare, and economic development are given proper and
3 appropriately balanced consideration in decisions affecting energy
4 supply and use. Such a strategy must be objective in its consideration
5 of energy alternatives and facilitate the efficient operation of energy
6 markets. It must also recognize the basic responsibility that
7 utilities and other energy suppliers have in delivering energy to the
8 citizens of the state. A state energy strategy must also assure that
9 decisions and actions in other areas of public policy, such as
10 transportation, land use, and protection of the environment take into
11 consideration their impact on energy supply and use.

12 The legislature directs the development of a state energy strategy
13 that is intended to achieve the foregoing goals. The strategy shall
14 identify significant issues; develop a framework for evaluating
15 policies and actions that affect energy supply and use; establish goals
16 to guide energy-related decisions; recommend appropriate energy
17 policies; and make clear the relevant costs, benefits, risks, and
18 trade-offs.

19 The legislature further finds that state-funded facilities have
20 significant opportunities for improving the efficiency of their energy
21 use. Implementing such improvements would save public funds and serve
22 as a model of energy-efficient operation and management for the
23 citizens of the state. To accomplish this goal, the legislature
24 directs the establishment of a new program for the effective management
25 of expenditures for energy in public facilities and for the
26 demonstration of the efficient use of energy in public facilities.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F RCW
28 to read as follows:

1 (1) The state energy office shall develop a state energy strategy.
2 The strategy shall be developed in consultation with an advisory
3 committee. The advisory committee shall include eighteen members and
4 represent different regions of the state, including thirteen citizens
5 from the following groups: One person employed by an investor-owned
6 electric utility, one person employed by an investor-owned natural gas
7 utility, one person employed by a supplier of petroleum products, one
8 person employed by a publicly owned electric utility, one person
9 employed by or representing an industrial energy user, one person
10 employed by a commercial energy user, one person employed by an
11 agricultural energy user, two persons representing local government,
12 two persons representing civic organizations, and two representatives
13 of environmental organizations. In addition, the advisory committee
14 shall include one of the representatives of the state of Washington to
15 the Pacific Northwest electric power and conservation planning council
16 selected by the governor; the chair of the energy facility site
17 evaluation council; one member of the utilities and transportation
18 commission selected by the chair of the commission; one member of the
19 house of representatives selected by the speaker of the house of
20 representatives; and one member of the senate selected by the majority
21 leader of the senate. The director may establish technical advisory
22 groups as necessary to assist in the development of the strategy. The
23 director shall provide for cost-effective public involvement, including
24 the use of polling, throughout the development of the strategy.

25 (2) The state energy strategy shall consider all forms of energy
26 and each major sector of energy consumption and shall:

27 (a) Assess future needs of the state for each form of energy;

28 (b) Identify measures to assist in maintaining adequate, reliable,
29 secure, economic, and environmentally acceptable supplies;

1 (c) Identify and, to the extent possible, quantify the costs and
2 benefits of energy alternatives including direct economic costs and
3 benefits, environmental costs and benefits, and the costs of inadequate
4 or unreliable energy supplies;

5 (d) Develop a framework in which public decisions and actions
6 affecting energy supply and use can be evaluated including the impact
7 of decisions in other areas of public policy on energy supply and cost
8 and on the use of energy and the establishment of goals to guide
9 energy-related decisions;

10 (e) Evaluate the future role of the state energy office and means
11 of financing those activities determined essential to the state; and

12 (f) Recommend energy goals and policies to the governor and the
13 legislature.

14 (3) In developing the state energy strategy, the state energy
15 office shall:

16 (a) Ensure that the information developed is objective and
17 impartial and facilitates the effective and efficient operation of
18 energy markets but shall not mandate the use of one energy source over
19 another;

20 (b) Draw upon existing public and private sector information and
21 expertise in energy matters to the fullest extent possible through
22 consultation and cooperation;

23 (c) Recognize the planning horizons required for each segment of
24 the energy industry and need for state actions and decisions to take
25 those planning horizons into consideration; and

26 (d) Ensure that the strategy is coordinated with the energy
27 planning activities of federal, state, and private entities and does
28 not duplicate what is already available.

29 (4) The energy office shall provide a progress report to the house
30 of representatives and senate committees on energy and utilities in

1 January 1992. A final report shall be provided to the governor and the
2 legislature by December 1, 1992.

3 NEW SECTION. **Sec. 3.** Unless the context clearly requires
4 otherwise, the definitions in this section apply throughout this
5 chapter.

6 (1) "Cogeneration" means the sequential generation of two or more
7 forms of energy from a common fuel or energy source. If these forms
8 are electricity and thermal energy, then the operating and efficiency
9 standards established by 18 C.F.R. Sec. 292.205 and the definitions
10 established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

11 (2) "Conservation" means reduced energy consumption or energy cost,
12 or increased efficiency in the use of energy, and activities, measures,
13 or equipment designed to achieve such results, but does not include
14 district heating and cooling, or electric production from cogeneration.

15 (3) "Cost-effective" means providing positive net present value
16 with a discount rate set equal to the cost of public borrowing.

17 (4) "District heating and cooling" means the production of thermal
18 energy at a public facility and its sale for distribution or use or
19 both, in buildings that are not part of the same facility.

20 (5) "Energy" means energy as defined in RCW 43.21F.025(1).

21 (6) "Energy efficiency" means conservation, cogeneration, district
22 heating and cooling, or the use of alternative energy resources.

23 (7) "Energy office" means the Washington state energy office.

24 (8) "Host institution" means the local administrative body
25 responsible for the public facility at which an energy efficiency
26 measure or project is or may be implemented.

27 (9) "Person" means a natural person, private or public corporation,
28 partnership, or association, or a combination thereof.

1 (10) "Project" means a project or projects designed to result in
2 energy efficiency.

3 (11) "Public facility" means a building or structure, or a group
4 of buildings or structures at a single site, owned by a state agency or
5 school district.

6 (12) "State agency" means every state office or department, whether
7 elective or appointive, state institutions of higher education, and all
8 boards, commissions, or divisions of state government, however
9 designated.

10 (13) "State facility" means a building or structure, or a group of
11 buildings or structures at a single site, owned by a state agency.

12 (14) "Utility" means privately or publicly owned electric, gas, and
13 heating utilities, electric cooperatives, and federal power marketing
14 agencies, whether located within or without Washington state.

15 NEW SECTION. **Sec. 4.** (1) State agencies and school districts
16 shall pursue and maintain efficient operation of their facilities in
17 order to minimize energy consumption and related environmental impacts
18 and reduce operating costs.

19 (2) The energy office shall assist state agencies and school
20 districts and host institutions in identifying, evaluating, and
21 implementing cost-effective energy efficiency projects at public
22 facilities. The assistance shall include notifying state agencies and
23 school districts of their responsibilities under this chapter;
24 apprising them of opportunities to develop and finance such projects;
25 providing technical and analytical support; reviewing verification
26 procedures for energy savings; and assisting in the structuring and
27 arranging of financing for projects expected to result in reduced
28 energy use or costs, increased energy efficiency, or other net benefits
29 for state agencies, school districts, and the state. The energy office

1 shall comply with the requirements of chapter 39.80 RCW when
2 contracting for architectural or engineering services. The energy
3 office shall recover costs for such assistance through written
4 agreements, including reimbursement from third parties participating in
5 such projects, for any costs and expenses incurred in providing such
6 assistance.

7 (3) Local gas and electric utilities shall be provided an initial
8 opportunity to participate with the energy office and host institutions
9 in the development of cogeneration projects at state and school
10 district facilities which they serve. For the purposes of this
11 section, development includes design and feasibility studies,
12 construction, financing, and contract negotiations for purchase of
13 electricity, sale of thermal energy, and purchase of natural gas. To
14 facilitate such participation, state institutions and school districts,
15 in consultation with the energy office, shall have the authority to
16 enter into direct negotiations with the local utility. The opportunity
17 to participate shall be offered to the local utility in the following
18 manner:

19 (a) Prior to beginning a study of cogeneration project feasibility,
20 the host institution in consultation with the energy office shall
21 notify the local utility.

22 (b) If the local utility is interested in such participation,
23 within sixty days of receipt of such notification it shall inform the
24 host institution and the energy office of its intent and willingness to
25 enter into direct negotiations and as to the nature and scope of its
26 desired participation.

27 (c) Any negotiations resulting from such notification shall be
28 conducted in good faith by all parties, and shall commence within sixty
29 days from the date the utility notifies the host institution and the
30 energy office.

1 (d) If, after one hundred eighty days after the commencement of
2 negotiations an agreement has not been reached between the local
3 utility, the energy office and the host institution, any of these
4 parties may request an independent reviewer, mutually agreeable to all
5 parties, to propose an agreement. The parties must submit information
6 and documentation relevant to the negotiations. The independent
7 reviewer shall submit a proposed agreement within thirty days.

8 (e) Nothing in this section shall be construed to limit the ability
9 of a local utility to approach a host institution regarding a potential
10 cogeneration project at the host institution.

11 (4) The energy office shall consult with the local gas and electric
12 utilities to develop priorities for energy conservation projects
13 pursuant to this chapter, cooperate where possible with existing
14 utility programs, and consult with the local gas and electric utilities
15 prior to implementing projects in their service territory. Electric
16 utilities shall be offered the initial opportunity to participate in
17 the development of conservation projects in the following manner:

18 (a) Before initiating projects in the utility service territory,
19 the energy office shall notify the local electric utility, on an annual
20 basis, of state agency or school district facilities that the energy
21 office has targeted for energy conservation projects.

22 (b) Within sixty days of receipt of the notification under (a) of
23 this subsection, the local electric utility may express interest in
24 these projects by submitting to the energy office a proposal describing
25 the role the utility is willing to play in developing and acquiring the
26 conservation at these facilities.

27 (c) Upon receipt of this proposal, the energy office shall, through
28 discussions with the local utility, and with involvement from state
29 agencies and school districts, develop a plan for coordinated delivery
30 of conservation services, financing, and utility payment for electric

1 energy conservation to state agency and school district facilities in
2 the utility's service territory. The plan shall identify the local
3 utility in roles that the utility is willing and able to perform and
4 that are consistent with the provisions of section 5(4) of this act.

5 NEW SECTION. **Sec. 5.** (1) The energy office shall, in
6 coordination with electric and gas utilities and host institutions,
7 facilitate the sale or transmission of energy generated and the sale of
8 energy saved at state agencies and school districts.

9 (2) State agencies and school districts considering submitting or
10 participating in an offer to or from a utility for the sale of energy
11 generated or saved at their facilities shall notify the energy office
12 at least thirty days in advance of submitting an offer to the utility
13 or responding to an offer from a utility.

14 (3) To ensure an equitable allocation of benefits to the state and
15 its institutions, the energy office shall be involved in the following
16 manner in transactions between state agencies, school districts, and
17 utilities for sales of energy generated or saved:

18 (a) The energy office and the host institution must both approve
19 any transaction that provides utilities with energy generation or
20 savings from state agency or school district facilities.

21 (b) The energy office and the host institution shall work together
22 throughout the planning and negotiation process for such transactions
23 unless the energy office determines that its participation will not
24 further the purposes of this section.

25 (c) The energy office shall negotiate directly with utilities in
26 their resource acquisition programs involving the sale of energy
27 generated or saved at public facilities.

28 (d) The energy office shall base its decision upon a review of an
29 individual project or a utility program. Review by the energy office

1 shall include the technical and economic feasibility of a proposed
2 project or program, the adequacy and reasonableness of procedures
3 proposed for verification of project or program performance, the degree
4 of certainty of benefits, the degree of risk assumed by the state or
5 school district, the benefits offered to the state or school district
6 relative to the value of the resource to the utility, and such other
7 factors as the energy office determines to be prudent.

8 (4) (a) The energy office shall not disapprove a transaction unless
9 it finds, pursuant to the review of subsection (3)(d) of this section,
10 that the transaction would not result in an equitable allocation of
11 costs and benefits to the state and its institutions.

12 (b) In areas which a federal power marketing agency has a program
13 for the purchase of energy saved at public facilities, the energy
14 office shall not disapprove the agreement between the local utility and
15 the state agency or school district for the sale of energy saved if the
16 local utility can offer comparable benefit to that offered by the
17 federal power marketing agency. In determining whether the local
18 utility is offering a comparable benefit, the energy office shall
19 consider the net present value of: The payment for saved energy; any
20 goods, services, or financial assistance provided by the utility; and
21 any risks borne by the utility. Any direct negative financial impact
22 on a nongrowing utility shall be considered. A "nongrowing utility" is
23 one where its load growth is less than fifty percent of the average
24 load growth for the previous five years of all utilities in the state
25 distributing the same kind of energy resource.

26 (c) Any party to a potential transaction which would provide a
27 utility with energy generation or savings from state or school district
28 facilities may, within thirty days of any decision to disapprove a
29 transaction made pursuant to (a) or (b) of this subsection, request an
30 appeal of that decision. An independent reviewer who is mutually

1 agreeable to all parties to the transaction must be selected within
2 thirty days of a request for appeal. The parties must submit
3 documentation upon which the disapproval and the appeal were based to
4 the independent reviewer within thirty days of selection. The
5 independent reviewer shall render a decision regarding the validity of
6 the disapproval within an additional thirty days.

7 (5) The energy office may waive review and approval for
8 transactions or classes of transactions if it determines that its
9 participation will not further the purpose of this section.

10 (6) The energy office shall develop and publish guidelines and
11 procedures for compliance with this section by January 1, 1992.

12 (7) Nothing in this section or in this chapter should be construed
13 as mandating or requiring public or private utilities to wheel electric
14 energy resources within or beyond their service territories.

15 NEW SECTION. **Sec. 6.** In order to implement a wide variety of
16 cost-effective energy efficiency projects for state agencies and school
17 districts and the state, funding and financing sources that may be
18 employed include:

19 (1) Capital budget funding, where authorized;

20 (2) Financing contracts under chapter 39.94 RCW;

21 (3) Third-party financing provided by private or public sources;

22 (4) Energy service contracts with private or public service
23 providers; and

24 (5) The energy efficiency account established by section 9 of this
25 act.

26 NEW SECTION. **Sec. 7.** In addition to any other authorities
27 conferred by law:

1 (1) The energy office may, with the consent of the state agency or
2 host institution responsible for a facility:

3 (a) Consult and assist in the development and financing of
4 conservation at state and school district facilities;

5 (b) Contract for energy services, including shared savings,
6 guaranteed savings, or other performance-based arrangements at state
7 facilities;

8 (c) Contract to sell electric energy generated or saved by energy
9 efficiency projects at public facilities to or with utilities;

10 (d) Contract to sell thermal energy produced at state facilities to
11 or with utilities or state agencies; and

12 (e) Participate in negotiations, competitive procurement, and other
13 activities necessary or convenient for these purposes.

14 (2) Subject to section 5 of this act concerning certain utility
15 transactions, state and regional universities acting independently, and
16 other state agencies acting through the department of general
17 administration or as otherwise authorized, may exercise the authorities
18 enumerated in subsection (1) of this section for their facilities and
19 may also:

20 (a) Acquire, install, permit, construct, own, operate, and maintain
21 energy efficiency measures or equipment, or both, at their facilities;

22 (b) Lease state property to private or other public parties for the
23 installation and operation of energy efficiency equipment at state
24 facilities;

25 (c) Contract to purchase all or part of the electric or thermal
26 output of cogeneration plants at their facilities;

27 (d) Contract to purchase or otherwise acquire fuel or other energy
28 sources needed to operate cogeneration plants at their facilities; and

29 (e) Undertake procurements for third-party development of energy
30 efficiency projects at state facilities, with successful proposers to

1 be selected based on the responsible bid, including nonprice elements
2 listed in RCW 43.19.1911, that offer the greatest net achievable
3 benefits to the state and its agencies.

4 For projects involving cogeneration at state facilities commenced
5 after the effective date of this act, all such authorities shall be
6 exercised in consultation with the energy office.

7 (3) Subject to section 5 of this act, school districts may:

8 (a) Develop and finance conservation at school district facilities;

9 (b) Contract for energy services, including shared savings,
10 guaranteed savings, or other performance-based arrangements at state
11 facilities; and

12 (c) Contract to sell electric energy generated or saved by energy
13 efficiency projects at school district facilities to utilities directly
14 or to utilities through third parties.

15 (4) The leasing and contracting authorities provided in this
16 section may be exercised for terms up to thirty years.

17 (5) The authorities under this section may be exercised only if
18 their exercise is reasonably expected to yield lower energy use or
19 costs or higher energy efficiency, or other net benefits including cash
20 revenues, site enhancements, or environmental improvements, for the
21 host institution, the agency, or the state over the life of the
22 measures or projects to be undertaken.

23 NEW SECTION. **Sec. 8.** The energy office may use the net
24 proceeds of bonds issued pursuant to capital budget authorization to
25 make loans, in accordance with RCW 43.21F.060(2), to school districts
26 to provide all or part of the financing for conservation projects. The
27 energy office shall determine the eligibility of such projects for
28 conservation loans and the terms of such loans. The repayments of such
29 loans shall be sufficient to pay, when due, the principal of and

1 interest on the bonds, the proceeds of which are used to fund said
2 conservation loans. The payments of principal of and interest on said
3 conservation loans shall be pledged to the extent required to the
4 payment of said bonds. The obligation to repay such loans shall have
5 status equal to an obligation to make payment on nonvoted debt. To the
6 extent that a school district applies the proceeds of such loans to a
7 modernization project, such proceeds shall be considered a portion of
8 the school district's share of the costs of such project.

9 NEW SECTION. **Sec. 9.** (1) The energy efficiency account is
10 hereby created in the state treasury. Moneys in the account may be
11 spent on efforts to reduce future energy use and costs, to increase
12 energy efficiency, or to capture ancillary net benefits from energy
13 projects such as improved reliability for state agencies and school
14 districts. The source of funds for this account include, where
15 appropriate, proceeds of general obligation bonds, project revenue
16 bonds, and loan repayment revenue including repayment of loans
17 initially financed through the energy office in the 1989-91 biennium
18 capital budget. Funds from this account shall be used for construction
19 and implementation of energy efficiency projects. Use of these funds
20 may include project evaluation and verification of benefits, project
21 design, project development, project construction and implementation,
22 and project administration.

23 (2) Moneys in the account shall be administered by the energy
24 office.

25 (3) The energy office may accept funds and make deposits to the
26 account from any source, including other federal, state, and local
27 government agencies and revenues from public or private sales of energy
28 generated or saved at public facilities.

1 (4) Disbursements from the account shall be subject to
2 appropriation.

3 (5) The energy office shall establish criteria to approve energy
4 efficiency projects to be financed from funds disbursed from this
5 account. The criteria shall include cost-effectiveness, reliability,
6 and environmental costs or benefits. The energy office shall ensure
7 that the criteria are applied with professional standards for
8 engineering and review.

9 NEW SECTION. **Sec. 10.** (1) The energy services account is
10 created in the state treasury. Funds in this account shall be used by
11 the energy office, pursuant to appropriation, to provide energy
12 efficiency services to state agencies and school districts including
13 administration of payments on principal and interest of bonds and
14 review of life-cycle cost analyses. Periodically, the director of the
15 office of financial management shall examine the balance of this
16 account. The energy office in conjunction with the office of financial
17 management is empowered to transfer funds from the energy services
18 account to the general fund as appropriate. These transfers shall
19 first be made to meet debt repayment requirements and other
20 requirements under bond resolutions and secondarily for other general
21 fund purposes. The energy office may accept funds and make deposits to
22 the account from any source, including other federal, state, and local
23 government agencies, utility payments, project fees, loan repayment
24 revenue, and revenues from public or private sales of energy generated
25 or saved at public facilities.

26 (2) Within one hundred eighty days of the effective date of this
27 act, the energy office shall adopt rules establishing criteria and
28 procedures for setting a fee schedule, working capital requirements,

1 receiving deposits, and making repayments to and disbursements from the
2 account. A biennial business plan shall be prepared for this account.

3 NEW SECTION. **Sec. 11.** (1) Potential benefits from energy
4 efficiency projects at public facilities include savings in the form of
5 reduced energy costs; revenues from lease payments, sales of energy or
6 energy savings, or other sources; avoided capital costs; site
7 enhancements; additional operating and maintenance resources; and
8 environmental improvements.

9 (2) To encourage these projects at state facilities, and
10 notwithstanding any other provision of law, the following benefits from
11 energy efficiency projects completed after the effective date of this
12 act shall be apportioned as specified:

13 (a) As to conservation, state host institutions may retain all net
14 savings in the form of reduced energy costs, and one-half of all net
15 revenues from any transaction with a utility or other entity;

16 (b) As to other energy efficiency projects, state host institutions
17 may retain one-half of all net savings in the form of reduced energy
18 costs and twenty percent of all net revenues generated by the project
19 from any source except that state institutions of higher education may
20 retain one-half of all net revenues generated by the project; and

21 (c) The remaining net revenues from conservation projects, and
22 remaining net savings and revenues from other energy efficiency
23 projects, shall be remitted to the state for the disposition and uses
24 specified in subsection (4) of this section.

25 (3) Each state host institution's share of net savings from energy
26 efficiency projects other than conservation and of all net revenues
27 shall be credited to a special local fund, the use of which shall be
28 limited, in priority order, to ongoing operation, maintenance, and
29 improvements of energy systems and energy efficiency measures, to other

1 ongoing and deferred maintenance, and to other infrastructure
2 improvements at the facility.

3 (4) The state's share of net savings from energy efficiency
4 projects other than conservation and of all net revenues, and any
5 portion of the host institution's share which exceeds its needs for the
6 purposes specified in subsection (3) of this section, shall be
7 deposited in the energy services account established by section 10 of
8 this act.

9 (5) The use by state host institutions of net savings and net
10 revenues from energy efficiency projects shall be in addition to, and
11 shall not supplant or replace, funding from traditional sources for
12 their normal operations and maintenance or capital budgets. It is the
13 intent of this subsection to ensure that such institutions receive the
14 full benefit intended by this section, and that such effect will not be
15 diminished by budget adjustments inconsistent with this intent.

16 (6) Energy efficiency projects in school districts, funded in whole
17 or in part with state assistance provided under chapter 28A.525 RCW, or
18 with the financing mechanisms authorized by this chapter, shall be
19 subject to the provisions of this section governing the apportionment
20 and use of savings and revenues from energy efficiency projects.

21 (7) For purposes of this section, "net" savings and revenues shall
22 mean savings and revenues remaining after payment of project capital
23 costs, including debt service, debt service and loss reserves,
24 arbitrage rebate accounts, mandatory renewal and replacement funds,
25 such other payments and reserves as required by a bond resolution or
26 loan agreement under this chapter, and payment of project operating and
27 maintenance expenses. The energy office shall develop guidelines and
28 procedures for determining net savings and net revenues for energy
29 efficiency projects at state facilities by April 1, 1992.

1 NEW SECTION. **Sec. 12.** All interest received or earned on money
2 deposited in each and every fund or account provided for in this
3 chapter shall be credited to and become a part of the particular fund
4 upon which the interest accrues, notwithstanding RCW 43.84.090, unless
5 the state finance committee directs otherwise.

6 **Sec. 13.** RCW 39.35.030 and 1982 c 159 s 3 are each amended to read
7 as follows:

8 For the purposes of this chapter the following words and phrases
9 shall have the following meanings unless the context clearly requires
10 otherwise:

11 (1) "Public agency" means every state office, officer, board,
12 commission, committee, bureau, department, and all political
13 subdivisions of the state.

14 (2) "Office" means the Washington state energy office.

15 (3) "Major facility" means any publicly owned or leased building
16 having twenty-five thousand square feet or more of usable floor space.

17 (4) "Initial cost" means the moneys required for the capital
18 construction or renovation of a major facility.

19 (5) "Renovation" means additions, alterations, or repairs within
20 any twelve-month period which exceed fifty percent of the value of a
21 major facility and which will affect any energy system.

22 (6) "Economic life" means the projected or anticipated useful life
23 of a major facility as expressed by a term of years.

24 (7) "Life-cycle cost" means the initial cost and cost of operation
25 of a major facility over its economic life. This shall be calculated
26 as the initial cost plus the operation, maintenance, and energy costs
27 over its economic life, reflecting anticipated increases in these costs
28 discounted to present value at the current rate for borrowing public
29 funds, as determined by the (~~state finance committee~~) office of

1 financial management. The energy cost(~~s~~) projections used shall be
2 those (~~projected~~) provided by the state energy office. The office
3 shall update (~~the~~) these projections (~~of energy costs~~) at least
4 every two years.

5 (8) "Life-cycle cost analysis" includes, but is not limited to, the
6 following elements:

7 (a) The coordination and positioning of a major facility on its
8 physical site;

9 (b) The amount and type of fenestration employed in a major
10 facility;

11 (c) The amount of insulation incorporated into the design of a
12 major facility;

13 (d) The variable occupancy and operating conditions of a major
14 facility; and

15 (e) An energy-consumption analysis of a major facility.

16 (9) "Energy systems" means all utilities, including, but not
17 limited to, heating, air-conditioning, ventilating, lighting, and the
18 supplying of domestic hot water.

19 (10) "Energy-consumption analysis" means the evaluation of all
20 energy systems and components by demand and type of energy including
21 the internal energy load imposed on a major facility by its occupants,
22 equipment, and components, and the external energy load imposed on a
23 major facility by the climatic conditions of its location. An energy-
24 consumption analysis of the operation of energy systems of a major
25 facility shall include, but not be limited to, the following elements:

26 (a) The comparison of three or more system alternatives, at least
27 one of which shall include renewable energy systems;

28 (b) The simulation of each system over the entire range of
29 operation of such facility for a year's operating period; and

1 (c) The evaluation of the energy consumption of component equipment
2 in each system considering the operation of such components at other
3 than full or rated outputs.

4 The energy-consumption analysis shall be prepared by a professional
5 engineer or licensed architect who may use computers or such other
6 methods as are capable of producing predictable results.

7 (11) "Renewable energy systems" means methods of facility design
8 and construction and types of equipment for the utilization of
9 renewable energy sources including, but not limited to, active or
10 passive solar space heating or cooling, domestic solar water heating,
11 windmills, waste heat, biomass and/or refuse-derived fuels,
12 (~~cogenerated energy,~~) photovoltaic devices, and geothermal energy.

13 (12) "Cogeneration" means the sequential generation of two or more
14 forms of energy from a common fuel or energy source. Where these forms
15 are electricity and thermal energy, then the operating and efficiency
16 standards established by 18 C.F.R. Sec. 292.205 and the definitions
17 established by 18 C.F.R. Sec. 292.202 (c) through (m) as of the
18 effective date of this act shall apply.

19 NEW SECTION. Sec. 14. A new section is added to chapter 39.35 RCW
20 to read as follows:

21 The office, in consultation with affected public agencies, shall
22 develop and issue guidelines for administering this chapter. The
23 purpose of the guidelines is to define a procedure and method for
24 performance of life-cycle cost analysis to promote the selection of
25 low-life-cycle cost alternatives. At a minimum, the guidelines must
26 contain provisions that:

27 (1) Address energy considerations during the planning phase of the
28 project;

1 (2) Identify energy components and system alternatives including
2 renewable energy systems and cogeneration applications prior to
3 commencing the energy consumption analysis;

4 (3) Establish times during the design process for preparation,
5 review, and approval or disapproval of the life-cycle cost analysis;

6 (4) Specify the assumptions to be used for escalation and inflation
7 rates, equipment service lives, economic building lives, and
8 maintenance costs;

9 (5) Determine life-cycle cost analysis format and submittal
10 requirements to meet the provisions of this chapter;

11 (6) Provide for review and approval of life-cycle cost analysis.

12 NEW SECTION. **Sec. 15.** A new section is added to chapter 39.35
13 RCW to read as follows:

14 The energy office may impose fees upon affected public agencies for
15 the review of life-cycle cost analyses. The fees shall be deposited in
16 the energy services account established in section 10 of this act. The
17 purpose of the fee is to recover the costs by the office for review of
18 the analyses. The office shall set fees at a level necessary to
19 recover all of its costs related to increasing the energy efficiency of
20 state-supported new construction. The fees shall not exceed one-tenth
21 of one percent of the total cost of any project or exceed two thousand
22 dollars for any project unless mutually agreed to. The office shall
23 provide detailed calculation ensuring that the energy savings resulting
24 from its review of life-cycle cost analysis justify the costs of
25 performing that review.

26 NEW SECTION. **Sec. 16.** The energy office shall concisely report
27 to the energy and utilities committees of the house of representatives

1 and the senate every ninety days on the projects pursued, the
2 expenditures made, and the benefits accrued under this chapter.

3 NEW SECTION. **Sec. 17.** A new section is added to chapter Title 28A
4 RCW to read as follows:

5 The office of the superintendent of public instruction shall report
6 annually to the energy and utilities committees of the house of
7 representatives and the senate regarding the effects of this act on
8 school districts throughout the state.

9 NEW SECTION. **Sec. 18.** The energy office may adopt rules to
10 implement sections 4 through 6, 11, and 14 of this act.

11 NEW SECTION. **Sec. 19.** Sections 3 through 12 and 16 of this act
12 shall constitute a new chapter in Title 39 RCW.

13 **Sec. 20.** RCW 43.84.090 and 1990 2nd ex.s. c 1 s 203 are each
14 amended to read as follows:

15 Except as otherwise provided by RCW 43.250.030, 67.40.025, ((and))
16 82.14.050, and section 12 of this act, twenty percent of all income
17 received from such investments shall be deposited in the state general
18 fund.

19 NEW SECTION. **Sec. 21.** 1982 c 159 s 6 (uncodified) is hereby
20 repealed.

21 NEW SECTION. **Sec. 22.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.