
**Technology, Energy &
Communications Committee**

HB 1929

Brief Description: Authorizing utilities to engage in environmental mitigation efforts.

Sponsors: Representatives Hurst, Morris and Kenney.

Brief Summary of Bill

- Authorizes municipal utilities and public utility districts to develop a no-net emissions plan and to engage in greenhouse gas mitigation activities.

Hearing Date: 2/13/07

Staff: Kara Durbin (786-7133).

Background:

Powers of municipal utilities

Municipal utilities are expressly authorized by statute to perform the following functions:

- (1) to operate works or plants for the purpose of furnishing electricity or power-related facilities;
- (2) to regulate and control the use, distribution, and price of the electricity or facilities furnished;
- (3) to handle, sell, or lease equipment needed for the use, distribution, and sale of electricity; and
- (4) to purchase power to resell to city residents and businesses.

In addition to the authority granted to municipal utilities under statute, municipal utilities may act within their implied and incidental powers if the following four conditions are met:

- (1) the city is exercising a proprietary power;
- (2) the action is within the purpose and object of the enabling statute;
- (3) the action is not contrary to express statutory or constitutional limitations; and
- (4) the action is not arbitrary, capricious, or unreasonable.

Powers of public utility districts

Public utility districts (PUDs) are municipal corporations under the constitution and statutes of Washington. A PUD has full and exclusive authority to sell, regulate, and control the use,

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distribution, rates, service, charges and price of electricity. In addition, PUDs are given the power to make contracts and do all other things necessary to carry out the provisions of this title.

A PUD, as a municipal corporation, is limited to those powers that are necessarily or fairly implied in or incident to powers expressly granted by statute, as well as those that are essential to the declared object and purposes of the corporation.

Okeson v. City of Seattle

In January of 2007, the Washington Supreme Court ruled in *Okeson v. City of Seattle*, No. 77888-4 (Jan. 18, 2007), that Seattle City Light lacked the authority to use ratepayer money for greenhouse gas offset contracts because the contracts were neither proprietary in nature nor sufficiently related to the purpose of supplying electricity. In reaching its conclusion, the court first concluded that Seattle City Light did not have the express statutory authority to pay other entities to reduce their greenhouse gas emissions. Second, it concluded that Seattle City Light did not act within its implied or incidental powers because Seattle City Light's offset contracts are (1) not proprietary in nature; and (2) not within the object and purpose of the utility's enabling statute.

Summary of Bill:

Authority to develop an emissions plan

A municipal utility or public utility district (PUD) may develop and make publicly available a plan for the utility or district to achieve no-net emissions from all sources of greenhouse gases it owns, leases, uses, contracts for, or otherwise controls.

Authority to mitigate greenhouse gas emissions

A municipal utility or PUD may, as part of its utility operation, mitigate the environmental impacts of its operations and any power purchases. Mitigation may include all greenhouse gas mitigation mechanisms recognized by an independent, qualified organization with proven experience in emission mitigation activities. It may also include the purchase of carbon offsets.

If a greenhouse gas registry is developed in the state after the effective date of this act, any carbon offsets purchased by a municipal utility or PUD must be recognized as part of that registry.

Legislative findings

The Legislature finds and declares that offset contracts and other greenhouse gas mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.