

SENATE BILL REPORT

SB 5366

As Reported by Senate Committee On:
Environment, Energy & Technology, February 10, 2023

Title: An act relating to preventing utility shutoffs for nonpayment during extreme heat.

Brief Description: Preventing utility shutoffs for nonpayment during extreme heat.

Sponsors: Senators Nguyen, Cleveland, Dhingra, Hasegawa, Hunt, Kuderer, Lias, Lovelett, Randall, Saldaña, Stanford, Valdez and Wilson, C.; by request of Attorney General.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/31/23, 2/10/23 [DPS, DNP].

Brief Summary of First Substitute Bill

- Prohibits utilities or landlords from involuntarily terminating electric or water utility service for nonpayment to residential users on any day when the National Weather Service has issued or announced that it intends to issue a heat-related alert.
- Requires electric and water utilities and landlords to promptly make a reasonable attempt to reconnect service to a dwelling disconnected for nonpayment upon request from a residential user when the heat-related alert is issued, and authorizes utilities and landlords to require the residential user to enter into a payment plan prior to reconnecting service to the dwelling.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5366 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

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

Minority Report: Do not pass.

Signed by Senators MacEwen, Ranking Member; Boehnke and Short.

Staff: Kimberly Cushing (786-7421)

Background: Winter Low-Income Payment Programs. Certain electric utilities, including investor-owned utilities (IOUs), public utility districts (PUDs), and city-owned utilities, are prohibited from terminating residential space heating utility service between November 15 through March 15 if the customer meets certain requirements.

To be eligible for the protections under the law, the customer must notify the utility of the inability to pay for utility services, provide self-certification of household income to the Department of Commerce (Commerce), apply for home heating assistance, apply for low-income weatherization assistance, and agree to a payment plan. The payment plan must be designed to pay the past due bill and continued utility service. The utility may not require payment of more than 7 percent of the customer's monthly income plus one-twelfth of any arrearage accrued.

Summary of Bill (First Substitute):

Prohibited Termination of Utility Service During Excessive Heat. An electric or water utility or landlord may not involuntarily terminate utility service due to lack of payment to any residential user on any day when the National Weather Service (NWS) has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area whether the residential user's address is located.

An electric or water utility or landlord must inform all customers in the notice of disconnection how to seek reconnection and provide clear and specific information on how to make that request, including how to contact the utility or landlord.

A residential user whose electric or water utility service has been disconnected at their dwelling for lack of payment may request that the utility or landlord reconnect service on any day a heat-related alert has been issued where their address is located. Upon a request to reconnect services, a utility or landlord must promptly make a reasonable attempt to reconnect service to the dwelling.

When receiving a request to reconnect service for a heat-related alert, electric and water utilities and landlords may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If a repayment plan is required, it must:

- be designed both to pay the past due bill by the following May 15, or as soon as possible in certain instances, and to pay for continued utility service;
- not require monthly payments over 6 percent of the customer's monthly income;
- allow a customer to pay a higher percentage during the repayment period; and
- require the customer to contact the utility to reformulate the plan if assistance

payments are received by the customer subsequently.

Reporting. Annually, each consumer-owned utility (COU) with more than 25,000 electric customers or 2500 water customers in Washington must submit a report to Commerce that includes the total number of disconnections that occurred on each day that the NWS issued, or announced that it intended to issue, a heat-related alert.

COUs with less than 25,000 electric customers or 2500 water customers must provide similar information if it is requested by Commerce. Any other information requested by Commerce must be provided by all COUs, subject to availability. Required information must be submitted in a form, timeline, and manner prescribed by Commerce.

Annually, each IOU must submit a report to the Utilities and Transportation Commission that includes the total number of disconnections that occurred on each day the NWS issued, or announced that it intended to issue, a heat-related alert.

Winter Low-Income Payment Programs. PUD and IOU repayment plans for prohibited utility shutoffs during November 15 through March 15 must be no more than 6 percent, rather than 7 percent, of household income.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Provides that electric and water utilities and landlords may not involuntarily terminate service for nonpayment to residential users on any day for which the NWS has issued or has announced that it intends to issue a heat related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area where the residential user's address is located. Removes all language referencing a forecast or actual temperature exceeding 90 degrees Fahrenheit.
- Provides that a residential user whose electric or water utility service has been disconnected at their dwelling for lack of payment may request that the utility or landlord reconnect service on any day a heat related alert has been issued for an area where the residential user's address is located. Removes the requirement that the electric or water utility or landlord must contact affected customers during extreme heat to reconnect service that has been disconnected for lack of payment.
- Requires electric and water utilities and landlords to (1) inform all customers in the notice of disconnection how to seek reconnection and (2) provide clear and specific information on how to make that request, including how to contact the utility or landlord.
- Requires electric and water utilities and landlords to promptly to make a reasonable attempt to reconnect service to the dwelling only upon request to reconnect service for a day for which a heat alert has been issued.
- Authorizes electric and water utilities and landlords, in connection with a request to reconnect service for a day for which a heat alert has been issued, to require the

residential user to enter into a payment plan prior to reconnecting service to the dwelling. A repayment plan must not require monthly payments over 6 percent of the customer's monthly income.

- Amends current law to require repayment plans in connection with shut-offs during November 15 through March 15 be no more than 6 percent, rather than 7 percent, of household income for public utility districts and investor-owned utilities.
- Removes the civil cause of action for involuntary termination of water service for nonpayment to residential users during extreme heat.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: In the past two summers, extreme heat has caused hundreds of deaths and thousands more seeking medical attention. Many of those deaths were for people 65 years or older. This bill is ultimately about saving lives and reducing stress on our first responders and health care system. This bill does not change how electric utilities are overseen or governed or require them to provide free services. It ensures people have access to utility service even when they cannot pay and is narrowly focused on disconnections for nonpayment. Having clean water and energy is critical during extreme weather conditions. We must prepare for the negative health impacts of extreme heat and other weather conditions. Many states have prohibit shutoffs when it is cold. The bill establishes a statewide policy that provides the same level of safety regardless of provider. The data reporting is an important factor of this legislation. For utilities to contact customers regarding payments and notice of shut offs, the current standard is contact via mail due to a high volume of scammers posing as the utility companies. Instead, add language to the final shut-off notice stating that if the weather is predicted to exceed required temperatures, the customers should contact the utility to be reconnected. The current practice in winter months to reconnect customers who request it is a feasible model.

CON: There is an operational burden and expense for utility disconnect and reconnects which are managed by billing personnel. This may require utilities to be forced to dispatch personnel twice for each occurrence, on and off. The reliance on daily forecasts as presented would require billing associates to be paid overtime to monitor forecasts that may occur beyond business hours. There is no precedent for mandatory reconnection of disconnected customers who don't pay their bills. Washington would become an outlier if we follow through with the reconnection mandate. During extreme heat events, utilities may have to make the choice between operations on wildfire mitigation and electricity shutoffs due to limited staffing resources. One temperature fits all approach doesn't apply to the diverse

terrain and climate of Washington.

OTHER: As regulator, the UTC is best positioned to regulate the investor on utilities with these policies and to work out the details. The bill as proposed contains prescriptive requirements that are unnecessary and do not take into account the unique characteristics of each utility service area. The 90 degree temperature mark will not fit for all regions in the state. Instead of a flat temperature, use of the national weather service heat advisory. Considering a heat index would take into consideration a number of different variables including humidity, regionality, and how low or high the temperature was the previous night. Reconnection of water service could cause significant property damage. Thus the customer should have to opt back into services. With limited staff, reconnection is a significant burden. Regional utilities serve multiple counties and customers. Public health services should have state assistance to pay for these things. There should be a statewide determination or directive to give indication to utilities for shut off and reconnection.

Persons Testifying: PRO: Senator Joe Nguyen, Prime Sponsor; Charlee Thompson, NW Energy Coalition; Kristin Ang, Faith Action Network; Mendy Droke, Seattle City Light; Logan Bahr, Tacoma Power; Jim Dennison, Sierra Club; Rory Paine-Donovan, Attorney General's Office; Lisa Gafken, Attorney General's Office; Ryan Collins, Snohomish PUD; Cathy MacCaul, AARP Washington State.

CON: Paul Griffin, Washington Rural Electric Cooperative Association; Greg Mendonca, Okanogan County Electric Cooperative; Chelsea Martin, Modern Electric Water Company.

OTHER: Christine Brewer, The Avista Corporation; Matt Miller, Puget Sound Energy; Jay Balasbas, PacifiCorp; Joren Clowers, Washington Association of Sewer & Water Districts; Isaac Kastama, Benton PUD & Franklin PUD; Jake Murray; Paula Painter, City of Kent; Brandy DeLange, Association of Washington Cities; Austin Scharff, Washington State Dept. of Commerce; Joseph Carroll, Wolff, Hislop and Crockett; Peter Godlewski, Association of Washington Business; BILL CLARKE, WA PUD Association; Charlie Brown, NW Natural; Steve Taylor, Cowlitz Public Utility District No. 1.

Persons Signed In To Testify But Not Testifying: No one.