

# FINAL BILL REPORT

## SSB 6658

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Synopsis as Enacted

**Brief Description:** Clarifying the types of energy conservation projects a public utility may assist its customers in financing.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Poulsen, Hale, Regala, Morton, Fraser, Keiser and Rasmussen).

**Senate Committee on Environment, Energy & Water**  
**House Committee on Technology, Telecommunications & Energy**

**Background:** In September 2001, the Attorney General issued an opinion (AGO 2001, No. 7) interpreting a provision of the State Constitution and public utility codes related to public financing of energy conservation measures.

Article VIII, Section 10 of the Washington State Constitution, which was originally enacted in 1979, and amended in 1988, states in relevant part:

"... any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of water, energy, or stormwater or sewer services may, as authorized by the legislature, use public moneys or credit derived from operating revenues ... to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of ... energy ... Any financing for energy conservation authorized by this article shall not be used for any purpose which results in a conversion from one energy source to another."

The Legislature has incorporated identical language from this constitutional provision into both the municipal utility code and the public utility district code. In addition, the Legislature has outlined a number of additional parameters for the implementation of the conservation loan financing programs, including contracting-out provisions and pay-back terms and methods.

The Attorney General's Opinion sought to answer the question of whether certain types of conservation measures would result in the "conversion of one energy source to another" such that a Public Utility District (PUD) would be prohibited from financing them through their conservation loan financing programs.

The opinion states, in relevant part:

"Thus, we believe the better interpretation of article VIII, section 10 is that a PUD cannot offer customers loans to switch from using energy supplied by the PUD to energy supplied by another source, including energy generation facilities installed by the customer. Nor can a PUD provide financing for materials or equipment that would result

in a change of the kind of energy used--for example, from electricity to another kind of energy." (Emphasis added)

**Summary:** Legislative findings and intent are stated relating to the broad array of energy conservation opportunities available and the desire to support public financing of projects that allow customers to generate their own electricity.

A definition of allowable conservation purposes is added to the municipal utility code and the public utility district code for the purpose of clarifying the types of projects public utilities may assist their customers in financing.

The definition includes projects that allow a public utility's customers to generate all or a portion of their own electricity through on-site installation of solar, wind, geothermal, or mini-hydroelectric generating systems, or other distributable generation systems that use fuel from on-site renewable resources.

The projects may not be considered a "conversion from one energy source to another" as prohibited by law and the State Constitution, so long as they do not involve the substitution of one retail energy supplier for another retail energy supplier.

**Votes on Final Passage:**

Senate	46	0
House	96	0

**Effective:** June 13, 2002