

HOUSE BILL REPORT

E2SHB 1303

As Amended by the Senate

Title: An act relating to providing for the means to encourage the use of cleaner energy thereby providing for healthier communities by reducing emissions.

Brief Description: Encouraging the use of cleaner energy.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Dickerson, B. Sullivan, Jarrett, Linville, Priest, Appleton, Pedersen, Kenney, Sells, Morrell, Lantz, O'Brien, Chase, Eickmeyer, McCoy, Haigh, Rolfes, Hurst, Eddy, Springer, Schual-Berke, Fromhold, Moeller, Hunt, Goodman, Williams, Darneille, Kagi, Lovick, Campbell, Dunshee, Sommers, Simpson, Hunter, Roberts and Miloscia).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/24/07, 2/8/07 [DPS];
Appropriations: 2/20/07, 3/3/07 [DP2S(w/o sub AGNR)].

Floor Activity:

Passed House: 3/10/07, 79-18.
Senate Amended.
Passed Senate: 4/13/07, 44-4.

Brief Summary of Engrossed Second Substitute Bill

- Requires the Office of the Superintendent of Public Instruction to implement a school bus replacement incentive program.
- Moves the Energy Freedom Authority from the Department of Agriculture to the Department of Community, Trade, and Economic Development.
- Requires all state and local fleets to satisfy their fuel needs with biofuels by the year 2015, unless the mandate is deemed impracticable by the Energy Freedom Coordinator.
- Requires a number of studies and reports.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Dickerson, Eickmeyer, Grant, Lantz, McCoy, Orcutt, Strow and VanDeWege.

Minority Report: Do not pass. Signed by 4 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Hailey and Newhouse.

Staff: Jason Callahan (786-7117).

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 Agriculture & Natural Resources. Signed by 28 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Anderson, Buri, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 6 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Chandler, Hinkle and Kretz.

Staff: Alicia Dunkin (786-7178).

Background:

Diesel Emissions Retrofits and Funding

The Air Pollution Control Account serves as a source of funding to the Department of Ecology (Ecology) and local air pollution control authorities. Within the Air Pollution Control Account exists a segregated subaccount that, until July 1, 2008, receives 58.12 percent of the revenue generated by certain fees on vehicle certificates of ownership. After July 1, 2008, the revenue from these fees are scheduled to be redirected into the Department of Transportation's Road Construction Nickel Account.

Money in the segregated subaccount of the Air Pollution Control Account must be used in certain ways. Eighty-five percent of the revenue in the subaccount must be distributed to the local air pollution control authorities in proportion to the revenue generated for the subaccount from vehicles within the boundaries of the individual authorities. The 15 percent not transferred to local air authorities remains with Ecology.

The local air authority receiving the funding must use 85 percent of that money to retrofit school buses or other publically-owned pieces of diesel equipment with exhaust emission controls or to fund infrastructure that will allow school buses to use alternative fuels.

Air Pollution Control at Ports

Port districts are expressly permitted to acquire and operate facilities for the control or elimination of air pollution. Once acquired or constructed, a port district may offer others the use of the facility under terms and conditions set by the port commissioners. However, a port district may not use any tax revenues in providing pollution control facilities and may not offer use of the pollution control facility, if a similar facility is available for use in the area without the consent of the other facility.

Energy Freedom Program and Alternative Fuels

The Energy Freedom Program is a program within the Washington Department of Agriculture (WSDA) to aid the development of a biofuels industry in Washington. As part of the Energy Freedom Program, the WSDA can award grants and loans to applicants interested in advancing the state's biofuel industry.

Biofuel Use at State Agencies

All state agencies are encouraged to use a fuel blend of 20 percent biodiesel and 80 percent petroleum diesel. Starting in 2006, agencies were required to use biodiesel as an additive to any ultra-low sulfur diesel that they may be using. State agencies using biodiesel fuel are required to file quarterly reports with the Department of General Administration (GA) that documents their use of the fuels and any problems that arose in their use.

By 2009, all state agencies are required to use a minimum of 20 percent biodiesel.

Summary of Engrossed Second Substitute Bill:

Diesel Emissions Retrofits and Funding

The Office of the Superintendent of Public Instruction (OSPI) is directed to implement a school bus replacement incentive program that funds up to 10 percent of the cost of new school buses purchased by a school district. In order to qualify for the 10 percent of cost reimbursement, the bus purchased by a school district must be model year 2007 or newer and must be replacing a bus from model year 1994 or older. Any buses that are replaced under the OSPI incentive program must be surplus. The school district must provide written documentation that the surplus bus was sold for scrap and not used for future road use. In addition, the authority to use the funding provided for the existing bus emissions retrofit program is expanded from only publicly-owned diesel equipment to both publicly and privately-owned diesel equipment.

Air Pollution Control at Ports

The term "air pollution control facility" is specified to not include air quality improvement equipment that provides emission reductions for engines, vehicles, and vessels. This change allows port districts to use tax revenue to support this type of equipment and to offer the equipment to parties outside of the port district even if similar equipment exists in the area.

Energy Freedom Program and Alternative Fuels

The Energy Freedom Authority is created within the Department of Community, Trade, and Economic Development (DCTED), and the administrative home of the Energy Freedom Account is moved to DCTED from the Department of Agriculture.

The position of Energy Freedom Coordinator is created within the Energy Freedom Authority. The Energy Freedom Coordinator is responsible for coordinating state efforts to develop a biofuels market, developing a plan for a complete biofuels infrastructure supply chain for public-sector end users, certifying that biofuels used by state and local government have been produced exclusively from recycled products or Washington feedstocks, working to develop biofuel fueling stations, and developing a pilot project for providing E85 fueling capacity at appropriate intervals along Interstate 5, Interstate 90, and Interstate 83. The Energy Freedom Program is expanded to include grants or loans for refueling projects. The Energy Freedom Coordinator may award a grant or a loan if the proposed refueling project meets the following criteria:

- it will offer alternative fuel to the motoring public;
- it will not require continued state support;
- it is located within a green highway zone;
- it will contribute towards an efficient and adequately spaced alternative fuel refueling network along I-5, I-82, and I-90; and
- it will increase access to alternative fueling infrastructure for the motoring public along I-5, I-82, and I-90.

Cellulosic ethanol production facilities are expressly made eligible for assistance under the Energy Freedom Program. The term "cellulosic ethanol" is defined. The definition includes ethanol derived from lignocellulosic or hemicellulosic matter, which are two types of plant materials. To be eligible for assistance, the facility producing the plant matter must do so in a renewable or reoccurring fashion.

The Energy Freedom Account (Account) is provided with criteria and goals to be considered when funding from the Account is distributed. These include assisting Washington farmers and businesses in developing a biofuel market.

Any state agency receiving funding from the Account is prohibited from withholding more than 3 percent from the appropriation to pay for administrative overhead. Universities and other entities that are not state agencies are limited to withholding no more than 15 percent for administrative overhead.

Conservation districts, public development authorities, and electric utilities are given direct authority to be involved with the biofuel industry in the state. The entities may enter into crop purchase contracts for dedicated energy crops used for the production, selling, or distributing of biodiesel produces from Washington feedstock, cellulosic ethanol, and cellulosic ethanol blends. Washington State University is directed to analyze and recommend models for possible implementation of biofuel incentive programs. Incentives to be studied include market incentives and research grant preferences.

Department of General Administration

The General Administration (GA) is given certain mandates relating to the fuel efficiency of the state's motor fleet. By the start of 2020, the state's motor fleet must have an annual fossil fuel consumption that is at least 25 percent less than the annual consumption for the year 2006. Part of this effort requires the GA to, when replacing tires on a fleet vehicle other than a State Patrol Vehicle, use replacement tires with an equal or superior rolling resistance of the tire being removed. The GA is provided with the discretionary authority to contract with public or private producers of biodiesel or ethanol, and to combine the needs of local governmental entities into the contracts. The GA may condition any contracts for alternative fuels to include provisions relating to fuel standards, crop origin, price, and delivery date.

Vehicle Electrification

The state is authorized to purchase power at its own expense that is used to recharge both private and public plug-in electric vehicles at state-owned buildings. In addition, a vehicle electrification work group (Work Group) is established. The Work Group members are to be appointed by the Governor and represent various interests and points of view. By the end of 2008, the Work Group must submit its findings on a number of subjects related to an expansion of plug-in vehicles in the state.

Biofuel Use at State Agencies

By the year 2015, all state agencies and local government subdivisions of the state must satisfy 100 percent of their fuel needs for all vessels, vehicles, and construction equipment from biofuels certified by the Clean Energy Coordinator as having been produced from recycled materials or Washington feedstocks. If after 2015, the Clean Energy Coordinator determines that the 100 percent biofuel use mandate is not practicable, then the Clean Energy Coordinator may suspend, delay, or modify the requirement until satisfied the requirement is deemed practicable.

Reports and Studies

In addition to the Work Group and the Washington State University biofuels incentive study, the DCTED is directed to develop a framework for a regional approach to climate change, and the University of Washington is directed to complete a 50-year state climate change assessment and an analysis of the potential human health impacts of climate change.

EFFECT OF SENATE AMENDMENT(S):

Removes and changes some of the intent language, removes the title Energy Freedom Coordinator and transfers certain duties of the position to the director of the Department of Community, Trade, and Economic Development, directs the Department of Community, Trade, and Economic Development to develop rules outlining how the practicability of satisfying 100 percent of the public sector's fuel needs through biofuels or electricity will be judged, defines the term "alternative fuels", creates the Green Energy Account as a subaccount of the Energy Freedom Account, allows the director of the Department of

Community, Trade, and Economic Development to waive the administrative overhead caps in the Energy Freedom Account, requires the director of the Department of Community, Trade, and Economic Development to conduct analyses and make recommendations regarding biofuel feedstocks, allows existing programs in the Energy Freedom Program to continue to be managed by the Department of Agriculture, links certain reports to the process established in Executive Order 07-02, changes the scope of certain studies, creates a vehicle electrification demonstration grant program, and adds an emergency clause.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: (Agriculture & Natural Resources)

(In support) The country's dependence on fossil fuels, which have to be imported into the state, is a threat to both the environment and the economy. Increasing the use of biofuels will benefit in-state businesses and reduce carbon emissions and other forms of air pollution. As a state, Washington exports millions of dollars for fossil fuels. The clean energy economy can be a large part of the state's economic future. An incentive approach, as opposed to mandated actions, is the best approach for Washington's businesses. A carbon cap and trade system will be mandated soon by the federal government, and Washington needs to prepare itself to be positioned competitively in that market. The state should be a leader in reducing fossil fuel consumption, and a leader in ensuring that Washington crops are used for fuel production.

It is important to provide assistance in producing, selling, and distributing biofuels. Farmers need help in developing the technology and markets for biofuel feedstock, and there are still some technical barriers that the state can assist with overcoming. Biofuels offer a new paradigm for farmers, and create an exciting future. University-level research can help farmers capture the potential.

This is the next step towards Washington making a contribution to the response to climate change and builds upon legislative action in past years to build a sustainable biofuels infrastructure. Complete ethanol technology may be a few years away, but the state needs to put itself in a competitive position now. Importantly, this bill assists the biofuels industry in growing in a way that does not use valuable food crops for energy production.

Expanding the use of wood waste and other wood materials has the additional benefit of making the state's forests healthier. Forest health is degraded, in part, because the thinning of trees is not economically viable. A market for wood products in energy generation could produce the economic incentives necessary to make good silviculture economically viable. The type of wood used for energy is often wood waste and other underutilized products. Fuel can be generated from wood without compromising the current fiber market.

Expanded use of electric cars is within reach and there is a high potential that the market share for electric cars can be increased. It is important to study the opportunities and impacts of an expanded electrification market in the state.

Cleaning the state's school bus fleet is important because diesel emissions are the number one precursor to cancer in children, and offers the best cost-benefit ratio for cleaning the air. The older and dirtiest buses are unable to be retrofitted with clean air technology, so the best approach is to get them off of the roads. The state's school bus funding model requires local school districts to front the cost of fleet expansion, resulting in Washington having one of the oldest school bus fleets in the nation. New buses will not only reduce harmful emissions, but will also lower repair costs for local school districts.

Ports are given the assistance in air pollution control that they need in order to sustain their growth. This bill would compliment and enhance actions that the ports have already taken to reduce emissions.

(Concerns) The Work Group should study ship-side technologies for reducing vessel engine use at ports, and also include representation from business and the auto manufacturers.

Biofuels expansion should not be limited to cellulosic materials. It is important to include incentives for all potential feedstock materials that may be developed, such as sunflowers and soybeans. The research should also take advantage of work done by professors in neighboring states, and perhaps expire in the future so implementation can begin.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) Excessive dependence on fossil fuels jeopardizes Washington's economic security, environmental integrity, and public health. This bill provides strategies for us to combat these threats. We as a state pay \$30 million per day on fossil fuels, which are produced outside of the state. What a win it will be for us to come forward with programs to produce alternative fuels in state at the same time that we reduce the use of fossil fuels. We have been cleaning up school buses and diesel fuel use, but the job is not yet done. We need to reduce the pollution caused by diesel in ports. We have explored the use of biofuels but have many technical challenges ahead of us. In weaning ourselves from fossil fuel we need to set an example, and the only mandate in this bill is to the state to reduce fossil fuel usage by 20 percent by the year 2020. We have spelled out research and development in this bill. There is ample room to argue who caused the problem, but together we can secure a clean energy future and protect the health of our citizens. We are interested in this bill because it provides opportunities and incentives for alternative fuels. We have been working on wind power leases and have another 100 plus in construction or soon to be constructed. We are working with large and small forest landowners on forest-based carbon storage for carbon marketing and the development of a biofuel industry in Washington and a carbon market. Use of woody debris and materials left after harvest and material that are thinned from overstocked in state can be used as an alternative fuel. Overcrowded and insect-infested trees in the state could be a resource for alternative fuel. We want to be included in the biofuel and carbon market; both

activities have no additional cost to the Department of Natural Resources. Every year the environmental community organizes itself around four priorities and this bill is one of those priorities. The bill continues previous state efforts and is the next appropriate step. The bill does not take money and we hope you will support it and agree with the provisions of the bill. This bill would complete the retrofit of post-1994 school buses and provide incentives for schools to replace buses from 1994 and older. This bill would get us from the idea of energy independence to actually getting crops planted.

(Opposed) None.

Persons Testifying: (Agriculture & Natural Resources) (In support) Representative Mary Lou Dickerson, prime sponsor; Clifford R. Traisman, Washington Conservation Voters and Washington Environmental Council; Mike Ryhard and Dennis McLaren, Puget Sound Clean Air Agency; Beth Doglio, Climate Solutions; Sarah Flagg, Port of Seattle; Dr. Brian Naasz, Earth Ministry; Kevin Raymond, Washington Biodiesel and Pacific Forest Trust; Allan Jones, Office of the Superintendent of Public Instruction; Carrie Nyssen, American Lung Association of Washington; Craig Partridge, Department of Natural Resources; Toni Potter, League of Women Voters; Sarah Patton, Northwest Energy Coalition; Bill Stauffach, American Forest & Paper Association; Fred J. Fleming, Inland Empire Oilseeds; and Bill LaBorde, Washington State Public Interest Research Group.

(Concerns) Sean Eagan, Port of Tacoma; Llewellyn Matthews, Northwest Pulp & Paper Association; Chris McCabe, Association of Washington Business; Nancee Wildermuth, Alliance of Automobile Manufacturers; and Jack Field, Washington Cattlemen's Association.

Persons Testifying: (Appropriations) Representative Dickerson, prime sponsor; Mike Ryherd, Puget Sound Clean Air Agency; Doug Sutherland, Commissioner of Public Lands; Marcia Fromhold, Puget Sound Clean Air Agency; John Kroman, Greater Seattle Chamber of Commerce; Allan Jones, Office of the Superintendent of Public Instruction; Clifford Traisman, Washington Environmental Council; and Tom Parker, Prometheus Energy.

Persons Signed In To Testify But Not Testifying: (Agriculture & Natural Resources) None.

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