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SENATE BILL 5383

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State of Washington

60th Legislature

2007 Regular Session

By Senators Hargrove, Poulsen, Hatfield, Rockefeller, Rasmussen and Kohl-Welles

Read first time 01/18/2007. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to the energy freedom program; amending RCW  
2 15.110.005, 15.110.010, 15.110.020, and 15.110.040; and providing an  
3 expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 15.110.005 and 2006 c 171 s 1 are each amended to read  
6 as follows:

7 The legislature finds that:

8 (1) Washington's dependence on energy supplied from outside the  
9 state and volatile global energy markets makes its economy and citizens  
10 vulnerable to unpredictable and high energy prices;

11 (2) Community action agencies in the state are an extremely  
12 valuable resource because they focus all available, state, local,  
13 private, and federal resources upon the goal of enabling low-income  
14 families and low-income individuals of all ages in rural and urban  
15 areas to attain the skills, knowledge, and motivations and secure the  
16 opportunities needed for them to become free and self-sufficient;

17 (3) Washington's dependence on petroleum-based fuels increases  
18 energy costs for citizens and businesses;

1       ~~((3))~~ (4) Diesel soot from diesel engines ranks as the highest  
2 toxic air pollutant in Washington, leading to hundreds of premature  
3 deaths and increasing rates of asthma and other lung diseases;

4       ~~((4))~~ (5) The use of biodiesel results in significantly less air  
5 pollution than traditional diesel fuels;

6       ~~((5))~~ (6) Improper disposal and treatment of organic waste from  
7 farms and livestock operations can have a significant negative impact  
8 on water quality;

9       ~~((6))~~ (7) Washington has abundant supplies of organic wastes from  
10 farms that can be used for energy production and abundant farmland  
11 where crops could be grown to supplement or supplant petroleum-based  
12 fuels;

13       ~~((7))~~ (8) The use of energy and fuel derived from these sources  
14 can help citizens and businesses conserve energy and reduce the use of  
15 petroleum-based fuels, would improve air and water quality in  
16 Washington, reduce environmental risks from farm wastes, create new  
17 markets for farm products, and provide new industries and jobs for  
18 Washington citizens;

19       ~~((8))~~ (9) The bioenergy industry is a new and developing industry  
20 that is, in part, limited by the availability of capital for the  
21 construction of facilities for converting farm and forest products into  
22 energy and fuels;

23       ~~((9))~~ (10) Wind-generated electricity provides a pollution-free  
24 source of electricity, the utilization of which would be a valuable  
25 step toward improving the health of the regional environment;

26       (11) Instead of leaving our economy at the mercy of global events,  
27 and the policies of foreign nations, Washington state should adopt a  
28 policy of energy independence; and

29       ~~((10))~~ (12) The energy freedom program is meant to lead  
30 Washington state towards energy independence.

31       Therefore, the legislature finds that it is in the public interest  
32 to encourage the rapid adoption and use of wind power and bioenergy, to  
33 develop a viable wind and bioenergy industry within Washington state,  
34 to promote public research and development in wind and bioenergy  
35 sources and markets, and to support wind power production and a viable  
36 agriculture industry to grow bioenergy crops. To accomplish this, the  
37 energy freedom program is established to promote public research and

1 development in wind power and bioenergy, and to stimulate the  
2 construction of facilities in Washington to generate energy from wind  
3 and farm sources, or to convert organic matter into fuels.

4 **Sec. 2.** RCW 15.110.010 and 2006 c 171 s 2 are each amended to read  
5 as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Applicant" means any political subdivision of the state,  
9 including port districts, counties, cities, towns, special purpose  
10 districts, and other municipal corporations or quasi-municipal  
11 corporations. "Applicant" may also include federally recognized tribes  
12 (~~and~~), state institutions of higher education with appropriate  
13 research capabilities, and community action agencies in the state.

14 (2) "Assistance" includes loans, leases, product purchases, or  
15 other forms of financial or technical assistance.

16 (3) "Community action agency" means the same as defined in RCW  
17 43.185C.010.

18 (4) "Department" means the department of agriculture.

19 (~~(4)~~) (5) "Director" means the director of the department of  
20 agriculture.

21 (~~(5)~~) (6) "Peer review committee" means a board, appointed by the  
22 director, that includes wind or bioenergy specialists, energy  
23 conservation specialists, scientists, and individuals with specific  
24 recognized expertise.

25 (~~(6)~~) (7) "Project" means the construction of facilities,  
26 including the purchase of equipment, to convert wind or farm products  
27 or wastes into electricity or gaseous or liquid fuels or other  
28 coproducts associated with such conversion. These specifically include  
29 fixed or mobile facilities to generate electricity or methane from the  
30 anaerobic digestion of organic matter, and fixed or mobile facilities  
31 for extracting oils from canola, rape, mustard, and other oilseeds.  
32 "Project" may also include the construction of facilities associated  
33 with such conversion for the distribution and storage of such  
34 feedstocks and fuels.

35 (~~(7)~~) (8) "Research and development project" means research and  
36 development, by an institution of higher education as defined in  
37 subsection (1) of this section, relating to:

- 1 (a) Wind power owned by community action agencies in the state;
- 2 (b) Bioenergy sources including but not limited to biomass and
- 3 associated gases; or
- 4 (~~(b)~~) (c) The development of markets for bioenergy coproducts.

5 **Sec. 3.** RCW 15.110.020 and 2006 c 171 s 3 are each amended to read  
6 as follows:

7 (1) The energy freedom program is established within the  
8 department. The director may establish policies and procedures  
9 necessary for processing, reviewing, and approving applications made  
10 under this chapter.

11 (2) When reviewing applications submitted under this program, the  
12 director shall consult with those agencies having expertise and  
13 knowledge to assess the technical and business feasibility of the  
14 project and probability of success. These agencies may include, but  
15 are not limited to, Washington State University, the University of  
16 Washington, the department of ecology, the department of community,  
17 trade, and economic development, and the Washington state conservation  
18 commission.

19 (3) Except as provided in subsection (4) of this section, the  
20 director, in cooperation with the department of community, trade, and  
21 economic development, may approve an application only if the director  
22 finds:

23 (a) The project will convert farm products or wastes directly into  
24 electricity or into gaseous or liquid fuels or other coproducts  
25 associated with such conversion;

26 (b) The project demonstrates technical feasibility and directly  
27 assists in moving a commercially viable project into the marketplace  
28 for use by Washington state citizens;

29 (c) The facility will produce long-term economic benefits to the  
30 state, a region of the state, or a particular community in the state;

31 (d) The project does not require continuing state support;

32 (e) The assistance will result in new jobs, job retention, or  
33 higher incomes for citizens of the state;

34 (f) The state is provided an option under the assistance agreement  
35 to purchase a portion of the fuel or feedstock to be produced by the  
36 project, exercisable by the department of general administration;

1 (g) The project will increase energy independence or diversity for  
2 the state;

3 (h) The project will use feedstocks produced in the state, if  
4 feasible, except this criterion does not apply to the construction of  
5 facilities used to distribute and store fuels that are produced from  
6 farm products or wastes;

7 (i) Any product produced by the project will be suitable for its  
8 intended use, will meet accepted national or state standards, and will  
9 be stored and distributed in a safe and environmentally sound manner;

10 (j) The application provides for adequate reporting or disclosure  
11 of financial and employment data to the director, and permits the  
12 director to require an annual or other periodic audit of the project  
13 books; and

14 (k) For research and development projects, the application has been  
15 independently reviewed by a peer review committee as defined in RCW  
16 15.110.010 and the findings delivered to the director.

17 (4) When reviewing an application for a wind project, the director,  
18 in cooperation with the department of community, trade, and economic  
19 development, may approve an award for assistance only if the director  
20 finds that:

21 (a) The project is owned by a community action agency in the state;  
22 and

23 (b) Any profits generated from the sale of the wind power are  
24 wholly used for the agency's nonprofit purposes.

25 (5) The director may approve an application for assistance up to  
26 five million dollars. In no circumstances shall this assistance  
27 constitute more than fifty percent of the total project cost, except  
28 that in the case of an application submitted by a community action  
29 agency, the assistance may constitute one hundred percent of the total  
30 project cost.

31 ~~((+5))~~ (6) The director shall enter into agreements with approved  
32 applicants to fix the terms and rates of the assistance to minimize the  
33 costs to the applicants, and to encourage establishment of a viable  
34 bioenergy industry. The agreement shall include provisions to protect  
35 the state's investment, including a requirement that a successful  
36 applicant enter into contracts with any partners that may be involved  
37 in the use of any assistance provided under this program, including

1 services, facilities, infrastructure, or equipment. Contracts with any  
2 partners shall become part of the application record.

3 ~~((+6))~~ (7) The director may defer any payments for up to twenty-  
4 four months or until the project starts to receive revenue from  
5 operations, whichever is sooner.

6 **Sec. 4.** RCW 15.110.040 and 2006 c 171 s 5 are each amended to read  
7 as follows:

8 If the total requested dollar amount of assistance exceeds the  
9 amount available in the energy freedom account created in RCW  
10 15.110.050, the applications must be prioritized based upon the  
11 following criteria:

12 (1) The extent to which the project will support a community action  
13 agency in its mission to assist low-income families and low-income  
14 individuals of all ages in rural and urban areas to attain the skills,  
15 knowledge, and motivations and secure the opportunities needed for them  
16 to become free and self-sufficient;

17 (2) The extent to which the project will help reduce dependence on  
18 petroleum fuels and imported energy either directly or indirectly;

19 ~~((+2))~~ (3) The extent to which the project will reduce air and  
20 water pollution either directly or indirectly;

21 ~~((+3))~~ (4) The extent to which the project will establish a viable  
22 bioenergy production capacity in Washington;

23 ~~((+4))~~ (5) The benefits to Washington's agricultural producers;  
24 and

25 ~~((+5))~~ (6) The number and quality of jobs and economic benefits  
26 created by the project.

27 NEW SECTION. **Sec. 5.** This act expires June 30, 2016.

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