

# SENATE BILL REPORT

## SB 5086

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As Reported by Senate Committee On:  
Environment, Water & Energy, February 4, 2011

**Title:** An act relating to the use of geothermal resources for commercial electricity production.

**Brief Description:** Regarding the use of geothermal resources for commercial electricity production.

**Sponsors:** Senators Kline, Rockefeller, Ranker, Harper, Honeyford and Chase.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 1/26/11, 2/04/11 [DPS].

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Majority Report:** That Substitute Senate Bill No. 5086 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford, Ranking Minority Member; Chase, Delvin, Fraser, Holmquist Newbry, Morton and Ranker.

**Staff:** Karen Epps (786-7424)

**Background:** In 1974 the Legislature passed the Geothermal Resources Act (Act) to promote electricity produced from geothermal resources. Geothermal resources are considered to be in their own class, being neither a mineral resource or a water resource. They are treated as the private property of the owner of the surface land. Under the Act, the Department of Natural Resources is authorized to regulate the drilling and operation of geothermal wells.

Geothermal resources, by-products, or waste products are also subject to the Water Code (Title 90), the Fish and Wildlife Code (Title 77), and other state environmental pollution control laws. Additionally, the use of by-product water resources for beneficial use, including but not limited to greenhouse heating, warm water fish propagation, irrigation, and hot springs baths, is subject to appropriation under the Water Code.

In 1981 the Legislature established the geothermal energy account to provide for the allocation of revenues distributed to the state under the Mineral Lands Leasing Act of 1920 and the Geothermal Steam Act of 1970. The Mineral Lands Leasing Act established a federal

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mineral leasing system primarily on fuel minerals such as oil and gas, coal, oil shale, and geothermal resources. The Geothermal Steam Act governs the lease of geothermal resources on public lands. The chapter creating the geothermal energy account terminates on June 30, 2011.

**Summary of Bill (Recommended Substitute):** Geothermal resources may be reserved by or conveyed to another person. Interests in geothermal resources may be severed from the surface land and reserved or conveyed as a property interest, separate from the land. The beneficial use of water related to geothermal resources, other than commercial electricity production, is subject to appropriation under the Water Code. If the use of geothermal resources takes place in a closed loop system that is connected to and integrated into a commercial electricity production system, the use is not subject to appropriation under the Water Code.

The geothermal energy account is created to provide for the allocation of revenues distributed to the state under the Mineral Lands Leasing Act of 1920 and the Geothermal Steam Act of 1970. Distribution of funds from the geothermal energy account must be distributed as follows:

- 30 percent of the funds go to the Department of Natural Resources for geothermal exploration and assessment,
- 30 percent of the funds go to Washington State University for the purpose of encouraging the development of geothermal energy, and
- 40 percent of the funds go to the county of origin to mitigate impacts caused by geothermal exploration.

The state treasurer is responsible for distribution of the funds to the county of origin.

**EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute):** Clarifies that authorization for the beneficial use of water related to geothermal resources, other than for commercial electricity production, is subject to appropriation under the Water Code. Includes as new sections three sections of existing code related to the geothermal account that are scheduled for repeal on June 30, 2011. Removes the repeal of the termination section eliminating the chapter creating the geothermal energy account.

**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 Original Bill:** PRO: This bill would make geothermal rights severable in the same manner as mineral rights are severable. The ability to lease geothermal resources depends on the severability of the resources. Washington is a high heat flow state evidenced by plenty of expressions of volcanoes. High rainfall and complicated geology makes Washington a tough place to do exploration for geothermal

energy. This bill is an opportunity to encourage geothermal energy development. This bill makes clearer some of the regulations on geothermal energy, including ownership and severability. There have been recent lease sales in Oregon and Idaho, so it makes sense that leasing and exploration will occur in Washington in the future. It is important to make sure that there will not be impairment or stream flow depletion. This bill will reduce risks in project development of geothermal resources. This bill will provide more efficient use of geothermal resources. This bill also leaves in place the account that is used to manage federal royalty revenues.

**Persons Testifying:** PRO: Senator Kline, prime sponsor; Dave Norman, Department of Natural Resources; Travis Burns, Department of Ecology; Kathleen Callison, Law Office of Kathleen Callison.