

HOUSE BILL REPORT

E3SHB 2939

As Amended by the Senate

Title: An act relating to creation of the energy freedom program.

Brief Description: Establishing the energy freedom program.

Sponsors: By House Committee on Capital Budget (originally sponsored by Representatives Grant, Dunshee, Linville, Kessler, Upthegrove, Kilmer, Ericks, Hasegawa, P. Sullivan, Santos, Green, Springer, Conway, Simpson and Hudgins).

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/17/06, 1/26/06 [DPS];

Appropriations: 2/1/06, 2/4/06 [DP2S(w/o sub TEC)].

Capital Budget: 2/6/06, 2/7/06 [DP3S(w/o 2sub APP)].

Floor Activity:

Passed House: 2/11/06, 68-30.

Senate Amended.

Passed Senate: 3/2/06, 48-0.

Brief Summary of Engrossed Third Substitute Bill

- Establishes an Energy Freedom Program within the Department of Community, Trade and Economic Development.
- Authorizes a 13-member Energy Freedom Board (Board) to award low-interest loans to political subdivisions for the research and development of new and renewable energy sources, including infrastructure and facilities.
- Authorizes the Board to award grants to Washington public research institutions, and to award a limited amount of grant funding to political subdivisions.
- Creates the Energy Freedom Account within the State Treasury.
- Authorizes a one-time transfer of \$25 million of Public Utility Tax revenue into the Energy Freedom Account.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

Staff: Kara Durbin (786-7133).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 19 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Buri, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Chandler, Clements, Hinkle, Pearson, Priest and Talcott.

Staff: Owen Rowe (786-7391).

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass and do not pass the second substitute bill by Committee on Appropriations. Signed by 22 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake, Chase, Eickmeyer, Ericks, Flannigan, Green, Hasegawa, Kretz, Lantz, McCune, Moeller, Morrell, Newhouse, O'Brien, Schual-Berke, Springer, Strow and Upthegrove.

Minority Report: Do not pass. Signed by 6 members: Representatives Clements, Cox, Ericksen, Kristiansen, Roach and Serben.

Staff: Susan Howson (786-7142).

Background:

Oil Production and Consumption in the U.S.

According to the Energy Information Administration (EIA), in 2002, the United States consumed 19.656 million barrels of petroleum (crude oil and petroleum products) per day, or about one-quarter of total world oil production. More than half (62 percent) was imported oil. The EIA has projected that by 2025, total petroleum consumption in the U.S. will be approximately 28.3 million barrels per day.

While consumption of petroleum in the United States is increasing, oil production has been decreasing steadily since 1970. According to the EIA Annual Energy Outlook for 2004, U.S.

petroleum production is expected to decrease slightly from 9.2 million barrels per day in 2002 to 8.6 million barrels per day by 2025, while consumption is expected to rise from 19.6 barrels per day in 2002 to 28.3 million per day by 2024, which represents approximately a 44 percent increase in consumption.

State Loan Programs for Renewable Energy

According to a 2002 study by the National Renewable Energy Laboratory, there are at least 21 active loan programs in 18 states that provide low-cost financing for renewable energy. Some programs are funded by revolving loan funds that were established with petroleum-overcharge settlements, while others are funded through annual appropriations, the sale of bonds, or air-quality noncompliance penalty fees. Total funding for state loan programs range from \$200,000 to \$200 million per year.

Public Utility Tax

Public and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. The tax rate depends on the utility classification. Utility classifications include: 1) distribution of water; 2) generation/distribution of electrical power; 3) telegraph companies, distribution of natural gas, and collection of sewerage; 4) urban transportation and watercraft vessels under 65 feet in length; and 5) railroads, railroad car companies, motor transportation, and all other public service businesses. Most of the PUT is deposited in the state general fund. Certain receipts are earmarked for the Public Works Assistance Account.

Summary of Engrossed Third Substitute Bill:

The Energy Freedom Program is established. The stated legislative purpose of the Energy Freedom Program is to stimulate strategic investment in facilities, infrastructure, technologies, and research and development that will advance Washington's move towards energy independence.

Energy Freedom Board

The Energy Freedom Board (Board) is created. Membership of the Board consists of 13 individuals: the director of the Department of Agriculture or the director's designee; the director of the Department of Community, Trade, and Economic Development (DCTED) or the director's designee from the DCTED's energy policy division; four members of the Legislature who serve on committees with jurisdiction over energy issues; and seven members appointed by the Governor, including one recognized expert in renewable energy, one representative from Washington State University, one Washington state grower, one producer of alternative fuels, one public fleet manager, one public buildings manager, and one sustainable society advocate. Staff support for the Board must be provided by DCTED.

Powers and Duties of the Board

The Board is authorized to accept gifts, grants, or loan of funds or property from any source, provided that accepting the funds is not a conflict of interest. The Board will develop a competitive process to solicit proposals for potential funding. Financial assistance may be awarded by the Board for any of the following types of projects and activities:

- research and development of new and renewable energy and biofuel sources, including biomass, solar, and wind power;
- renewable energy and biofuel development infrastructure and facilities;
- research and development to develop markets for alternative fuel byproducts; and
- loans for small commercial energy audits and retrofits.

The Board will establish a peer review committee to review all competitive grant proposals submitted by Washington public research institutions.

Applicants for loans and grants must specify deliverables, including evidence that a proposed project will result in a positive net energy output, if applicable. Applications must be prioritized based on the following criteria:

- the extent to which the project will contribute to the establishment of a viable bioenergy production capacity in Washington;
- the benefits to Washington's agricultural producers;
- the extent to which the project will help conserve energy and reduce dependence on petroleum fuels and imported energy;
- the extent to which the project will reduce air and water pollution;
- the number and quality of jobs, as well as the economic benefits, created by the project;
- the extent to which the investment shows a direct link to commercialization either by indirectly supporting the commercialization of bioenergy intellectual property into a commercialized project, or by directly assisting in moving a commercially viable project into the marketplace for use by Washington citizens; and
- the extent to which private funds have been leveraged.

The Board may approve loans in an amount of up to \$5 million, provided that each loan does not constitute more than 50% of the total project funding. The Board may award grants to political subdivisions to the extent that a loan is not feasible, provided that no more than 10% of all financial assistance awarded by the Board to political subdivisions are in the form of grants. The Board may also award grants to Washington public research institutions.

Upon receiving financial assistance from the Board, political subdivisions must enter into appropriate contracts with industry partners involved in the use of the facilities, infrastructure, or equipment.

The Board may suspend or cancel its loans or grants if a recipient fails to make reasonable progress towards completing a project, or the recipient has made misrepresentations in any information furnished to the Board in connection with the project.

Consistent with Article VIII, sections 5 and 7 of the Washington Constitution, the credit of the state, as well as the credit of counties, cities, towns, and other municipal subdivisions may not be given or loaned to an individual or company in the administration of grants and loans under this Act.

Energy Freedom Account

The Energy Freedom Account (Account) is created in the state treasury. Funds from the Account may only be spent after appropriation. Expenditures may be used only for loans and

grants to political subdivisions for renewable energy and biofuel development projects and activities.

The Legislature may authorize a transfer of up to \$25 million from the Public Utility Tax for fiscal year 2006 into the Account.

The bill is null and void unless funded in the budget by June 30, 2006. The entire Act expires on June 30, 2016.

EFFECT OF SENATE AMENDMENT(S):

The underlying bill is stricken and the text of ESSB 6501 is inserted and modified with language from E3SHB 2939. Findings concerning energy independence and public research and development and added. Definitions for "applicant," "peer review committee," and "research and development project", and "financial assistance" are added. Eligible applicants include political subdivisions, as well as federally recognized tribes and state institutions of higher education. Co-products and fixed or mobile facilities are added to the definition of a "project." The Energy Freedom Board is removed. Instead, the Energy Freedom Program is created within the Department of Agriculture. The scope of eligible projects is narrowed to those that will convert farm products or wastes directly into electricity or fuel and meet several other, mandatory criteria. The Department of Agriculture will cooperate with the Department of Community, Trade, and Economic Development in approving applications. Successful applicants are required to contract with any partners. Prioritization criteria are added for applications in which the total requested dollar amount of assistance exceeds the amount of money available in the Energy Freedom Account.

Appropriation: None.

Fiscal Note: Requested on February 7, 2006.

Effective Date: The bill takes effect on July 1, 2006.

Testimony For: (Technology, Energy & Communications) The Energy Freedom Program is timely. Our state's energy supply is in flux; prices will only continue to go up. There needs to be research funds to explore alternative energy sources. We need to subsidize all forms of energy. These loan programs will encourage the development of these alternative energy industries in the state. All of these biofuel bills have common goals: energy independence; growing and diversifying a rural economy; keeping economic benefits in the state. This loan program will help fund the crushing infrastructure for biodiesel.

Testimony For: (Appropriations) Thanks to the sponsors of this bill for recognizing that the state needs to create a financial infrastructure for these bioenergy projects. We need the state to share the financial risk with producers to see the biomass industry through its infancy. Loans should be offered below prime interest rates. Producers can already access capital through the state's industrial revenue bond system at several points below the market rate. The program the state creates should parallel IRB rates. Loan eligibility should not hinge on a credit analysis of the participating producers. Most ventures include new entities without a

credit history, and farmers typically have complex and unconventional financial arrangements they are not eager to explain to outsiders. The credit analysis component could cause worthy applicants to pass on the state's program. The state already issues Industrial Revenue Bonds through the Washington Economic Development Finance Authority, but the capital is about \$10 million to \$25 million for exempt projects. This is too little for most commercial renewable energy projects. We propose the state hand its bonding capacity to government subdivisions so they could issue bonds in the \$25 to \$30 million range, to get to the level of financing that these projects need. The state can effectively lend capital to these projects without committing itself to large expenditures. These investments will take more commitment than conventional loan programs. The state should give loans at 3.5 to 4 percent and relax the terms and restrictions until they are inviting to farmers and other entrepreneurs. Plan on putting a mechanism into this program to allow the state to put its weight behind local economic development agencies. This bill is a powerful tool to help create strong public-private partnerships around the emerging biodiesel industry.

Testimony For: (Capital Budget) None.

Testimony Against: (Technology, Energy & Communications) None.

Testimony Against: (Appropriations) None.

Testimony Against: (Capital Budget) None.

Persons Testifying: (Technology, Energy & Communications) (In support) Representative Dunshee; Jim Armstrong, Spokane County Conservation District; John Plaza, Seattle Biofuels; Jay Gordon, Washington State Dairy Federation; and Dave Warren, Washington Public Utility Districts Association.

Persons Testifying: (Appropriations) (In support) Kevin Fullerton, Institute for Washington's Future; and Kevin Raymond, Washington Biodiesel.

Persons Testifying: (Capital Budget) None.

Persons Signed In To Testify But Not Testifying: (Technology, Energy & Communications) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.

Persons Signed In To Testify But Not Testifying: (Capital Budget) None.