

SENATE BILL REPORT

HB 2264

As of Second Reading

Title: An act relating to amending the statewide minimum privacy policy for disclosure of customer energy use information.

Brief Description: Amending the statewide minimum privacy policy for disclosure of customer energy use information.

Sponsors: Representatives Smith and Haler.

Brief History: Passed House: 6/28/15, 97-0.

Committee Activity:

Staff: William Bridges (786-7416)

Background: The Statewide Minimum Privacy Policy for Disclosure of Customer Energy Use Information (Energy Privacy Policy). The Legislature established the Energy Privacy Policy during the 2015 regular session (SHB 1896), which becomes effective July 24, 2015. Among other things, the Energy Privacy Policy requires an electric utility to obtain customer permission before disclosing any private or proprietary customer information to a third party with which the utility has a contract.

Private customer information includes the retail electric customer's name, address, telephone number, and other personally identifying information. Proprietary customer information includes information relating to the source, technical configuration, destination, and amount of electricity used by a retail electric customer.

Consumer Protection Act (CPA). A violation of the Energy Privacy Policy is a violation of the CPA, which prohibits unfair and deceptive practices in the marketplace, and may be enforced by the Attorney General of Washington or by private lawsuits. Remedies include injunctive relief, fines, treble damages, and recovery of court costs and attorneys' fees.

The CPA does not generally apply to actions regulated by the Washington Utilities and Transportation Commission (UTC) or other regulatory bodies.

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.

Consumer Owned Utilities. Under the Washington laws governing consumers of electricity, a consumer-owned utility (COU) is a municipal electric utility, a public utility district, an irrigation district, a cooperative, or a mutual corporation or association that is engaged in the business of distributing electricity to more than one retail electric customer in the state. The UTC does not have authority to regulate COUs, which are instead primarily regulated by their own governing bodies. The State Auditor's Office, however, has authority to examine the financial affairs of all local governments, including public utility districts and municipal electric utilities.

Summary of Bill: Prohibiting the Third-Party Sale of Customer Energy Use Information. An electric utility's authority to disclose private or proprietary customer information to a third party with which the utility has a contract is modified. In addition to prohibiting the third party from further disclosing the customer information, the contract must prohibit the third party from selling the information to a party that is not the utility and not a party to the contract with the utility.

Requiring COUs to Implement the Energy Privacy Policy. A COU must implement the Energy Privacy Policy through a policy adopted by its governing board within one year of the effective date of the act. The policy must include procedures, consistent with applicable law, for investigation and resolution of complaints by a retail electric customer whose private or proprietary information may have been sold by the COU or disclosed by the utility for the purposes of marketing services or product offerings without the customer's permission.

Modifying Enforcement of the Energy Privacy Policy. Disclosure or sale of private or proprietary customer information by an electric utility is no longer declared an unfair or deceptive act in trade or commerce and enforceable under the CPA. Disclosure or sale of private or proprietary customer information by a third party remains enforceable as a CPA violation, if a contract with the electric utility prohibited the third party from further disclosure or sale of the information.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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