
SUBSTITUTE SENATE BILL 5760

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Poulsen, Fraser, Rockefeller, Spanel, Jacobsen, Pflug, Kline, Parlette, Oemig, Rasmussen, Shin and Kohl-Welles)

READ FIRST TIME 02/14/07.

1 AN ACT Relating to the energy freedom program, including activities
2 to promote green highways; amending RCW 15.110.005, 15.110.010,
3 15.110.020, 15.110.040, 15.110.060, 47.17.020, 47.17.135, and
4 47.17.140; adding new sections to chapter 15.110 RCW; creating a new
5 section; and providing an expiration date.

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

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

9 The legislature finds that:

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

13 (2) Washington's dependence on petroleum-based fuels increases
14 energy costs for citizens and businesses;

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

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

1 (5) Improper disposal and treatment of organic waste from farms and
2 livestock operations can have a significant negative impact on water
3 quality;

4 (6) Landfill gas and wastewater treatment gas, if vented into the
5 atmosphere, poses a great risk to Washington's climate;

6 (7) Washington has abundant supplies of landfill methane and
7 wastewater treatment gas and organic wastes from farms (~~that~~), which
8 can be used for energy production, and abundant farmland where crops
9 could be grown to supplement or supplant petroleum-based fuels;

10 (~~(7)~~) (8) The use of energy and fuel derived from these sources
11 can help citizens and businesses conserve energy and reduce the use of
12 petroleum-based fuels, would improve air and water quality in
13 Washington, reduce environmental risks from landfills, wastewater
14 treatment plants, and farm wastes, create new markets for farm
15 products, and provide new industries and jobs for Washington citizens;

16 (~~(8)~~) (9) The bioenergy industry is a new and developing industry
17 that is, in part, limited by the availability of capital for the
18 construction of facilities for converting farm and forest products and
19 waste gases into energy and fuels and the availability of
20 infrastructure necessary to allow motorists in Washington to refuel
21 their biofueled or alternative fueled vehicles while traveling along
22 major state highways;

23 (~~(9)~~) (10) The 2010 Olympic and Paralympic Winter Games present
24 an opportunity to further Washington's energy independence by working
25 with Vancouver, British Columbia, Oregon, and California to develop a
26 hydrogen highway to showcase sustainable transportation and all of
27 Washington state's biofuels and alternative fuels, and to accelerate
28 the commercialization of hydrogen and fuel cell technologies;

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

32 (~~(10)~~) (12) The energy freedom program is meant to lead
33 Washington state towards energy independence.

34 Therefore, the legislature finds that it is in the public interest
35 to encourage the rapid adoption and use of bioenergy, to develop a
36 viable bioenergy industry within Washington state, to promote public
37 research and development in bioenergy sources and markets, (~~and~~) to
38 support a viable agriculture industry to grow bioenergy crops, and to

1 develop infrastructure for the use of alternative fuels and biofuels by
2 the motorists of Washington state. To accomplish this, the energy
3 freedom program is established to promote public research and
4 development in bioenergy, (~~and~~) to stimulate the construction of
5 facilities in Washington to generate energy from farm sources or
6 convert organic matter, landfill gas, or wastewater treatment gas into
7 fuels, and to develop refueling infrastructure in Washington state to
8 ensure that alternative fuels and biofuels are readily accessible to
9 the motorists of Washington state.

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

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Alternative fuel" means electricity, hydrogen, or liquid
15 natural gas produced from landfill methane gas or wastewater treatment
16 gas.

17 (2) "Applicant" means any political subdivision of the state,
18 including port districts, counties, cities, towns, special purpose
19 districts, and other municipal corporations or quasi-municipal
20 corporations. "Applicant" may also include federally recognized tribes
21 and state institutions of higher education with appropriate research
22 capabilities.

23 (~~(2)~~) (3) "Assistance" includes loans, leases, product purchases,
24 or other forms of financial or technical assistance.

25 (~~(3)~~) (4) "Department" means the department of agriculture.

26 (~~(4)~~) (5) "Director" means the director of the department of
27 agriculture.

28 (~~(5)~~) (6) "Green highway zone" means an area in the state
29 designated by the department that is within reasonable proximity of
30 state route number 5, state route number 90, and state route number 82.

31 (7) "Peer review committee" means a board, appointed by the
32 director, that includes bioenergy specialists, energy conservation
33 specialists, scientists, and individuals with specific recognized
34 expertise.

35 (~~(6)~~) (8) "Project" means the construction of facilities,
36 including the purchase of equipment, to convert landfill methane gas,
37 wastewater treatment gas, or farm products or wastes into electricity

1 or gaseous or liquid fuels or other coproducts associated with such
2 conversion. These specifically include fixed or mobile facilities to
3 generate electricity or methane from the anaerobic digestion of organic
4 matter, and fixed or mobile facilities for extracting oils from canola,
5 rape, mustard, and other oilseeds. "Project" may also include the
6 construction of facilities associated with such conversion for the
7 distribution and storage of such feedstocks and fuels.

8 ~~((7))~~ (9) "Refueling project" means the construction of new
9 biofuel and alternative fuel refueling facilities, as well as upgrades
10 and expansion of existing refueling facilities, that will enable these
11 facilities to offer alternative fuels to the motoring public.

12 (10) "Research and development project" means research and
13 development, by an institution of higher education as defined in
14 subsection ~~((1))~~ (2) of this section, relating to:

15 (a) Bioenergy sources including but not limited to biomass and
16 associated gases, landfill gas, and wastewater treatment gas; or

17 (b) The development of markets for bioenergy coproducts.

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

20 (1) The energy freedom program is established within the
21 department. The director may establish policies and procedures
22 necessary for processing, reviewing, and approving applications made
23 under this chapter.

24 (2) When reviewing applications submitted under this program, the
25 director shall consult with those agencies having expertise and
26 knowledge to assess the technical and business feasibility of the
27 project and probability of success. These agencies may include, but
28 are not limited to, Washington State University, the University of
29 Washington, the department of ecology, the department of community,
30 trade, and economic development, and the Washington state conservation
31 commission.

32 (3) Except as provided in subsection (4) of this section, the
33 director, in cooperation with the department of community, trade, and
34 economic development, may approve an application only if the director
35 finds:

36 (a) The project will convert landfill methane gas, wastewater

1 treatment gas, or farm products or wastes directly into electricity or
2 into gaseous or liquid fuels or other coproducts associated with such
3 conversion;

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

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

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

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

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

15 (g) The project will increase energy independence or diversity for
16 the state;

17 (h) The project will use landfill methane gas, wastewater treatment
18 gas, or feedstocks produced in the state, if feasible, except this
19 criterion does not apply to the construction of facilities used to
20 distribute and store fuels that are produced from landfill methane gas,
21 wastewater treatment gas, or farm products or wastes;

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

25 (j) The application provides for adequate reporting or disclosure
26 of financial and employment data to the director, and permits the
27 director to require an annual or other periodic audit of the project
28 books; and

29 (k) For research and development projects, the application has been
30 independently reviewed by a peer review committee as defined in RCW
31 15.110.010 and the findings delivered to the director.

32 (4) When reviewing an application for a refueling project, the
33 director may award assistance to an applicant if the director finds:

34 (a) The project will offer biofuels or alternative fuels to the
35 motoring public;

36 (b) The project does not require continued state support;

37 (c) The project is located within a green highway zone as defined
38 in RCW 15.110.010;

1 (d) The project will contribute towards an efficient and adequately
2 spaced biofuel or alternative fuel refueling network along the green
3 highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

4 (e) The project will result in increased access to a biofueling
5 infrastructure or an alternative fueling infrastructure for the
6 motoring public along the green highways designated in RCW 47.17.020,
7 47.17.135, and 47.17.140.

8 (5) The director may approve (~~(a)~~) a project application for
9 assistance under subsection (3) of this section up to five million
10 dollars. In no circumstances shall this assistance constitute more
11 than fifty percent of the total project cost.

12 (~~(+5)~~) (6) The director may approve a refueling project
13 application for assistance under subsection (4) of this section up to
14 fifty thousand dollars. In no circumstances shall assistance awarded
15 constitute more than fifty percent of the total project cost.

16 (7) The director shall enter into agreements with approved
17 applicants to fix the terms and rates of the assistance to minimize the
18 costs to the applicants, and to encourage establishment of a viable
19 bioenergy industry. The agreement shall include provisions to protect
20 the state's investment, including a requirement that a successful
21 applicant enter into contracts with any partners that may be involved
22 in the use of any assistance provided under this program, including
23 services, facilities, infrastructure, or equipment. Contracts with any
24 partners shall become part of the application record.

25 (~~(+6)~~) (8) The director may defer any payments for up to twenty-
26 four months or until the project starts to receive revenue from
27 operations, whichever is sooner.

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

30 (1) If the total requested dollar amount of assistance awarded for
31 projects under RCW 15.110.020(3) exceeds the amount available in the
32 energy freedom account created in RCW 15.110.050, the applications must
33 be prioritized based upon the following criteria:

34 (~~(+1)~~) (a) The extent to which the project will help reduce
35 dependence on petroleum fuels and imported energy either directly or
36 indirectly;

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

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

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

7 ~~((+5))~~ (e) The number and quality of jobs and economic benefits
8 created by the project.

9 (2) This section does not apply to assistance awarded for refueling
10 projects under RCW 15.110.020(4).

11 NEW SECTION. Sec. 5. A new section is added to chapter 15.110 RCW
12 to read as follows:

13 (1) If the total requested dollar amount of funds for refueling
14 projects under RCW 15.110.020(4) exceeds the amount available in the
15 green energy incentive subaccount created in section 6 of this act, the
16 applications must be prioritized based upon the following criteria:

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

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

21 (c) The extent to which the project will establish a viable biofuel
22 or alternative fuel production capacity in Washington;

23 (d) The extent to which the project will make biofuels and
24 alternative fuels more accessible to the motoring public;

25 (e) The benefits to Washington's agricultural or alternative fuel
26 producers; and

27 (f) The number and quality of jobs and economic benefits created by
28 the project.

29 (2) This section does not apply to assistance awarded for projects
30 under RCW 15.110.020(3).

31 NEW SECTION. Sec. 6. A new section is added to chapter 15.110 RCW
32 to read as follows:

33 The green energy incentive subaccount is created as a subaccount of
34 the energy freedom account. All receipts from appropriations made to
35 the green energy incentive subaccount shall be deposited into the
36 subaccount and shall be appropriated only for:

- 1 (1) Refueling projects awarded under this chapter;
- 2 (2) Pilot projects for plug-in hybrids;
- 3 (3) Programs to reduce truck stop idling;
- 4 (4) Demonstration projects developed with a science museum for the
5 purpose of bringing science education to children by way of a mobile
6 learning vehicle; and
- 7 (5) Demonstration projects developed with the University of
8 Washington that result in the design and building of a hydrogen vehicle
9 fueling station.

10 NEW SECTION. **Sec. 7.** Moneys deposited in the green energy
11 incentive subaccount created in section 6 of this act shall not exceed
12 one million dollars.

13 **Sec. 8.** RCW 15.110.060 and 2006 c 171 s 7 are each amended to read
14 as follows:

15 The director shall report to the legislature and governor on the
16 status of the energy freedom program created under this chapter, on or
17 before December 1, 2006, and annually thereafter. This report must
18 include information on the projects that have been funded, the status
19 of these projects, and their environmental, energy savings, and job
20 creation benefits, as well as an assessment of the availability of
21 biofuels and alternative fuels in the state.

22 **Sec. 9.** RCW 47.17.020 and 1970 ex.s. c 51 s 5 are each amended to
23 read as follows:

24 A state highway to be known as state route number 5, and designated
25 as a Washington green highway, is established as follows:

26 Beginning at the Washington-Oregon boundary line on the interstate
27 bridge over the Columbia river at Vancouver, thence northerly by way of
28 Kelso, Chehalis, Centralia, Olympia, Tacoma, Seattle, Everett and Mt.
29 Vernon, thence northwesterly to the east of Lake Samish, thence
30 northeasterly and northerly by way of Bellingham to the international
31 boundary line in the vicinity of Blaine in Whatcom county.

32 **Sec. 10.** RCW 47.17.135 and 1979 ex.s. c 33 s 3 are each amended to
33 read as follows:

1 A state highway to be known as state route number 82, and
2 designated as a Washington green highway, is established as follows:

3 Beginning at a junction with state route number 90 in the vicinity
4 of Ellensburg, thence southerly and easterly by way of Yakima, Union
5 Gap, Sunnyside, Prosser, Kiona, and Goose Gap west of Richland, thence
6 southeasterly near Kennewick and southwesterly by way of the vicinity
7 of Plymouth to a crossing of the Columbia river at the Washington-
8 Oregon boundary line.

9 **Sec. 11.** RCW 47.17.140 and 1991 c 56 s 2 are each amended to read
10 as follows:

11 A state highway to be known as state route number 90, and
12 designated as the American Veterans Memorial Highway as well as a
13 Washington green highway, is established as follows:

14 Beginning at a junction with state route number 5, thence, via the
15 west approach to the Lake Washington bridge in Seattle, in an easterly
16 direction by way of Mercer Island, North Bend, Snoqualmie pass,
17 Ellensburg, Vantage, Moses Lake, Ritzville, Sprague and Spokane to the
18 Washington-Idaho boundary line.

19 NEW SECTION. **Sec. 12.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 13.** Sections 1 through 6 and 8 of this act
24 expire June 30, 2016.

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