
HOUSE BILL 2939

State of Washington

59th Legislature

2006 Regular Session

By Representatives Grant, Dunshee, Linville, Kessler, Upthegrove, Kilmer, Ericks, Hasegawa, P. Sullivan, Santos, Green, Springer, Conway, Simpson and Hudgins

Read first time 01/17/2006. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to creation of the energy freedom program; amending
2 RCW 43.135.035 and 43.135.035; adding a new chapter to Title 43 RCW;
3 making appropriations; providing effective dates; and providing
4 expiration dates.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Relying on foreign oil hurts our state's economy, citizens, and
8 businesses;

9 (2) Experts tell us that the global oil shortage will only worsen,
10 making the three dollars per gallon gasoline of summer 2005 seem
11 affordable;

12 (3) Instead of leaving our economy at the mercy of global events,
13 and the policies of foreign nations, Washington state should adopt a
14 policy of energy independence;

15 (4) Each year, citizens and businesses in Washington state spend
16 nine billion dollars on gasoline and diesel, with those funds drained
17 from the state economy;

18 (5) The energy freedom program is meant to lead Washington state
19 toward energy independence;

1 (6) Producing more energy here means cleaner, renewable energy that
2 includes, but is not limited to, biofuels, solar power, and wind power;

3 (7) The biofuels industry is a new and developing industry now
4 limited by the availability of capital for construction of facilities
5 for converting farm and forest products into energy and fuels; and

6 (8) For biofuels to be economically viable in Washington, it will
7 be necessary to grow dedicated crops, construct crushers near farms,
8 and build refineries to create fuel.

9 Therefore, it is the intent of the legislature to reduce
10 Washington's dependence on imported oil, expand renewable fuel
11 production and use in Washington, improve use of renewable energy and
12 energy efficiency measures, and promote sustainable rural economic
13 development by creating new jobs and stimulating business and economic
14 activity in local communities across Washington.

15 To accomplish this, the energy freedom program is established to
16 stimulate strategic investment in facilities, infrastructure,
17 technologies, and research and development that will advance
18 Washington's move toward energy independence.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Board" means the energy freedom board.

22 (2) "Department" means the department of community, trade, and
23 economic development.

24 (3) "Political subdivision" means any port district, county, city,
25 town, special purpose district, and any other municipal corporations or
26 quasi-municipal corporations in the state.

27 NEW SECTION. **Sec. 3.** (1) The energy freedom board is created to
28 exercise the powers granted under this chapter.

29 (2) The board consists of thirteen members as follows:

30 (a) One member shall be the director of the department of
31 agriculture or the director's designated representative;

32 (b) One member shall be the director of the department of
33 community, trade, and economic development or the director's designated
34 representative from the department's energy policy division;

35 (c) Four of the members shall be appointed by the legislature: One
36 member from each of the two major caucuses of the house of

1 representatives to be appointed by the speaker of the house of
2 representatives; one member from each of the two major caucuses of the
3 senate to be appointed by the president of the senate; and

4 (d) The following members appointed by the governor: One
5 recognized expert in renewable energy; one representative from
6 Washington State University; one Washington state grower; one producer
7 of alternative fuels; one public fleet manager; one public buildings
8 manager; and one sustainable society advocate.

9 (3) The members appointed under subsection (2)(c) and (d) of this
10 section must initially be appointed to terms as follows: Three members
11 for two-year terms, four members for three-year terms, and four members
12 for four-year terms which includes the chair. Thereafter, each
13 succeeding term is four years. Appointees may be reappointed to serve
14 more than one term.

15 (4) The governor must select the chair of the board. The members
16 of the board shall elect one of their members to serve as vice chair.

17 (5) The department must provide staff support to the board.

18 (6) Members of the board receive no compensation but shall be
19 reimbursed for travel expenses as provided in RCW 43.03.050 and
20 43.03.060.

21 NEW SECTION. **Sec. 4.** In addition to other applicable provisions
22 of law pertaining to conflicts of interest of public officials, no
23 board member, appointive or otherwise, may participate in any decision
24 on any board contract in which the board member has any interests,
25 direct or indirect, with any entity that would be the recipient of any
26 aid under this chapter.

27 NEW SECTION. **Sec. 5.** The board may:

28 (1) Accept from any federal agency loans or grants for the planning
29 or financing of any project and enter into agreements with such an
30 agency concerning the loans or grants;

31 (2) Accept any gifts, grants, or loan of funds, property, or
32 financial or other aid in any form from any other source on any terms
33 and conditions that are not in conflict with this chapter;

34 (3) Adopt rules under chapter 34.05 RCW as necessary to carry out
35 the purposes of this chapter; and

1 (4) Perform all acts and functions as necessary or convenient to
2 carry out the powers expressly granted or implied under this chapter.

3 NEW SECTION. **Sec. 6.** The board shall:

4 (1) Establish a competitive process to solicit proposals for and
5 prioritize project applications for potential funding;

6 (2) Adopt rules governing project eligibility and evaluation
7 criteria;

8 (3) Establish a peer review committee to include board members,
9 renewable energy specialists, energy conservation specialists,
10 scientists, and individuals with specific recognized expertise. The
11 peer review committee shall provide to the board an independent peer
12 review of all proposals submitted that are determined to be competitive
13 for a low-interest loan or grant award. The board shall review
14 findings of the peer review committee when making final loan and grant
15 allocation decisions;

16 (4) Develop the prioritized list through open and public meetings;

17 (5) Establish performance measures against which the program will
18 be evaluated;

19 (6) Aggressively seek federal and other grant moneys;

20 (7) Report annually to the appropriate standing committees of the
21 legislature on the implementation of this chapter. The report must
22 include, but is not limited to, information on the number of
23 applications for financial assistance, the grant or loan amount awarded
24 each project, a description of each project, documentation of nonstate
25 funds to be used for each project, and progress against performance
26 measures developed under this chapter. The first report must be
27 submitted by December 31, 2006.

28 NEW SECTION. **Sec. 7.** (1) The board is authorized to make low-
29 interest loans and grants to political subdivisions of the state for
30 the purposes of assisting political subdivisions in financing the cost
31 of renewable energy and biofuel development projects and activities.
32 Political subdivisions applying for loans and grants shall identify
33 nonstate matching funds available for the project.

34 (2) Applications for loans and grants must be made in the form and
35 manner as the board may prescribe.

1 (3) The board may provide financial assistance for the following
2 types of projects and activities including, but not limited to:

3 (a) Research and development of new and renewable energy and
4 biofuel sources including but not limited to biomass, solar, and wind
5 power;

6 (b) Renewable energy and biofuel development infrastructure and
7 facilities; and

8 (c) Research and development to develop markets for alternative
9 fuel byproducts.

10 (4) Financial assistance awarded to political subdivisions is one
11 time only and may not be used for ongoing operational expenses.

12 (5) Before any financial assistance application is approved, the
13 political subdivision must demonstrate to the board that no other
14 timely source of funding is available to it at costs reasonably similar
15 to financing available from the board.

16 (6) A responsible official of the political subdivision must be
17 present during board deliberations and provide information that the
18 board requests.

19 (7) The board may defer loan repayment for up to twelve months or
20 until the projects start to receive revenue from operations, whichever
21 is sooner.

22 NEW SECTION. **Sec. 8.** The energy freedom loan account is created
23 in the state treasury. All receipts from appropriations made to the
24 account, proceeds from other lawful sources, and loan payments of
25 principal and interest derived from loans made under this chapter must
26 be deposited into the account. Moneys in the account may be spent only
27 after appropriation. Expenditures from the account may be used only
28 for loans and grants to political subdivisions for renewable energy and
29 biofuel development projects and activities authorized under this
30 chapter.

31 NEW SECTION. **Sec. 9.** The sum of one hundred million dollars, or
32 as much thereof as may be necessary, is appropriated for the biennium
33 ending June 30, 2007, from the energy freedom loan account to the
34 department of community, trade, and economic development for the
35 purposes of this act.

1 NEW SECTION. **Sec. 10. FOR THE STATE TREASURER--TRANSFERS**

2 General Fund: For transfer

3 to the energy freedom loan account \$100,000,000

4 **Sec. 11.** RCW 43.135.035 and 2005 c 72 s 2 are each amended to read
5 as follows:

6 (1) After July 1, 1995, any action or combination of actions by the
7 legislature that raises state revenue or requires revenue-neutral tax
8 shifts may be taken only if approved by a two-thirds vote of each
9 house, and then only if state expenditures in any fiscal year,
10 including the new revenue, will not exceed the state expenditure limits
11 established under this chapter. However, for legislation enacted
12 between the effective date of this 2005 act and June 30, 2007, any
13 action or combination of actions by the legislature that raises state
14 revenue or requires revenue-neutral tax shifts may be taken with the
15 approval of a majority of members elected to each house, so long as
16 state expenditures in any fiscal year, including the new revenue, will
17 not exceed the state expenditure limits established under this chapter.

18 (2)(a) If the legislative action under subsection (1) of this
19 section will result in expenditures in excess of the state expenditure
20 limit, then the action of the legislature shall not take effect until
21 approved by a vote of the people at a November general election. The
22 state expenditure limit committee shall adjust the state expenditure
23 limit by the amount of additional revenue approved by the voters under
24 this section. This adjustment shall not exceed the amount of revenue
25 generated by the legislative action during the first full fiscal year
26 in which it is in effect. The state expenditure limit shall be
27 adjusted downward upon expiration or repeal of the legislative action.

28 (b) The ballot title for any vote of the people required under this
29 section shall be substantially as follows:

30 "Shall taxes be imposed on in order to allow a
31 spending increase above last year's authorized spending adjusted for
32 inflation and population increases?"

33 (3)(a) The state expenditure limit may be exceeded upon declaration
34 of an emergency for a period not to exceed twenty-four months by a law
35 approved by a two-thirds vote of each house of the legislature and
36 signed by the governor. The law shall set forth the nature of the
37 emergency, which is limited to natural disasters that require immediate

1 government action to alleviate human suffering and provide humanitarian
2 assistance. The state expenditure limit may be exceeded for no more
3 than twenty-four months following the declaration of the emergency and
4 only for the purposes contained in the emergency declaration.

5 (b) Additional taxes required for an emergency under this section
6 may be imposed only until thirty days following the next general
7 election, unless an extension is approved at that general election.
8 The additional taxes shall expire upon expiration of the declaration of
9 emergency. The legislature shall not impose additional taxes for
10 emergency purposes under this subsection unless funds in the education
11 construction fund have been exhausted.

12 (c) The state or any political subdivision of the state shall not
13 impose any tax on intangible property listed in RCW 84.36.070 as that
14 statute exists on January 1, 1993.

15 (4) If the cost of any state program or function is shifted from
16 the state general fund on or after January 1, 1993, to another source
17 of funding, or if moneys are transferred from the state general fund to
18 another fund or account, the state expenditure limit committee, acting
19 pursuant to RCW 43.135.025(5), shall lower the state expenditure limit
20 to reflect the shift. For the purposes of this section, a transfer of
21 money from the state general fund to another fund or account includes
22 any state legislative action taken that has the effect of reducing
23 revenues from a particular source, where such revenues would otherwise
24 be deposited into the state general fund, while increasing the revenues
25 from that particular source to another state or local government
26 account. This subsection does not apply to the dedication or use of
27 lottery revenues under RCW 67.70.240(3) or property taxes under RCW
28 84.52.068, in support of education or education expenditures. This
29 subsection does not apply to the transfer of general fund revenues
30 under section 10 of this act, in support of energy freedom or energy
31 freedom expenditures under chapter 43.-- RCW (sections 1 through 8 and
32 15 of this act).

33 (5) If the cost of any state program or function is shifted to the
34 state general fund on or after January 1, 2000, from another source of
35 funding, or if moneys are transferred to the state general fund from
36 another fund or account, the state expenditure limit committee, acting
37 pursuant to RCW 43.135.025(5), shall increase the state expenditure
38 limit to reflect the shift.

1 **Sec. 12.** RCW 43.135.035 and 2005 c 72 s 5 are each amended to read
2 as follows:

3 (1) After July 1, 1995, any action or combination of actions by the
4 legislature that raises state revenue or requires revenue-neutral tax
5 shifts may be taken only if approved by a two-thirds vote of each
6 house, and then only if state expenditures in any fiscal year,
7 including the new revenue, will not exceed the state expenditure limits
8 established under this chapter.

9 (2)(a) If the legislative action under subsection (1) of this
10 section will result in expenditures in excess of the state expenditure
11 limit, then the action of the legislature shall not take effect until
12 approved by a vote of the people at a November general election. The
13 state expenditure limit committee shall adjust the state expenditure
14 limit by the amount of additional revenue approved by the voters under
15 this section. This adjustment shall not exceed the amount of revenue
16 generated by the legislative action during the first full fiscal year
17 in which it is in effect. The state expenditure limit shall be
18 adjusted downward upon expiration or repeal of the legislative action.

19 (b) The ballot title for any vote of the people required under this
20 section shall be substantially as follows:

21 "Shall taxes be imposed on in order to allow a
22 spending increase above last year's authorized spending adjusted for
23 personal income growth?"

24 (3)(a) The state expenditure limit may be exceeded upon declaration
25 of an emergency for a period not to exceed twenty-four months by a law
26 approved by a two-thirds vote of each house of the legislature and
27 signed by the governor. The law shall set forth the nature of the
28 emergency, which is limited to natural disasters that require immediate
29 government action to alleviate human suffering and provide humanitarian
30 assistance. The state expenditure limit may be exceeded for no more
31 than twenty-four months following the declaration of the emergency and
32 only for the purposes contained in the emergency declaration.

33 (b) Additional taxes required for an emergency under this section
34 may be imposed only until thirty days following the next general
35 election, unless an extension is approved at that general election.
36 The additional taxes shall expire upon expiration of the declaration of
37 emergency. The legislature shall not impose additional taxes for

1 emergency purposes under this subsection unless funds in the education
2 construction fund have been exhausted.

3 (c) The state or any political subdivision of the state shall not
4 impose any tax on intangible property listed in RCW 84.36.070 as that
5 statute exists on January 1, 1993.

6 (4) If the cost of any state program or function is shifted from
7 the state general fund or a related fund to another source of funding,
8 or if moneys are transferred from the state general fund or a related
9 fund to another fund or account, the state expenditure limit committee,
10 acting pursuant to RCW 43.135.025(5), shall lower the state expenditure
11 limit to reflect the shift. For the purposes of this section, a
12 transfer of money from the state general fund or a related fund to
13 another fund or account includes any state legislative action taken
14 that has the effect of reducing revenues from a particular source,
15 where such revenues would otherwise be deposited into the state general
16 fund or a related fund, while increasing the revenues from that
17 particular source to another state or local government account. This
18 subsection does not apply to the dedication or use of lottery revenues
19 under RCW 67.70.240(3) or property taxes under RCW 84.52.068, in
20 support of education or education expenditures. This subsection does
21 not apply to the transfer of general fund revenues under section 10 of
22 this act, in support of energy freedom or energy freedom expenditures
23 under chapter 43.-- RCW (sections 1 through 8 and 15 of this act).

24 (5) If the cost of any state program or function and the ongoing
25 revenue necessary to fund the program or function are shifted to the
26 state general fund or a related fund on or after January 1, 2007, the
27 state expenditure limit committee, acting pursuant to RCW
28 43.135.025(5), shall increase the state expenditure limit to reflect
29 the shift.

30 NEW SECTION. Sec. 13. (1) Sections 1 through 11 and 15 of this
31 act take effect July 1, 2006.

32 (2) Section 12 of this act takes effect July 1, 2007.

33 NEW SECTION. Sec. 14. Section 11 of this act expires July 1,
34 2007.

1 NEW SECTION. **Sec. 15.** Sections 1 through 10 and 12 of this act
2 expire June 30, 2016, unless reauthorized by the legislature. Any
3 moneys in the energy freedom loan account on that date and all payments
4 received after that date must be deposited in the state general fund.

5 NEW SECTION. **Sec. 16.** Sections 1 through 8 and 15 of this act
6 constitute a new chapter in Title 43 RCW.

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