

HOUSE BILL REPORT

ESHB 2645

As Passed Legislature

Title: An act relating to the photovoltaic module stewardship and takeback program.

Brief Description: Concerning the photovoltaic module stewardship and takeback program.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Smith, Eslick and Pollet).

Brief History:

Committee Activity:

Environment & Energy: 1/27/20, 2/4/20 [DPS].

Floor Activity:

Passed House: 2/16/20, 95-1.

Senate Amended.

Passed Senate: 3/7/20, 48-1.

House Concurred.

Passed House: 3/10/20, 94-3.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Amends the definition of "photovoltaic module" under the Photovoltaic Module Stewardship and Takeback Program to include interconnections, terminals, and protective devices, such as diodes, that are part of a system connected to the grid or utility service.
- Requires a photovoltaic module manufacturer to submit a stewardship plan to the Department of Ecology by July 1, 2022, rather than January 1, 2020.
- Requires that no manufacturer, distributor, retailer, or installer may sell, or offer for sale, a photovoltaic module for which a stewardship plan has not been approved beginning July 1, 2023, rather than January 1, 2021.
- Requires a manufacturer or its designated stewardship organization to provide an annual report to the Department of Ecology on the implementation of its stewardship plan beginning April 1, 2024, rather than April 1, 2022.
- Requires the Washington State University Extension Energy Program to convene a Photovoltaic Module Recovery, Reuse, and Recycling Work Group to review and provide recommendations in a final report to the Legislature

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and the Governor on potential methodologies for the management of end-of-life photovoltaic modules.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Goehner, Mead, Robinson and Shewmake.

Staff: Nikkole Hughes (786-7156).

Background:

The Photovoltaic Module Stewardship and Takeback Program.

The Photovoltaic Module Stewardship and Takeback Program (Program) requires manufacturers of photovoltaic solar panels to provide the public a convenient and environmentally sound way to recycle all modules purchased in the state after July 1, 2017.

Each manufacturer must prepare and submit a stewardship plan to the Department of Ecology (Department) by the later of January 1, 2020, or within 30 days of its first sale of a photovoltaic module in or into the state.

The Department was required to establish a stakeholder process by January 1, 2018, in order to develop guidance for the photovoltaic module stewardship plans required of manufacturers. The Department published its initial Manufacturer Plan Guidance for the Program (Plan Guidance) in July 2019 and revised it in January 2020.

The Department must approve a stewardship plan if it determines the plan addresses each element outlined in its Plan Guidance. Beginning January 1, 2021, no manufacturer may sell or offer for sale a photovoltaic module in or into the state unless the manufacturer has submitted a plan to, and received approval from, the Department.

The Department may assess a penalty of up to \$10,000 for each sale of a photovoltaic module in or into the state that occurs after an initial written warning to a manufacturer that is not participating in a plan.

Summary of Engrossed Substitute Bill:

Photovoltaic Module Stewardship Plans.

Each manufacturer must submit a stewardship plan to the Department of Ecology by the later of July 1, 2022, or within 30 days of its first sale of a photovoltaic module in or into the state.

Annual Reporting under the Photovoltaic Module Stewardship and Takeback Program.

Beginning April 1, 2024, and by April 1 of each year thereafter, a manufacturer or its designated stewardship organization must provide to the Department of Ecology

(Department) a report for the previous calendar year that documents implementation of the manufacturer's stewardship plan and assesses achievement of its performance goals.

Enforcement of the Photovoltaic Module Stewardship and Takeback Program Requirements. Beginning July 1, 2023, no manufacturer, distributor, retailer, or installer may sell, or offer for sale, a photovoltaic module in or into the state unless the manufacturer of the photovoltaic module has submitted a stewardship plan to the Department and received plan approval.

The Department may assess a penalty of up to \$10,000 upon a manufacturer for each sale that occurs in or into the state of a photovoltaic module for which a stewardship plan has not been submitted by the manufacturer and approved by the Department.

The Department must send a written warning to a distributor, retailer, or installer that sells or installs a photovoltaic module made by a manufacturer that is not participating in a plan. The written warning must inform the distributor, retailer, or installer that they may no longer sell or install a photovoltaic module if a stewardship plan for that brand has not been submitted by the manufacturer and approved by the Department within 30 days of the notice.

Photovoltaic Module Recovery, Reuse, and Recycling Work Group.

Subject to appropriations, the Washington State University Extension Energy Program (WSU Energy Program) must convene a Photovoltaic Module Recovery, Reuse, and Recycling Work Group (Work Group) to review and provide recommendations on potential methodologies for the management of end-of-life photovoltaic modules, including modules from utility scale projects.

The membership of the Work Group must include, but is not limited to, members representing:

- a manufacturer of photovoltaic modules located in the state;
- a manufacturer of photovoltaic modules located outside the state;
- a national solar industry group;
- solar installers in the state;
- a utility scale solar project;
- a nonprofit environmental organization with expertise in waste management;
- a city solid waste program;
- an organization with expertise in photovoltaic module recycling;
- a community-based environmental justice group; and
- the Department.

The WSU Energy Program must submit its findings and recommendations in a final report to the Legislature and the Governor by December 1, 2021.

Definitions.

"Distributor" means a person who markets and sells photovoltaic modules to retailers in Washington.

"Installer" means a person who assembles, installs, and maintains photovoltaic module systems.

"Photovoltaic module" includes interconnections, terminals, and protective devices, such as diodes, that are part of a system connected to the grid or utility service.

"Predecessor" means an entity from which a manufacturer purchased a photovoltaic module brand, its warranty obligations, and its liabilities. "Predecessor" does not include entities from which a manufacturer purchased only manufacturing equipment.

"Retailer" means a person who offers photovoltaic modules for retail sale in the state through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or Internet sales.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Washington's solar stewardship program was the first of its kind in the country. The program was developed in the context of the state providing \$110 million in subsidies to the solar industry in the state. Europe has been recycling solar panels for years; these requirements are not new to the global solar industry. This bill would close the loophole in existing law that exempts utility-scale solar systems from the stewardship program. This bill makes sure the state is covering the industry at large and also moves back implementation for a year. The state needs to ensure that it is not passing on to another generation the externalities of its consumption today. The state does need to figure out what to do with the pre-2017 panels.

(Opposed) None.

(Other) The fiscal impact of this bill is not considered in the Governor's operating budget proposal.

Persons Testifying: (In support) Representative Smith, prime sponsor; and Heather Trim, Zero Waste Washington.

(Other) Laurie Davies, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.