

SENATE BILL REPORT

SB 6177

As Reported By Senate Committee On:
Environment, Energy & Water, April 17, 2001
Ways & Means, April 18, 2001

Title: An act relating to the management of state energy supply and demand.

Brief Description: Managing energy supply and demand.

Sponsors: Senators Fraser, Morton, Brown, Winsley, Fairley, T. Sheldon, Finkbeiner, Franklin, Jacobsen, Spanel, Regala, Snyder, Prentice, Patterson, Hargrove, Constantine and Kohl-Welles.

Brief History:

Committee Activity: Environment, Energy & Water: 4/16/01, 4/17/01 [DPS].
Ways & Means: 4/18/01 [DP2S].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 6177 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Honeyford, Jacobsen, McDonald, Morton and Patterson.

Staff: Andrea McNamara (786-7483)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6177 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Brown, Chair; Constantine, Vice Chair; Fraser, Hewitt, Kline, Long, Rasmussen, Regala, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau and Winsley.

Staff: David Schumacher (786-7474)

Background: In the current energy situation, where supply and demand are growing out of balance and costs are rising to unprecedented levels, interest is high among utilities and consumers in building new generating resources, renewing energy conservation efforts, implementing new energy efficiency technologies, and mitigating the impacts for those hardest hit by the price increases.

Summary of Second Substitute Bill: Legislative findings and intent are included identifying the importance of a sufficient, reliable, and affordable supply of energy.

Low-income. A tax credit program for gas and electric companies is established where the utilities may receive one dollar of credit against their public utility tax liability for every \$2 they provide in new billing discounts to low-income customers or make in direct contributions to existing community-based energy assistance programs. An annual cap of \$1.5 million in total credits is available statewide during fiscal year '02, increasing each year to \$4 million by 2004.

Municipal utilities may offer low-income rate discounts to a class of low-income individuals other than low-income senior citizens.

Renewable Resources. By January 1, 2002, all electric utilities (other than small electric utilities) must offer their consumers, at least quarterly, a voluntary choice to purchase electricity generated from renewable resources. The rates, terms and conditions for such options may be determined by the utilities and must be approved by the Washington Utilities and Transportation Commission (WUTC) for investor-owned utilities and by the governing bodies of consumer-owned utilities. Annual reports are required to track the offers and participation rates.

The Department of Community, Trade and Economic Development must create the EnergySmart Washington program to recognize individuals, businesses, utilities, government entities, and institutions that provide leading examples or make notable contributions in energy efficiency and renewable energy resources.

Energy Facility Siting. The threshold for jurisdiction of the Energy Facility Site Evaluation Council (EFSEC) is raised from facilities with a capacity of 250 megawatts (MW) to 350 MW for stationary thermal power plants and from 50 MW to 100 MW for floating thermal plants. Facilities of any size that utilize renewable energy resources may opt in to the EFSEC siting process.

Membership and agency authorities are modified. Four state agencies are authorized to elect whether to participate as members of EFSEC instead of being mandatory members: Department of Agriculture, Department of Transportation, Military Department, and Department of Health. The salary of the EFSEC chair is determined by the Salary Commission. EFSEC may delegate monitoring authority to agencies.

The EFSEC process is modified so that an informational public hearing is required before the existing land use consistency hearing. The information to be included within the administrative record that is forwarded to the Governor is clarified.

Joint Committee. The name of the Joint Committee on Energy and Utilities is changed to the Joint Committee on Energy Supply. The procedures for appointing members and selecting leadership of the joint committee is also modified.

DSI Tax Credit/Deferral. Direct Service Industrial (DSI) customers are provided with three alternative tax incentives for building or buying electricity from new facilities intended to supply the DSI. The total annual credits and deferrals available statewide are capped at \$4 million per fiscal year, and individual companies are limited to \$2 million per fiscal year using any combination of the three available options. The incentives are available beginning July 1, 2004, and are subject to conditions requiring the DSI to maintain certain employment

levels for five years and to reach agreement with the Bonneville Power Administration regarding the use of resale or remarketing proceeds.

Public Vote for Major Public Energy Projects. A public vote is no longer required for major public energy projects, other than nuclear projects, projects that cost more than \$1 billion, or projects that are larger than 700 MW. The requirement for public agencies to undertake an independent cost-effectiveness study and hold a public hearing is retained for any public energy project larger than 250 MW.

Pollution Control Equipment for Peaking Plants. A sales and use tax exemption is created for the installation or acquisition of air pollution control equipment for thermal electric peaking plants smaller than 100 MW. The exemption takes effect January 1, 2001, and expires June, 2003.

Energy Efficiency Measures in Public Buildings. A timeline for conducting energy audits and installing new efficiency measures is established for all state-owned and state-leased buildings and school district buildings. Performance contracting is authorized for municipal buildings.

Second Substitute Bill Compared to Substitute Bill: The second substitute clarified the low-income tax credit, limited the peaking plant exemption to those smaller than 100 MW, and removed the conservation bonding provisions from the substitute.

Substitute Bill Compared to Original Bill: The substitute makes several substantive changes. It steps up the maximum amount of public utility tax credits available for low-income billing discounts and energy assistance contributions from \$1.5 million per year to \$2.5 million in FY '03, \$3.5 million in FY '04, and \$4 million thereafter. It requires utilities to offer the renewable option at least quarterly with its regular billing statements. The substitute adds a definition of "environmentally qualified hydropower" for the purposes of determining whether the resource may be included in the "renewable resource option" offered by utilities. It also raises the jurisdictional threshold from 55 to 100 MW for floating thermal power plants, and adds a definition of "floating thermal power plants." The substitute adds certain hydropower facilities into the definition of "renewable resource" facilities that may elect to opt-in to the EFSEC siting process. The substitute also adds an additional requirement for DSIs to qualify for the tax incentive: for any DSI that is reselling or remarketing BPA power between January 1, 2000, and October 1, 2001, they must reach agreement with BPA to use the proceeds for curtailment expenses (including payment of idled or laid-off workers), and expenses related to securing future power supplies and enhancing operations in Washington. It also allows a DSI to elect any combination of one or more of the three alternative tax credit/deferral options, subject to the \$2 million per company annual cap. The substitute changes the name of the Joint Committee on Energy Shortages to the Joint Committee on Energy Supply. It moves the sunset date on the pollution control tax credits for peaking plants from June 30, 2011, to June 30, 2003. It also adds a new section to allow conservation-related expenditures made by an investor-owned utility between 1996 and present that were not made pursuant to a conservation services tariff to be eligible for bonding upon the approval of the WUTC.

The substitute makes several additional clarifying and technical changes.

Appropriation: None.

Fiscal Note: Requested on April 12, 2001.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For (Environment, Energy & Water): This bill reaches a reasonable compromise between the various interests by providing both short-term and longer-term strategies for responding to the current energy situation. It will assist those sectors hardest hit by rising energy costs: low-income residential customers and the aluminum industry. It provides incentives for utilities and options for customers to support the development of renewable resources. It removes barriers to bringing new generation on-line quickly, by raising the EFSEC threshold, providing tax incentives for pollution control equipment at peaking plants, and allowing PUDs to pursue new cost-based resources without having to receive general voter approval. The bill also puts the state in a leadership role by requiring energy efficiency audits and measures in all its buildings.

Testimony Against (Environment, Energy & Water): The bill does not sufficiently balance the public's interest with the self interests of the utilities and industrial customers. It promotes only new gas-fired power plants and does not sufficiently support cleaner energy alternatives. The bill also removes essential public accountability provisions related to building expensive new public power plants.

Testified (Environment, Energy & Water): Seth Dawson, WA State Assn. for Community Action (pro); Kristen Sawin, AWB (pro); Alison Wise, WashPIRG (concerns); Kathleen Collins, PacifiCorp, Tenaska (pro); Mark Petersen, Donald Henning, USWA #8147; Gaylan Prescott, United Steelworkers of America (pro); Rick Wickman, George Cress, Port of Longview (pro); Thomas Krueger, Energy Consultants (pro); John Baardson, Nordic Energy (pro); Toni Potter, League of Women Voters of WA (pro/concerns); Collins Sprague, AVISTA, Corp. (pro); Danielle Dixon, NW Energy Coalition; Terry Oxley, PSE (pro); Tom Starrs, Renewable NW Project (concerns); Tim Boyd, Industrial Customers of NW Utilities (pro/amend); Stu Trefray, WA PUD Assn. (pro/amend); Aaron Jones, WRECA (pro); Bob Mack, Cities of Seattle and Tacoma (pro/concerns); Steve Zemke, Don't Bankrupt WA (con).

Testimony For (Ways & Means): The low-income credit provides a modest incentive to increase these programs. This bill is a collection of the best of this session energy proposals. Aluminum companies are one of the few high wage industries in rural Washington; they need to be saved.

Testimony Against (Ways & Means): The conservation bonding– provisions would have provided for low-cost financing and should be added back to the bill. The increase of the EFSEC threshold to 350 MW could lead to poor siting of facilities. In addition, the bill is short on renewable resources.

Testified (Ways & Means): Collins Sprague, AVISTA Corp. (pro); Kathleen Collins, PacifiCorp, Tenaska (pro); Sandi Swarthout, Alcoa (pro); Seth Dawson, WA State Assn. for Community Action (pro); Terry Oxley, Puget Sound Energy (pro); Dave Arbaugh, Chelan PUD (con); Craig Engelking, Sierra Club (concerns).