

SENATE BILL REPORT

SHB 2639

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 29, 2008

Title: An act relating to procurement of renewable resources by public agencies.

Brief Description: Regarding the procurement of renewable resources.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Takko, Kretz, Blake, Condotta, VanDeWege and Haler).

Brief History: Passed House: 2/15/08, 92-2.

Committee Activity: Water, Energy & Telecommunications: 2/27/08, 2/29/08 [DPA, DNP].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: Do pass as amended.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Fraser, Hatfield, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

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

Staff: Sam Thompson (786-7413)

Background: Four Washington public utilities, including two public utility districts (PUDs), a rural electric cooperative and a mutual power company, recently joined in a cooperative venture with private entities to finance a wind energy project and benefit from a Federal production tax credit, which the public utilities could not claim because of their nonprofit status. Advocates seek legislation providing clearer authority for these public-private ventures.

The state Public Works Act requires government contractors to pay their employees prevailing wages on public work contracts. The prevailing wage is the hourly wage, including usual benefits and overtime, paid in the largest city in each county to the majority of workers in a particular trade or occupation. The prevailing wage requirement applies to state agencies and local governments, including PUDs.

Summary of Bill (Recommended Amendments): Public entities may enter into agreements with limited liability companies, in addition to other types of private entities. Cities, PUDs, and joint operating agencies are authorized to enter into agreements with a broad variety of local, state, federal and tribal government entities, private electric utilities, rural electric

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cooperatives, and generation and transmission cooperatives in cooperative ventures to plan, finance, acquire, construct, operate and maintain electric generating plants powered by renewable energy. Agreements must provide that participating public entities have ownership interests equal to the percentage of money or property they supplied for the undertaking, and that they own and control a like percentage of the electrical output.

A PUD may sell, lease, or dispose of an electric generating project powered by renewable energy without voter approval if the PUD retains: (1) the right to lease the project, or purchase energy generated by the project; and (2) the option to repurchase all or part of the project, at or below fair market value, upon termination of the lease of the project, or termination of the right to purchase energy from the project.

Auditing standards are revised to allow payment of a claim against a public entity if the auditor finds that an advance payment is due and payable pursuant to a contract, or that an advance payment is available as an option for fulfillment of a contract.

Any entity in which a PUD participates, either directly or as co-owner of a separate legal entity, in constructing or developing a renewable energy project must comply with the state Public Works Act, requiring contractors to pay their employees prevailing wages.

EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Amendment(s): An intent section is added stating that it is in the public interest for PUDs to develop renewable energy projects and that consolidating and clarifying provisions concerning these projects will reduce planning time and expense. Agreements concerning common facilities may provide for formation, operation, and ownership of a separate legal entity that may own the facilities. A project agreement may include a lease-back provision and an option to repurchase the property at the termination of the lease. A 22-year time limit upon exercising the option to repurchase the property is deleted. A provision requiring compliance with prevailing wage standards is clarified and codified in a different statutory provision. Technical changes clarify new language and existing law.

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.

Staff Summary of Public Testimony on Recommended Amendments: PRO: This bill will reduce legal fees and other costs associated with public-private renewable energy projects by clarifying the authority of PUDs and other public entities to enter into these projects. It will promote new projects like the successful White Creek Wind Project in Klickitat County and provide many family-wage jobs for construction workers. A necessary exemption from PUD voter approval requirements is narrowly drawn, with safeguards limiting risk and liability of PUDs participating in public-private renewable energy projects.

Persons Testifying: PRO: Representative Takko, prime sponsor; Vicki Austin, Dave Warren, Washington Public Utility District Association; Bob Guenther, International

Brotherhood of Electrical Workers #77; Carrie Dolwick, Northwest Energy Coalition; Dave Johnson, Washington State Building and Construction Trades Council.