

# HOUSE BILL REPORT

## SSB 5292

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### As Passed House - Amended:

March 8, 2002

**Title:** An act relating to modifying definitions of public energy projects.

**Brief Description:** Modifying definitions of public energy projects.

**Sponsors:** By Senate Committee on Environment, Energy & Water (originally sponsored by Senators T. Sheldon, McDonald, Fraser, Hochstatter, Regala, Stevens, Kastama, Snyder, Honeyford, Patterson, Eide and Hale).

### Brief History:

#### Committee Activity:

Technology, Telecommunications & Energy: 2/20/02, 3/1/02 [DPA].

#### Floor Activity:

Passed House - Amended: 3/8/02, 76-20.

### Brief Summary of Substitute Bill (As Amended by House)

- Increases the threshold for a major public energy project from 250 megawatts to 350 megawatts, which requires a public vote to authorize public financing for the major public energy project.

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## HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Morris, Chair; Crouse, Ranking Minority Member; Berkey, Bush, DeBolt, Delvin, Hunt, Linville, Lysen, Sullivan and Wood.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Ruderman, Vice Chair; Anderson, Casada, Esser, Nixon, Pflug, Reardon and Romero.

**Staff:** Pam Madson (786-7166).

### Background:

In 1981 voters approved Initiative No. 394, the Washington State Energy Financing Voter

Approval Act. Under the act, a public utility district, city, county or joint operating agency is prohibited from selling bonds to finance the construction or acquisition of a major public energy project unless the voters of the respective governmental entity approve a ballot proposition authorizing the expenditure of funds.

Prior to a public vote, the public agency must submit to the voters a cost-effectiveness study of the project conducted by an independent consultant who is approved by the state finance committee. The study must be available for public review and comment for 30 days. Information both pro and con may be submitted to the voters through a voter's pamphlet distributed by the Secretary of State. The voter's pamphlet must contain information about the project, its cost and level of public financing, and the projected rate increases for consumers using the electricity generated by the project. The rate increase must be sufficient to repay total indebtedness of the project.

A major public energy project is an electrical generating facility capable of generating more than 250 megawatts of electricity and is not limited to any particular type of generation. Each plant located on the same geographic site is considered a separate energy project. An expansion of an existing facility is not subject to a vote unless the expansion produces more than 250 megawatts of electricity.

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**Summary of Amended Bill:**

The existing requirement for voter approval of public financing for the construction or acquisition of major public energy projects is changed so that a public vote is required for a plant capable of generating electricity of more than 350 megawatts rather than 250 megawatts. Each large plant at the same site is considered a separate project. Any addition to an existing facility qualifies as a large project if the addition itself is capable of generating more than 350 megawatts rather than 250 megawatts.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date of Amended Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The state went through a tough time with energy availability and predictability the last couple of years. We need more reliability and better predictability. We also need energy independence and more public power. This bill is a good first step in giving public utility districts (PUDs) certainty in their investments and more predictability for supply.

The option that allows a vote for a project over 700 megawatts is a good option. There have been a number of changes since 1981. We now have new technologies that make it easier to build generation than was possible over 20 years ago. Technologies have changed and economics have changed. The price of energy in this region is a huge economic development advantage. We need to develop energy independence so as not to be affected by problems in other parts of the country. Public power needs flexibility to be able to provide power for their own customers.

Concern has been expressed over the removal of the public vote from all nonnuclear projects in that it went too far. There is support for setting the limit at 700 megawatts as proposed in a striking amendment and raising the threshold for requiring a cost-effectiveness study and a public process from 250 megawatts to 350 megawatts. The 350 megawatt threshold is in line with the new Energy Facility Site Evaluation Council (EFSEC) threshold. The public is much more active today in PUD decisions because of recent events and the rise in rates. PUDs work hard at keeping in touch with their customers.

A recent wind project proposed by Energy Northwest at 50 megawatts required public financing through issuing bonds. Because a purchaser of the power left the project, bonding was jeopardized. This is the type of uncertainty that the agency faces at the end of the process. Requiring a public vote introduces uncertainty at the end of the process and makes it difficult for the public agency to be competitive.

**Testimony Against:** In cases where an electrical generation project is proposed by a public agency, such as a PUD, the public does not have an opportunity to have an open unbiased public discussion about the project without the vote requirement. Utility rate-payers can get stuck with projects and additional indebtedness that are a result of poor judgement. Without the ability to vote on the project, there is no way for the citizen to express an opinion about assuming the risk of additional bonding. Along with a public vote, other factors are important such as selecting a competent independent consultant to do a cost-effectiveness study. The proposed language does not require that an independent consultant be approved by the state finance committee. Without these protections, rate-payers will not have the ability to avoid the problems of earlier decisions to build large generating plants that ultimately cost rate-payers thousands of dollars of additional debt. The Initiative safeguards customers of public utilities and agencies from imprudent decisions to build power plants. It doesn't prevent power projects. It provides checks and balance for those who ultimately have to pay.

Global warming is forcing a new look at a major transition in electrical generation. We cannot continue our dependence on current fuel sources. People need to have as much information as possible to make decisions about the different types of generation available and the consequences of its use. If people have to vote, they will become informed.

Public power and preference power has given our region a competitive edge and we are

in danger of losing that edge. Requiring a vote gives citizens a mechanism to debate energy policy. This bill could jeopardize our preference power. This is not the time nor are these the circumstances in which voters should lose the ability to vote on these projects. Voter approval might actually improve bond ratings and reduce ultimate cost.

**Testified:** (In support) Senator T. Sheldon, prime sponsor; Senator Poulsen; Stu Trefry, Washington Public Utility District Association; Jim Rowland, Energy Northwest; and Ron Newbry, Washington Economic Development Association.

(Opposed) Bob Wachter; Louise Stonington; Jim Malinowski; Joe Heineck, Heineck Associates; Ivy Sager-Rosenthal, Washington Public Interest Research Group; Danielle Dixon, Northwest Energy Coalition; Roxy Giddings; Donna Ewing; Toni Potter, League of Women Voters of Washington; and Steve Zemke, Don't Bankrupt Washington.