

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6560

Chapter 300, Laws of 1998
(partial veto)

55th Legislature
1998 Regular Session

RETAIL ELECTRICAL CUSTOMER PROTECTION

EFFECTIVE DATE: 6/11/98

Passed by the Senate March 9, 1998
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 5, 1998
YEAS 98 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved April 2, 1998, with the
exception of sections 9 and 12, which
are vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
ENGROSSED SUBSTITUTE SENATE BILL 6560
as passed by the Senate and the House
of Representatives on the dates hereon
set forth.

MIKE O'CONNELL

Secretary

FILED

April 2, 1998 - 2:51 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6560

AS AMENDED BY THE HOUSE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Brown, Jacobsen, T. Sheldon, Kohl, Hargrove, Fairley, B. Sheldon, Prentice, Wojahn, Loveland, Thibaudeau, McAuliffe, Heavey, Spanel, Snyder, Rasmussen, Haugen, Patterson and Franklin)

Read first time 02/06/98.

1 AN ACT Relating to retail electrical customers; amending RCW
2 74.38.070; adding a new chapter to Title 19 RCW; creating new sections;
3 and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Electricity is a basic and fundamental need of all residents;
7 and

8 (b) Currently Washington's consumer-owned and investor-owned
9 utilities offer consumers a high degree of reliability and service
10 quality while providing some of the lowest rates in the country.

11 (2) The legislature intends to:

12 (a) Preserve the benefits of consumer and environmental protection,
13 system reliability, high service quality, and low-cost rates;

14 (b) Ensure that all retail electrical customers have the same level
15 of rights and protections; and

16 (c) Require the adequate disclosure of the rights afforded to
17 retail electric customers.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply

2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Commission" means the utilities and transportation commission.

4 (2) "Conservation" means an increase in efficiency in the use of
5 energy use that yields a decrease in energy consumption while providing
6 the same or higher levels of service. Conservation includes low-income
7 weatherization programs.

8 (3) "Consumer-owned utility" means a municipal electric utility
9 formed under Title 35 RCW, a public utility district formed under Title
10 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
11 cooperative formed under chapter 23.86 RCW, or a mutual corporation or
12 association formed under chapter 24.06 RCW, that is engaged in the
13 business of distributing electricity to more than one retail electric
14 customer in the state.

15 (4) "Department" means the department of community, trade, and
16 economic development.

17 (5) "Electric meters in service" means those meters that record in
18 at least nine of twelve calendar months in any calendar year not less
19 than two hundred fifty kilowatt hours per month.

20 (6) "Electric utility" means a consumer-owned or investor-owned
21 utility as defined in this section.

22 (7) "Electricity" means electric energy measured in kilowatt hours,
23 or electric capacity measured in kilowatts, or both.

24 (8) "Governing body" means the council of a city or town, the
25 commissioners of an irrigation district, municipal electric utility, or
26 public utility district, or the board of directors of an electric
27 cooperative or mutual association that has the authority to set and
28 approve rates.

29 (9) "Investor-owned utility" means a company owned by investors
30 that meets the definition of RCW 80.04.010 and is engaged in
31 distributing electricity to more than one retail electric customer in
32 the state.

33 (10) "Proprietary customer information" means: (a) Information
34 that relates to the source and amount of electricity used by a retail
35 electric customer, a retail electric customer's payment history, and
36 household data that is made available by the customer solely by virtue
37 of the utility-customer relationship; and (b) information contained in
38 a retail electric customer's bill.

1 (11) "Renewable resources" means electricity generation facilities
2 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal
3 energy; (e) landfill gas; or (f) biomass energy based on solid organic
4 fuels from wood, forest, or field residues, or dedicated energy crops
5 that do not include wood pieces that have been treated with chemical
6 preservatives such as creosote, pentachlorophenol, or copper-chrome-
7 arsenic.

8 (12) "Resale" means the purchase and subsequent sale of electricity
9 for profit, but does not include the purchase and the subsequent sale
10 of electricity at the same rate at which the electricity was purchased.

11 (13) "Retail electric customer" means a person or entity that
12 purchases electricity for ultimate consumption and not for resale.

13 (14) "Small utility" means any consumer-owned utility with twenty-
14 five thousand or fewer electric meters in service, or that has an
15 average of seven or fewer customers per mile of distribution line.

16 (15) "State" means the state of Washington.

17 NEW SECTION. **Sec. 3.** Except as otherwise provided in section 6 of
18 this act, each electric utility must provide its retail electric
19 customers with the following disclosures in accordance with section 4
20 of this act:

21 (1) An explanation of any applicable credit and deposit
22 requirements, including the means by which credit may be established,
23 the conditions under which a deposit may be required, the amount of any
24 deposit, interest paid on the deposit, and the circumstances under
25 which the deposit will be returned or forfeited.

26 (2) A complete, itemized listing of all rates and charges for which
27 the customer is responsible, including charges, if any, to terminate
28 service, the identity of the entity responsible for setting rates, and
29 an explanation of how to receive notice of public hearings where
30 changes in rates will be considered or approved.

31 (3) An explanation of the metering or measurement policies and
32 procedures, including the process for verifying the reliability of the
33 meters or measurements and adjusting bills upon discovery of errors in
34 the meters or measurements.

35 (4) An explanation of bill payment policies and procedures,
36 including due dates, applicable late fees, and the interest rate
37 charged, if any, on unpaid balances.

1 (5) An explanation of the payment arrangement options available to
2 customers, including budget payment plans and the availability of home
3 heating assistance from government and private sector organizations.

4 (6) An explanation of the method by which customers must give
5 notice of their intent to discontinue service, the circumstances under
6 which service may be discontinued by the utility, the conditions that
7 must be met by the utility prior to discontinuing service, and how to
8 avoid disconnection.

9 (7) An explanation of the utility's policies governing the
10 confidentiality of proprietary customer information, including the
11 circumstances under which the information may be disclosed and ways in
12 which customers can control access to the information.

13 (8) An explanation of the methods by which customers may make
14 inquiries to and file complaints with the utility, and the utility's
15 procedures for responding to and resolving complaints and disputes,
16 including a customer's right to complain about an investor-owned
17 utility to the commission and appeal a decision by a consumer-owned
18 utility to the governing body of the consumer-owned utility.

19 (9) An annual report containing the following information for the
20 previous calendar year:

21 (a) A general description of the electric utility's customers,
22 including the number of residential, commercial, and industrial
23 customers served by the electric utility, and the amount of electricity
24 consumed by each customer class in which there are at least three
25 customers, stated as a percentage of the total utility load;

26 (b) A summary of the average electricity rates for each customer
27 class in which there are at least three customers, stated in cents per
28 kilowatt hour, the date of the electric utility's last general rate
29 increase or decrease, the identity of the entity responsible for
30 setting rates, and an explanation of how to receive notice of public
31 hearings where changes in rates will be considered or approved;

32 (c) An explanation of the amount invested by the electric utility
33 in conservation, nonhydrorenewable resources, and low-income energy
34 assistance programs, and the source of funding for the investments; and

35 (d) An explanation of the amount of federal, state, and local taxes
36 collected and paid by the electric utility, including the amounts
37 collected by the electric utility but paid directly by retail electric
38 customers.

1 NEW SECTION. **Sec. 4.** Except as otherwise provided in section 6 of
2 this act, an electric utility shall:

3 (1) Provide notice to all of its retail electric customers that the
4 disclosures required in section 3 of this act are available without
5 charge upon request. Such notice shall be provided at the time service
6 is established and either included as a prominent part of each
7 customer's bill or in a written notice mailed to each customer at least
8 once a year thereafter. Required disclosures shall be provided without
9 charge, in writing using plain language that is understandable to an
10 ordinary customer, and presented in a form that is clear and
11 conspicuous.

12 (2) Disclose the following information in a prominent manner on all
13 billing statements sent to retail electric customers, or by a separate
14 written notice mailed to all retail electric customers at least
15 quarterly and at the same time as a billing statement: "YOUR BILL
16 INCLUDES CHARGES FOR ELECTRICITY, DELIVERY SERVICES, GENERAL
17 ADMINISTRATION AND OVERHEAD, METERING, TAXES, CONSERVATION EXPENSES,
18 AND OTHER ITEMS."

19 NEW SECTION. **Sec. 5.** (1) The utilities and transportation
20 commission and the department of community, trade, and economic
21 development shall jointly study the following issues:

22 (a) Variations in retail electricity rates within the state and in
23 comparison with national averages, trends affecting the electric
24 service costs for all customers in the state, and strategies available
25 to minimize those costs in the future;

26 (b) Demographics of retail electric customers in the state to
27 include the distribution of customers by size of load;

28 (c) The potential for cost-shifting among customer classes and
29 among customers within the same class, and strategies available to
30 minimize inappropriate cost shifts;

31 (d) The consumer protection policies and procedures of electric
32 utilities, including areas of consistency and inconsistency among the
33 utilities in those policies and procedures;

34 (e) The status, number, and primary characteristics of service
35 territory agreements between electric utilities;

36 (f) The current level of service quality and reliability as
37 measured by available statistics, trends affecting quality of service

1 and the integrity and reliability of the distribution system, and ways
2 to ensure high service quality and reliability in the future; and

3 (g) Current levels of investment in conservation, nonhydrorenewable
4 resources, and low-income energy assistance programs, trends affecting
5 such investment, and ways to fairly, efficiently, and effectively
6 foster future achievement of the purposes of such investment.

7 (2) The utilities and transportation commission and the department
8 of community, trade, and economic development shall consult with the
9 chair and ranking minority member of the senate and house of
10 representatives energy and utilities committees, electric utilities,
11 retail electric customers, and other interested parties throughout the
12 course of the study and shall report the results of this study to the
13 legislature and the governor no later than December 31, 1998.

14 (3) Except as otherwise provided in section 6 of this act, each
15 electric utility shall cooperate with the commission and the department
16 in the preparation of the study and report required by this section,
17 and shall provide all information requested by the commission or the
18 department in a timely manner so that the study and report will be as
19 thorough as possible and completed on schedule. The commission and
20 department shall coordinate and cooperate with each other in preparing
21 the study and report, particularly in requesting information from, or
22 the assistance of, electric utilities, to minimize the potential for
23 redundant requests.

24 NEW SECTION. **Sec. 6.** The provisions of sections 3 through 5 of
25 this act do not apply to a small utility. However, nothing in this
26 section prohibits the governing body of a small utility from
27 determining the utility should comply with any or all of the provisions
28 of sections 3 through 5 of this act, which governing bodies are
29 encouraged to do.

30 NEW SECTION. **Sec. 7.** Nothing in chapter . . . , Laws of 1998 (this
31 act) shall be construed as conferring on any state agency jurisdiction,
32 supervision, or control over any consumer-owned utility.

33 **Sec. 8.** RCW 74.38.070 and 1990 c 164 s 1 are each amended to read
34 as follows:

35 (1) Notwithstanding any other provision of law, any county, city,
36 town, municipal corporation, or quasi municipal corporation providing

1 utility services may provide such services at reduced rates for low
2 income senior citizens or other low-income ((disabled)) citizens:
3 PROVIDED, That, for the purposes of this section, "low-income senior
4 citizen" or "other low-income ((disabled)) citizen" shall be defined by
5 appropriate ordinance or resolution adopted by the governing body of
6 the county, city, town, municipal corporation, or quasi municipal
7 corporation providing the utility services except as provided in
8 subsection (2) of this section. Any reduction in rates granted in
9 whatever manner to low-income senior citizens or other low-income
10 ((disabled)) citizens in one part of a service area shall be uniformly
11 extended to low-income senior citizens or other low-income ((disabled))
12 citizens in all other parts of the service area.

13 (2) For purposes of implementing this section by any public utility
14 district, (a) "low-income senior citizen" means a person who is sixty-
15 two years of age or older and whose total income, including that of his
16 or her spouse or cotenant, does not exceed the amount specified in RCW
17 84.36.381(5)(b), as now or hereafter amended and (b) "other low-income
18 ((disabled)) citizen" means ((i)) a person ((qualifying for special
19 parking privileges under RCW 46.16.381(1) (a) through (f), (ii) a blind
20 person as defined in RCW 74.18.020, or (iii) a disabled, handicapped,
21 or incapacitated person as defined under any other existing state or
22 federal program and)) whose household income((, including that of his
23 or her spouse or cotenant,)) does not exceed the amount specified in
24 RCW 70.164.020(4).

25 ****NEW SECTION. Sec. 9. If specific funding for the purposes of***
26 ***section 5 of this act, referencing section 5 of this act by bill or***
27 ***chapter number and section number, is not provided by June 30, 1998, in***
28 ***the omnibus appropriations act, section 5 of this act is null and void.***
29 ****Sec. 9 was vetoed. See message at end of chapter.***

30 **NEW SECTION. Sec. 10.** Sections 1 through 4, 6, and 7 of this act
31 constitute a new chapter in Title 19 RCW.

32 **NEW SECTION. Sec. 11.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 ***NEW SECTION.** *Sec. 12. This act is necessary for the immediate*
2 *preservation of the public peace, health, or safety, or support of the*
3 *state government and its existing public institutions, and takes effect*
4 *immediately.*

5 ***Sec. 12 was vetoed. See message at end of chapter.**

 Passed the Senate March 9, 1998.

 Passed the House March 5, 1998.

 Approved by the Governor April 2, 1998, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State April 2, 1998.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 9 and
3 12, Engrossed Substitute Senate Bill No. 6560 entitled:

4 "AN ACT Relating to retail electrical customers;"

5 ESSB 6560 establishes certain protections for consumers of
6 electricity. It also, in section 5, directs the Washington Utilities
7 and Transportation Commission and the Department of Community, Trade
8 and Economic Development to jointly study several important features of
9 our current electric system and potential changes to our electric
10 system.

11 Section 9 of the bill is technically flawed. That section would
12 nullify the study required by section 5, unless the Legislature funds
13 the study in the budget and specifically references section 5 by
14 section number. The legislature did in fact fund the study in the
15 budget, but referenced only the bill number, not the section number.
16 I believe the Legislature intended to fund the study, and my veto of
17 section 9 will achieve that goal.

18 Section 12 contains an emergency clause that would have given
19 immediate effect to the bill. Certain provisions of the bill obligate
20 utilities to provide new customers with a list of policies and
21 procedures. The utilities need some time to prepare that information.
22 Without section 12, the bill will take effect on June 11, 1998, which
23 allows adequate preparation time.

24 For these reasons I have vetoed sections 9 and 12 of Engrossed
25 Substitute Senate Bill No. 6560.

26 With the exception of sections 9 and 12, Engrossed Substitute
27 Senate Bill No. 6560 is approved."