

SENATE BILL REPORT

ESSB 5348

As Passed Senate, March 4, 2005

Title: An act relating to maintenance and repair of electrical appliances by a public utility district.

Brief Description: Authorizing certain PUDs to operate an electrical appliance repair service.

Sponsors: Senate Committee on Water, Energy & Environment (originally sponsored by Senators Pridemore, Kastama, Fraser and Kline).

Brief History:

Committee Activity: Water, Energy & Environment: 2/1/05, 2/8/05 [DPS, DNP].

Passed Senate: 3/4/05, 26-22.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 5348 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Morton, Ranking Minority Member; Hewitt, Honeyford and Mulliken.

Staff: William Bridges (786-7424)

Background: For nearly 60 years, Clark Public Utilities, also known as Clark County Public Utility District (PUD), has repaired major electrical appliances, such as central furnaces, heat pumps, and ovens. The utility offers the repair service to promote conservation and energy efficiency. The utility does not generally sell or lease appliances, although it sometimes sells water heaters.

In 1998, an opinion issued by the Washington State Attorney General concluded that PUDs do not have the legal authority to repair appliances other than those they sell or lease. The opinion sparked a controversy in Clark County. A group of Clark County taxpayers sued to stop Clark Public Utilities from repairing appliances.

In 2002, a trial court permanently enjoined Clark Public Utilities from repairing appliances, declaring the utility did not have the legal authority to repair electrical appliances other than those it sold or leased. The court stayed the injunction pending appeals. The state Court of Appeals affirmed the trial court's decision in 2003. But the utility appealed to the state Supreme Court, which accepted the case and heard oral arguments on January 19, 2005. An opinion is expected this year.

Summary of Bill: Legislative findings are made. Among other things, the legislature recognizes the long tradition of repairing appliances by certain public utility districts. The legislature also understands that the repair services help citizens save money and energy.

Any public utility district that has operated an electrical appliance repair service for at least ten years prior to the effective date of this act, may continue to operate an electrical appliance repair service within its service district.

When a PUD operates an electrical appliance repair service, it must do the following: (1) charge a true and fair cost for the service, (2) keep public financial records on the service, and (3) develop and use measures to evaluate the performance of the service.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Clark Public Utilities has been repairing appliances for over 60 years and it is an extremely popular and trusted service. This is a local control issue; the state should not tell local governments how to run their affairs. The legal issue is not "should" the utility make appliance repairs but is it legally authorized to make repairs. The bill recognizes the historical value of appliance repairs by Clark Public Utilities. The utility sells parts but not appliances. It does not sell water heaters; it only repairs or replaces existing ones. The utility does not engage in extensive marketing, and it only repairs appliances in existing homes. The utility makes repairs to older equipment that private contractors do not know how to fix or are unwilling to fix. The repair service allows customers to save money and energy.

Testimony Against: Clark Public Utilities should not be competing against private businesses because it is unfair competition. Family owned businesses cannot compete against the subsidized utility prices. If the utility were a private company, it would lose money. It survives because of massive borrowing and by buying votes with cheap appliance repairs. The utility promotes the use of energy-hog appliances. Unlike its private competitors, the utility does not follow licensing and permitting laws. Contrary to the utilities' claims, it does sell water heaters. If the utility wants to provide a public service, it should provide its customers with a list of private contractors.

Who Testified: PRO: Sen. Pridemore, prime sponsor; Robin Appleford, Clark County Utilities; Byron Hanke, President, Clark County Utilities; John Owens, Clark County Utilities.

CON: Sid Sutherland, Sutherland Electric; Jeff Miller, Miller's Heating; Earl Gooch, Express Water Heater; Carolyn Logue, NFIB; Gary Smith, Indep. Bus. Assn; Larry Stevens, Mechanical Contractors Assn of Western Washington & Natl Electrical Contractors Assn.