

---

HOUSE BILL 2853

---

State of Washington

61st Legislature

2010 Regular Session

By Representatives Rolfes, McCoy, Lias, Seaquist, Dunshee, Nelson, Upthegrove, Hudgins, Chase, Wallace, Kenney, and Simpson

Read first time 01/15/10. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to implementing energy conservation programs;  
2 amending RCW 35.92.360, 54.16.280, 36.94.460, 35.92.430, 36.01.250, and  
3 80.28.260; adding a new section to chapter 35.92 RCW; and creating new  
4 sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington  
7 state has the opportunity to realize a prosperous, affordable, and  
8 clean energy future through energy efficiency.

9 (2) The financing mechanism established in this act will enable  
10 local governments to expand and improve existing energy conservation  
11 and energy efficiency loan programs to aid the private and nonprofit  
12 sectors in undertaking residential, commercial, and industrial energy  
13 efficiency upgrades.

14 (3) The legislature finds that this financing tool will lead to  
15 reductions in household energy bills, provide incentives for the  
16 creation of new family-wage jobs in construction, manufacturing, and  
17 installation of energy-saving products, encourage investments by the  
18 utility sector in a cleaner environment, decrease the need for new  
19 power plant construction, and increase energy security.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 35.92 RCW  
2 to read as follows:

3        (1)    The provision of energy conservation services under this  
4 section is declared to be a public use and a public and municipal  
5 purpose, which may be conducted through a public utility operated by a  
6 municipality. Energy conservation services may be provided through an  
7 independent enterprise fund or through an existing electric, water,  
8 wastewater, solid waste, heating, or other utility system already  
9 operated by the municipality. A municipality that provides energy  
10 conservation services under this section is declared to be engaged in  
11 the sale or distribution of energy services as those terms are used in  
12 Article VIII, section 10 of the state Constitution, and is authorized  
13 to operate the loan programs authorized in RCW 35.92.360 and 36.94.460,  
14 as applicable. Municipalities providing energy conservation services  
15 pursuant to this section shall coordinate with existing conservation  
16 programs and services offered by the electric or natural gas energy  
17 distribution utility or utilities serving that municipality. Prior to  
18 implementing energy conservation services, the legislative authority of  
19 the municipality must hold a public hearing and make a legislative  
20 determination, based on presentations at the hearing, that the energy  
21 conservation services proposed to be provided by the municipality will  
22 make available additional or complementary services, target underserved  
23 areas or populations, or otherwise add incremental value to the  
24 preexisting programs and services provided by the electric or natural  
25 gas energy distribution utility.

26        (2)    For the purpose of providing to its inhabitants and property  
27 owners services that lead to the more efficient consumption of energy  
28 resources, from whatever source generated, a municipality may  
29 construct, purchase, acquire, lease, add to, extend, maintain, and  
30 operate a system or program of energy conservation services. For the  
31 purpose of providing energy conservation services, the municipality has  
32 the full power to operate and regulate such systems and programs; to  
33 enter into agreements for the maintenance and operation of any  
34 facilities, equipment, or systems, under such terms and conditions as  
35 may be determined by the legislative authority of the municipality to  
36 be in the municipality's interest; and other powers as may be necessary  
37 for the provision and financing of energy conservation services.  
38 Nothing in this section authorizes any municipality to generate,

1 transmit, distribute, or sell electricity. Nothing in this section may  
2 be construed to restrain or limit the authority of any individual,  
3 partnership, corporation, or private utility from establishing and  
4 providing energy conservation services.

5 (3) The legislative authority of the municipality has full  
6 authority to set rates or charges for energy conservation services  
7 provided to customers of the system if the rates charged are uniform  
8 for the same class of customer or service. In classifying customers  
9 served or services furnished, the legislative authority may consider:  
10 The difference in cost of services to the various customers; the  
11 location of the various customers within the municipality; the  
12 difference in cost of maintenance, operation, repair, and replacement  
13 of the various parts of the system; the different character of the  
14 services furnished various customers; the quantity and quality of the  
15 services furnished; and any other matters that present a reasonable  
16 difference as a ground for distinction. The legislative authority of  
17 the municipality has the full authority to regulate and control the  
18 energy conservation services so delivered, together with the right to  
19 handle and sell or lease any energy conservation equipment, fixtures or  
20 accessories of any kind, necessary and convenient for the provision of  
21 energy conservation services.

22 (4) A municipality may issue general obligation or revenue bonds,  
23 notes, warrants, or other evidences of indebtedness for the purposes of  
24 providing all or part of the costs of providing energy conservation  
25 services, which shall be issued and sold in accordance with chapters  
26 39.44, 39.46, 39.50, and 39.53 RCW. Additionally, a municipality may  
27 form a local improvement district pursuant to chapter 35.43 RCW, and  
28 may issue assessment bonds, notes, warrants or other evidences of  
29 indebtedness, pursuant to chapter 35.45 RCW, for purposes of financing  
30 all or a part of the costs of energy conservation services.

31 (5) The authority granted in this section is in addition to any  
32 authority granted elsewhere and does not limit the ability to provide  
33 conservation services through an existing electric, water, wastewater,  
34 or heating utility. The election procedures under RCW 35.92.070,  
35 54.08.070, and chapter 80.52 RCW or other law are not applicable to the  
36 establishment of an energy conservation services utility under this  
37 section.

1 (6) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Energy conservation equipment" means equipment for the  
4 conservation or more efficient use of energy, regardless of source,  
5 installed at or near the intended place of use. However, the equipment  
6 may not include any individual equipment or co-owned and controlled  
7 cluster of equipment with a generating capacity that exceeds the net  
8 metering system electrical generating capacity threshold established in  
9 RCW 80.60.010(10)(a). Energy conservation equipment includes, but is  
10 not limited to, weatherizing equipment; energy-conserving lighting  
11 systems, heating and cooling systems, and appliances; and equipment or  
12 systems that permit owners or substantial users of property or  
13 equipment to generate all or a portion of their own electricity through  
14 the on-site installation of distributed electricity generation systems  
15 that use as fuel solar, wind, geothermal, or hydropower, or other  
16 renewable resources available on-site and not from a commercial source.

17 (b) "Energy conservation services" means the provision of services  
18 to assist owners or substantial users of structures or equipment in the  
19 acquisition, installation, and operation of energy conservation  
20 equipment, fixtures, or improvements. Energy conservation services  
21 include, but are not limited to, energy audit services; weatherization  
22 services; energy conservation equipment financing, acquisition, and  
23 installation services; and other measures to reduce energy on-site  
24 consumption. Energy conservation services may not be considered "a  
25 conversion from one energy source to another" that is limited to the  
26 change or substitution of one commercial energy supplier for another  
27 commercial energy supplier.

28 (c) "Municipality" means any city, town, or county.

29 **Sec. 3.** RCW 35.92.360 and 2009 c 416 s 1 are each amended to read  
30 as follows:

31 (1) Any city or town engaged in the generation, sale, or  
32 distribution of energy, or engaged in the provision of energy  
33 conservation services under section 2 of this act, is hereby  
34 authorized, within limits established by the Constitution of the state  
35 of Washington, to assist the owners of structures or equipment in  
36 financing the acquisition and installation of materials and equipment,  
37 for compensation or otherwise, for the conservation or more efficient

1 use of energy in such structures or equipment pursuant to an energy  
2 conservation plan adopted by the city or town if the cost per unit of  
3 energy saved or produced by the use of such materials and equipment is  
4 less than the cost per unit of energy produced by the next least costly  
5 new energy resource which (~~the city or town~~) could (~~acquire~~) be  
6 acquired to meet future demand. Any financing authorized under this  
7 chapter shall only be used for conservation purposes in existing  
8 structures, and such financing shall not be used for any purpose which  
9 results in a conversion from one energy source to another.

10 (2) For the purposes of this section, "conservation purposes in  
11 existing structures" may include projects to allow a municipal electric  
12 or energy conservation utility's customers to generate all or a portion  
13 of their own electricity through the on-site installation of a  
14 distributed electricity generation system that uses as its fuel solar,  
15 wind, geothermal, or hydropower, or other renewable resource that is  
16 available on-site and not from a commercial source. Such projects  
17 shall not be considered "a conversion from one energy source to  
18 another" which is limited to the change or substitution of one  
19 commercial energy supplier for another commercial energy supplier.

20 (3) Except where otherwise authorized, such assistance shall be  
21 limited to:

22 (a) Providing an inspection of the structure or equipment, either  
23 directly or through one or more inspectors under contract, to determine  
24 and inform the owner of the estimated cost of purchasing and installing  
25 conservation materials and equipment for which financial assistance  
26 will be approved and the estimated life cycle savings in energy costs  
27 that are likely to result from the installation of such materials or  
28 equipment;

29 (b) Providing a list of businesses who sell and install such  
30 materials and equipment within or in close proximity to the service  
31 area of the city or town, each of which businesses shall have requested  
32 to be included and shall have the ability to provide the products in a  
33 workmanlike manner and to utilize such materials in accordance with the  
34 prevailing national standards;

35 (c) Arranging to have approved conservation materials and equipment  
36 installed by a private contractor whose bid is acceptable to the owner  
37 of the residential structure and verifying such installation; and

1 (d) Arranging or providing financing for the purchase and  
2 installation of approved conservation materials and equipment. Such  
3 materials and equipment shall be purchased from a private business and  
4 shall be installed by a private business or the owner.

5 ((+2)) (4) Pay back shall be in the form of incremental additions  
6 to the municipal utility bill, billed either together with use charge  
7 or separately. Loans shall not exceed two hundred forty months in  
8 length. The city or town may make assistance available in the form of  
9 grants made under this section for energy conservation improvements to  
10 existing structures owned or occupied by persons qualifying as poor or  
11 infirm consistent with the state Constitution.

12 (5) The city or town legislative authority shall approve the  
13 aggregate amount of such loans and the repayment terms by ordinance and  
14 may, by ordinance, delegate to staff the approval of individual loans  
15 consistent with loan program guidelines approved in the ordinance. The  
16 city or town and the property owner shall enter into a loan agreement  
17 setting forth the terms of the loan, which agreement may provide for  
18 acceleration in the event a loan installment is delinquent. In order  
19 to secure loans, the city or town shall have a statutory lien on the  
20 property, not exceeding five percent of the assessed value of the  
21 property as of the last assessment preceding the loan funding date, on  
22 which energy conservation improvements so financed are installed or  
23 constructed. A statutory lien shall be paramount and superior to any  
24 other lien or encumbrance theretofore or thereafter created except a  
25 lien for general taxes and special assessment district assessments.  
26 Any lien for any amount in excess of five percent of the assessed value  
27 of the property may be obtained and perfected in accordance with  
28 applicable law. The loan shall be a lien upon property from the time  
29 the loan agreement is executed. If the city or town legislative  
30 authority in granting loans has acted in good faith and without fraud,  
31 the loan shall be valid and enforceable as such and the lien thereof  
32 upon the property shall be valid.

33 (6) The city or town may foreclose a lien in an action in the  
34 superior court. All or any of the tracts subject to such a lien may be  
35 proceeded against in a single action, and all parties appearing of  
36 record as owning or claiming to own or having an interest in or lien  
37 upon the tracts involved shall be impleaded in the action as parties  
38 defendant. An action to foreclose a lien must be commenced within two

1 years after the date that the loan first becomes subject to  
2 acceleration under the loan documents. Liens to secure loans may be  
3 foreclosed in the manner provided by RCW 35.67.250 through 35.67.270.

4 (7) The city or town may pledge revenues from loan payments to  
5 secure and repay general obligation or revenue bonds, notes, or other  
6 forms of indebtedness issued by or on behalf of the city or town, which  
7 indebtedness shall be issued in accordance with chapters 39.44, 39.46,  
8 39.50 and 39.53 RCW. For the purpose of securing the payment of the  
9 principal of and interest on any bonds or notes, the city or town may  
10 create a reserve fund. The principal amount of any loan may include a  
11 proportionate share of the costs of issuing the bonds, notes, or other  
12 indebtedness, and may include up to an additional amount to fund a  
13 reserve fund, consistent with RCW 39.44.140. The bonds, warrants, or  
14 other evidences of indebtedness shall be deemed to be for capital  
15 purposes within the meaning of the uniform system of accounts for  
16 municipal corporations.

17 **Sec. 4.** RCW 54.16.280 and 2002 c 276 s 3 are each amended to read  
18 as follows:

19 (1) Any district is hereby authorized, within limits established by  
20 the Constitution of the state of Washington, to assist the owners of  
21 structures or equipment in financing the acquisition and installation  
22 of materials and equipment, for compensation or otherwise, for the  
23 conservation or more efficient use of energy in such structures or  
24 equipment pursuant to an energy conservation plan adopted by the  
25 district if the cost per unit of energy saved or produced by the use of  
26 such materials and equipment is less than the cost per unit of energy  
27 produced by the next least costly new energy resource which the  
28 district could acquire to meet future demand. Any financing authorized  
29 under this chapter shall only be used for conservation purposes in  
30 existing structures, and such financing shall not be used for any  
31 purpose which results in a conversion from one energy source to  
32 another.

33 (2) For the purposes of this section, "conservation purposes in  
34 existing structures" may include projects to allow a district's  
35 customers to generate all or a portion of their own electricity through  
36 the on-site installation of a distributed electricity generation system  
37 that uses as its fuel solar, wind, geothermal, or hydropower, or other

1 renewable resource that is available on-site and not from a commercial  
2 source. Such projects shall not be considered "a conversion from one  
3 energy source to another" which is limited to the change or  
4 substitution of one commercial energy supplier for another commercial  
5 energy supplier.

6 (3) Except where otherwise authorized, such assistance shall be  
7 limited to:

8 ((+1)) (a) Providing an inspection of the structure or equipment,  
9 either directly or through one or more inspectors under contract, to  
10 determine and inform the owner of the estimated cost of purchasing and  
11 installing conservation materials and equipment for which financial  
12 assistance will be approved and the estimated life cycle savings in  
13 energy costs that are likely to result from the installation of such  
14 materials or equipment;

15 ((+2)) (b) Providing a list of businesses who sell and install  
16 such materials and equipment within or in close proximity to the  
17 service area of the district, each of which businesses shall have  
18 requested to be included and shall have the ability to provide the  
19 products in a workmanlike manner and to utilize such materials in  
20 accordance with the prevailing national standards((-

21 +3));

22 (c) Arranging to have approved conservation materials and equipment  
23 installed by a private contractor whose bid is acceptable to the owner  
24 of the residential structure and verifying such installation; and

25 ((+4)) (d) Arranging or providing financing for the purchase and  
26 installation of approved conservation materials and equipment. Such  
27 materials and equipment shall be purchased from a private business and  
28 shall be installed by a private business or the owner.

29 ((+5)) (4) Pay back shall be in the form of incremental additions  
30 to the municipal utility bill, billed either together with use charge  
31 or separately. Loans shall not exceed ((one hundred twenty)) two  
32 hundred forty months in length. The district may make assistance  
33 available in the form of grants made under this section for energy  
34 conservation improvements to existing structures owned or occupied by  
35 persons qualifying as poor or infirm consistent with the state  
36 Constitution.

37 (5) The district legislative authority shall approve the aggregate  
38 amount of such loans and the repayment terms by ordinance and may, by

1 resolution, delegate the approval of individual loans consistent with  
2 loan program guidelines approved in the resolution. The district and  
3 the property owner shall enter into a loan agreement setting forth the  
4 terms of the loan, which agreement may provide for acceleration in the  
5 event a loan installment is delinquent. In order to secure loans, the  
6 district shall have a statutory lien, not exceeding five percent of the  
7 assessed value of the property as of the last assessment preceding the  
8 loan funding date, on which conservation improvements so financed are  
9 installed or constructed. A statutory lien shall be paramount and  
10 superior to any other lien or encumbrance theretofore or thereafter  
11 created except a lien for general taxes and special assessment district  
12 assessments. Any lien for any amount in excess of five percent of the  
13 assessed value of the property may be obtained and perfected in  
14 accordance with applicable law. The loan shall be a lien upon property  
15 from the time the first loan agreement is executed. If the district  
16 legislative authority in granting loans has acted in good faith and  
17 without fraud, the loan shall be valid and enforceable as such and the  
18 lien thereof upon the property shall be valid.

19 (6) The district may foreclose a lien in an action in the superior  
20 court. All or any of the tracts subject to such a lien may be  
21 proceeded against in a single action, and all parties appearing of  
22 record as owning or claiming to own or having an interest in or lien  
23 upon the tracts involved shall be impleaded in the action as parties  
24 defendant. An action to foreclose a lien must be commenced within two  
25 years after the date of that the loan first becomes subject to  
26 acceleration under the loan documents. Liens to secure loans may be  
27 foreclosed in the manner provided by RCW 35.67.250 through 35.67.270.

28 (7) The district may pledge revenues from loan payments to secure  
29 and repay general obligation or revenue bonds, notes, or other forms of  
30 indebtedness issued by or on behalf of the district, which indebtedness  
31 shall be issued in accordance with chapters 39.44, 39.46, 39.50, and  
32 39.53 RCW. For the purpose of securing the payment of the principal of  
33 and interest on any bonds or notes, the district may create a reserve  
34 fund. The principal amount of any loan may include a proportionate  
35 share of the costs of issuing the bonds, notes, or other indebtedness,  
36 and may include up to an additional ten percent of the loan amount to  
37 fund a reserve fund, consistent with RCW 39.44.140. The bonds,

1 warrants, or other evidences of indebtedness shall be deemed to be for  
2 capital purposes within the meaning of the uniform system of accounts  
3 for municipal corporations.

4 **Sec. 5.** RCW 36.94.460 and 1992 c 25 s 3 are each amended to read  
5 as follows:

6 (1) Any county engaged in the sale or distribution of water, or in  
7 the provision of energy conservation services under section 2 of this  
8 act, is hereby authorized, within limits established by the  
9 Constitution of the state of Washington, to assist the owners of  
10 structures that are provided water or energy conservation services by  
11 the county in financing the acquisition and installation of fixtures,  
12 systems, and equipment, for compensation or otherwise, for the  
13 conservation or more efficient use of water or energy in the structures  
14 under a water or energy conservation plan adopted by the county if the  
15 cost per unit of water saved or conserved by the use of the fixtures,  
16 systems, and equipment is less than the cost per unit of water supplied  
17 by the next least costly new water source available to the county to  
18 meet future demand.

19 (2) Except where otherwise authorized, assistance shall be limited  
20 to:

21 ~~((1))~~ (a) Providing an inspection of the structure, either  
22 directly or through one or more inspectors under contract, to determine  
23 and inform the owner of the estimated cost of purchasing and installing  
24 conservation fixtures, systems, and equipment for which financial  
25 assistance will be approved and the estimated life cycle savings to the  
26 water system and the consumer that are likely to result from the  
27 installation of the fixtures, systems, or equipment;

28 ~~((2))~~ (b) Providing a list of businesses that sell and install  
29 the fixtures, systems, and equipment within or in close proximity to  
30 the service area of the county, each of which businesses shall have  
31 requested to be included and shall have the ability to provide the  
32 products in a workmanlike manner and to utilize the fixtures, systems,  
33 and equipment in accordance with the prevailing national standards;

34 ~~((3))~~ (c) Arranging to have approved conservation fixtures,  
35 systems, and equipment installed by a private contractor whose bid is  
36 acceptable to the owner of the structure and verifying the  
37 installation; and

1        ~~((+4))~~ (d) Arranging or providing financing for the purchase  
2        ~~((and)), leasing, or~~ installation of approved conservation fixtures,  
3        systems, and equipment. The fixtures, systems, and equipment shall be  
4        ~~((purchased or installed by))~~ acquired from a private business, the  
5        owner, or the utility.

6        (3) Pay back shall be in the form of incremental additions to the  
7        utility bill, billed either together with ~~((the))~~ the use charge or  
8        separately. Loans shall not exceed ~~((one hundred twenty))~~ two hundred  
9        forty months in length. The county may make assistance available in  
10       the form of grants made under this section for conservation  
11       improvements to existing structures owned or occupied by persons  
12       qualifying as poor or infirm consistent with the state Constitution.

13       (4) The county legislative authority shall approve the aggregate  
14       amount of such loans and the repayment terms by ordinance and may, by  
15       ordinance, delegate to staff the approval of individual loans  
16       consistent with loan program guidelines approved in the ordinance. The  
17       county and the property owner shall enter into a loan agreement setting  
18       forth the terms of the loan, which agreement may provide for  
19       acceleration in the event a loan installment is delinquent. In order  
20       to secure loans, the county shall have a statutory lien on the  
21       property, not exceeding five percent of the assessed value of the  
22       property as of the last assessment preceding the loan funding date, on  
23       which conservation improvements so financed are installed or  
24       constructed. A statutory lien shall be paramount and superior to any  
25       other lien or encumbrance theretofore or thereafter created except a  
26       lien for general taxes and special assessment district assessments.  
27       Any lien for any amount in excess of five percent of the assessed value  
28       of the property may be obtained and perfected in accordance with  
29       applicable law. The loan shall be a lien upon property from the time  
30       the loan agreement is executed. If the county legislative authority in  
31       granting loans has acted in good faith and without fraud, the loan  
32       shall be valid and enforceable as such and the lien thereof upon the  
33       property shall be valid.

34       (5) The county may foreclose a lien in an action in the superior  
35       court. All or any of the tracts subject to such a lien may be  
36       proceeded against in a single action, and all parties appearing of  
37       record as owning or claiming to own or having an interest in or lien  
38       upon the tracts involved shall be impleaded in the action as parties

1 defendant. An action to foreclose a lien must be commenced within two  
2 years after the date of that the loan first becomes subject to  
3 acceleration under the loan documents. Liens to secure loans may be  
4 foreclosed in the manner provided by RCW 35.67.250 through 35.67.270.

5 (6) The county may pledge revenues from loan payments to secure and  
6 repay general obligation or revenue bonds, notes, or other forms of  
7 indebtedness issued by or on behalf of the county, which indebtedness  
8 shall be issued in accordance with chapters 39.44, 39.46, 39.50, and  
9 39.53 RCW. For the purpose of securing the payment of the principal of  
10 and interest on any bonds or notes, the county may create a reserve  
11 fund. The principal amount of any loan may include a proportionate  
12 share of the costs of issuing the bonds, notes, or other indebtedness,  
13 and may include up to an additional amount to fund a reserve fund,  
14 consistent with RCW 39.44.140. The bonds, warrants, or other evidences  
15 of indebtedness shall be deemed to be for capital purposes within the  
16 meaning of the uniform system of accounts for municipal corporations.

17 **Sec. 6.** RCW 35.92.430 and 2007 c 349 s 2 are each amended to read  
18 as follows:

19 (1) A city or town authorized to acquire and operate utilities for  
20 the purpose of furnishing the city or town and its inhabitants and  
21 other persons with water, with electricity for lighting and other  
22 purposes, or with service from sewerage, storm water, surface water, or  
23 solid waste handling facilities, may develop and make publicly  
24 available a plan to reduce its greenhouse (~~gases~~) gas emissions or  
25 achieve no-net emissions from all sources of greenhouse gases that the  
26 utility owns, leases, uses, contracts for, or otherwise controls.

27 (2) A city or town authorized to acquire and operate utilities for  
28 the purpose of furnishing the city or town and its inhabitants and  
29 other persons with water, with electricity for lighting and other  
30 purposes, or with service from sewerage, storm water, surface water, or  
31 solid waste handling facilities, may, as part of its utility operation,  
32 mitigate the environmental impacts, such as greenhouse (~~gases~~) gas  
33 emissions, of its operation, including any power purchases. The  
34 mitigation may include, but is not limited to, those greenhouse gases  
35 mitigation mechanisms recognized by independent, qualified  
36 organizations with proven experience in emissions mitigation  
37 activities. Mitigation mechanisms may include the purchase, trade, and

1 banking of greenhouse gases offsets or credits. If a state greenhouse  
2 gases registry is established, a utility that has purchased, traded, or  
3 banked greenhouse gases mitigation mechanisms under this section shall  
4 receive credit in the registry.

5 (3) Without limiting subsections (1) and (2) of this section, any  
6 city or town may develop and make publicly available a plan for the  
7 city or town to reduce its greenhouse gas emissions, or achieve no-net  
8 emissions, from city or town governmental activities, including the  
9 operation of any facilities, equipment, fleet of vehicles, or other  
10 systems that it owns, operates, leases, uses, contracts for, or  
11 otherwise controls. In furtherance of such a plan, the city or town  
12 may enter into a mitigation agreement with the provider of electric or  
13 natural gas utility services within the city or town.

14 **Sec. 7.** RCW 36.01.250 and 2007 c 349 s 6 are each amended to read  
15 as follows:

16 (1) Any county authorized to acquire and operate utilities or  
17 conduct other proprietary or user or ratepayer funded activities may  
18 develop and make publicly available a plan for the county to reduce its  
19 greenhouse (~~(gases)) gas~~ emissions or achieve no-net emissions from all  
20 sources of greenhouse gases that such county utility or proprietary or  
21 user or ratepayer funded activity owns, operates, leases, uses,  
22 contracts for, or otherwise controls.

23 (2) Any county authorized to acquire and operate utilities or  
24 conduct other proprietary or user or ratepayer funded activities may,  
25 as part of such utility or activity, reduce or mitigate the  
26 environmental impacts, such as greenhouse (~~(gases)) gas~~ emissions, of  
27 such utility and other proprietary or user or ratepayer funded  
28 activity. The mitigation may include, but is not limited to, all  
29 greenhouse gases mitigation mechanisms recognized by independent,  
30 qualified organizations with proven experience in emissions mitigation  
31 activities. Mitigation mechanisms may include the purchase, trade, and  
32 banking of carbon offsets or credits. Ratepayer funds, fees, or other  
33 revenue dedicated to a county utility or other proprietary or user or  
34 ratepayer funded activity may be spent to reduce or mitigate the  
35 environmental impacts of greenhouse gases emitted as a result of that  
36 function. If a state greenhouse gases registry is established, the

1 county that has purchased, traded, or banked greenhouse gases  
2 mitigation mechanisms under this section shall receive credit in the  
3 registry.

4 (3) Without limiting subsections (1) and (2) of this section, any  
5 county may develop and make publicly available a plan for the county to  
6 reduce its greenhouse gas emissions, or achieve no-net emissions, from  
7 county governmental activities, including the operation of any  
8 facilities, equipment, fleet of vehicles, or other systems that it  
9 owns, operates, leases, uses, contracts for, or otherwise controls. In  
10 furtherance of such a plan, the county may enter into a mitigation  
11 agreement with the provider of electric or natural gas utility services  
12 within the county.

13 **Sec. 8.** RCW 80.28.260 and 1996 c 186 s 520 are each amended to  
14 read as follows:

15 ~~(1)(a) Upon application by an electrical or gas company, the~~  
16 ~~commission shall ((adopt a policy allowing an incentive rate of return~~  
17 ~~on investment (a) for payments made under RCW 19.27A.035 and (b) for~~  
18 ~~programs that improve the efficiency of energy end use if priority is~~  
19 ~~given to senior citizens and low income citizens in the course of~~  
20 ~~carrying out such programs. The incentive rate of return on~~  
21 ~~investments set forth in this subsection is established by adding an~~  
22 ~~increment of two percent to the rate of return on common equity~~  
23 ~~permitted on the company's other investments.~~

24 ~~(2) The commission shall consider and may adopt a policy allowing~~  
25 ~~an incentive rate of return on investment in additional programs to~~  
26 ~~improve the efficiency of energy end use or other incentive policies to~~  
27 ~~encourage utility investment in such programs.~~

28 ~~(3) The commission shall consider and may adopt other policies to~~  
29 ~~protect a company from a reduction of short term earnings that may be~~  
30 ~~a direct result of utility programs to increase the efficiency of~~  
31 ~~energy use. These policies may include allowing a periodic rate~~  
32 ~~adjustment for investments in end use efficiency or allowing changes in~~  
33 ~~price structure designed to produce additional new revenue)) approve~~  
34 ~~rate adjustment mechanisms to: (i) Provide full and timely recovery of~~  
35 ~~all prudently incurred cost-effective expenditures for conservation;~~  
36 ~~and (ii) ensure that utilities recover authorized nonfuel revenue~~

1 requirements that would have been recovered absent conservation  
2 savings.

3 (b) No rate adjustment mechanism in (a) of this subsection applies  
4 to any rate for: (i) Retail wheeling service, high voltage service, or  
5 large general service greater than 3aMW; or (ii) commercial or  
6 industrial gas service or gas transportation service greater than five  
7 hundred thousand therms per year.

8 (c) Any rate adjustment in (a) of this subsection may be no more  
9 than three percent of a utility's annual revenues in any given year.

10 (2) The definitions in this subsection apply throughout this  
11 section unless the context clearly requires otherwise.

12 (a) "Conservation" has the same meaning as defined in RCW  
13 19.285.030.

14 (b) "Conservation savings" means energy savings reviewed by the  
15 commission. Conservation savings include savings from electrical or  
16 gas company programs and company-sponsored programs, including rebate-  
17 based programs and education-based programs. Conservation savings also  
18 include conservation due to changes in federal, state, or local  
19 building energy codes and equipment standards.

20 (c) "Conservation target" means: (i) For electrical companies, the  
21 biennial conservation target set by an electrical company in compliance  
22 with RCW 19.285.040; and (ii) for gas companies, the annual natural gas  
23 conservation goal set forth in a gas company's most recent applicable  
24 tariff filings.

25 (d) "Cost-effective" has the same meaning as defined in RCW  
26 80.52.030.

27 NEW SECTION. Sec. 9. This act applies prospectively only and does  
28 not affect the validity of any loan entered into or any bonds issued  
29 with respect to programs or services provided under RCW 35.92.360,  
30 54.16.280, or 36.94.460 prior to the effective date of this section.

--- END ---