
HOUSE BILL 2268

State of Washington

61st Legislature

2009 Regular Session

By Representative McCoy

1 AN ACT Relating to renewable energy, energy efficiency, and energy
2 technologies; amending RCW 43.325.001, 43.325.005, 43.325.020,
3 43.325.030, 43.325.040, and 43.325.070; and providing an expiration
4 date.

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

6 **Sec. 1.** RCW 43.325.001 and 2006 c 171 s 1 are each amended to read
7 as follows:

8 The legislature finds that:

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

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

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

17 (4) The use of biodiesel results in significantly less air
18 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) Washington has abundant supplies of organic wastes from farms
5 that can be used for energy production and abundant farmland where
6 crops could be grown to supplement or supplant petroleum-based fuels;

7 (7) The use of energy and fuel derived from these sources and other
8 alternative, renewable, and efficient energy sources and technologies
9 can help citizens and businesses conserve energy and reduce the use of
10 petroleum-based fuels, would improve air and water quality in
11 Washington, reduce environmental risks from farm wastes, create new
12 markets for farm products, and provide new industries and jobs for
13 Washington citizens;

14 (8) The bioenergy industry is a new and developing industry that
15 is, in part, limited by the availability of capital for the
16 construction of facilities for converting farm and forest products into
17 energy and fuels;

18 (9) Instead of leaving our economy at the mercy of global events,
19 and the policies of foreign nations, Washington state should adopt a
20 policy of energy independence; and

21 (10) The energy freedom program is meant to lead Washington state
22 towards energy independence.

23 Therefore, the legislature finds that it is in the public interest
24 to encourage the rapid adoption and use of bioenergy, to develop a
25 viable bioenergy industry within Washington state, to promote public
26 research and development in bioenergy sources and markets, and to
27 support a viable agriculture industry to grow bioenergy crops. To
28 accomplish this, the energy freedom program is established to promote
29 public research and development in bioenergy, and to stimulate the
30 construction of facilities in Washington to generate energy from farm
31 sources or convert organic matter into fuels.

32 **Sec. 2.** RCW 43.325.005 and 2007 c 348 s 1 are each amended to read
33 as follows:

34 (1) The legislature finds that excessive dependence on fossil fuels
35 and conventional energy sources and technologies jeopardizes
36 Washington's economic security, environmental integrity, and public
37 health. Accelerated development and use of clean fuels (~~and~~), clean

1 vehicle technologies, and alternative, renewable, and efficient energy
2 sources and technologies will reduce the drain on Washington's economy
3 (~~from importing fossil fuels~~). As fossil fuel prices rise, clean
4 fuels (~~and~~), vehicles, and alternative, renewable, and efficient
5 energy sources and technologies can save consumers money while
6 promoting the development of a major, sustainable industry that
7 provides good jobs and a new source of rural prosperity. In addition,
8 clean fuels and vehicles protect public health by reducing toxic air
9 and climate change emissions.

10 (2) The legislature also finds that climate change is expected to
11 have significant impacts in the Pacific Northwest region in the near
12 and long-term future. These impacts include: Increased temperatures,
13 declining snowpack, more frequent heavy rainfall and flooding, receding
14 glaciers, rising sea levels, increased risks to public health due to
15 insect and rodent-borne diseases, declining salmon populations, and
16 increased drought and risk of forest fires. The legislature recognizes
17 the need at this time to continue to gather and analyze information
18 related to climate protection. This analysis will allow prudent steps
19 to be taken to avoid, mitigate, or respond to climate impacts and
20 protect our communities.

21 (3) Finally, the legislature finds that to reduce fossil fuel
22 dependence, build our clean energy economy, and reduce climate impacts,
23 the state should develop policies and incentives that help businesses,
24 consumers, and farmers gain greater access to affordable clean fuels
25 and vehicles and to produce clean fuels in the state, using
26 alternative, renewable, and efficient energy sources and technologies.
27 These policies and incentives should include: Incentives for
28 replacement of the most polluting diesel engines, especially in school
29 buses; transitional incentives for development of the most promising
30 in-state clean fuels and fuel feedstocks, including biodiesel crops,
31 ethanol from plant waste, and liquid natural gas from landfill or
32 wastewater treatment gases; reduced fossil fuel consumption by state
33 fleets; development of promising new technologies for displacing
34 petroleum with electricity, such as "plug-in hybrids"; the use of
35 alternative, renewable, and efficient energy sources for homes and
36 businesses; and impact analysis and emission accounting procedures that
37 prepare Washington to respond and prosper as climate change impacts

1 occur, and as policies and markets to reduce climate pollution are
2 developed.

3 **Sec. 3.** RCW 43.325.020 and 2007 c 348 s 302 are each amended to
4 read as follows:

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

9 (2) When reviewing applications submitted under this program, the
10 director shall consult with those agencies and other public entities
11 having expertise and knowledge to assess the technical and business
12 feasibility of the project and probability of success. These agencies
13 may include, but are not limited to, Washington State University, the
14 University of Washington, the department of ecology, the department of
15 natural resources, the department of agriculture, the department of
16 general administration, local clean air authorities, and the Washington
17 state conservation commission.

18 (3) Except as provided in subsections (4) and (5) of this section,
19 the director, in cooperation with the department of agriculture, may
20 approve an application only if the director finds:

21 (a) The project will convert farm products, wastes, cellulose, or
22 biogas directly into electricity or biofuel or other coproducts
23 associated with such conversion or lead to the availability of
24 alternative, renewable, and efficient energy sources for homes and
25 businesses;

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, and alternative,
36 renewable, and efficient energy to be produced by the project,
37 exercisable by the department of general administration;

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

3 (h) For biofuel projects, the project will use feedstocks produced
4 in the state, if feasible, except this criterion does not apply to the
5 construction of facilities used to distribute and store fuels that are
6 produced from 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 43.325.010 and the findings delivered to the director.

17 (4) When reviewing an application for a refueling project, the
18 coordinator may award a grant or a loan to an applicant if the director
19 finds:

20 (a) The project will offer alternative fuels to the motoring
21 public;

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

23 (c) The project is located within a green highway zone as defined
24 in RCW 43.325.010;

25 (d) The project will contribute towards an efficient and adequately
26 spaced alternative fuel refueling network along the green highways
27 designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

28 (e) The project will result in increased access to alternative
29 fueling infrastructure for the motoring public along the green highways
30 designated in RCW 47.17.020, 47.17.135, and 47.17.140.

31 (5) When reviewing an application for an alternative, renewable,
32 and efficient energy project, the coordinator may award a grant or a
33 loan to an applicant if the director finds:

34 (a) The project will offer alternative energy to the public;

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

36 (c) The project will result in increased access to alternative,
37 renewable, and efficient energy infrastructure for the public; and

1 (d) The federal government has provided funds with a limited time
2 frame for use for energy independence and security, energy efficiency,
3 renewable energy, and conservation.

4 (6)(a) The director may approve a project application for
5 assistance under subsections (3) and (4) of this section up to five
6 million dollars. In no circumstances shall this assistance constitute
7 more than fifty percent of the total project cost.

8 (b) The director may approve a refueling project application for a
9 grant or a loan under subsection (4) of this section up to fifty
10 thousand dollars. In no circumstances shall a grant or a loan award
11 constitute more than fifty percent of the total project cost.

12 ~~((+6))~~ (7) The director shall enter into agreements with approved
13 applicants to fix the terms and rates of the assistance to minimize the
14 costs to the applicants, and to encourage establishment of a viable
15 bioenergy ~~((or))~~; biofuel ~~((industry))~~; or alternative, renewable, and
16 efficient energy industries. The agreement shall include provisions to
17 protect the state's investment, including a requirement that a
18 successful applicant enter into contracts with any partners that may be
19 involved in the use of any assistance provided under this program,
20 including services, facilities, infrastructure, or equipment.
21 Contracts with any partners shall become part of the application
22 record.

23 ~~((+7))~~ (8) The director may defer any payments for up to twenty-
24 four months or until the project starts to receive revenue from
25 operations, whichever is sooner.

26 **Sec. 4.** RCW 43.325.030 and 2007 c 348 s 205 are each amended to
27 read as follows:

28 The director of the department shall appoint a coordinator that is
29 responsible for:

30 (1) Managing, directing, inventorying, and coordinating state
31 efforts to promote, develop, and encourage ~~((a))~~ biofuel~~((s))~~ and
32 alternative, renewable, and efficient energy markets in Washington;

33 (2) Developing, coordinating, and overseeing the implementation of
34 a plan, or series of plans, for the production, transport,
35 distribution, and delivery of biofuels produced predominantly from
36 recycled products or Washington feedstocks;

1 (3) Working with the departments of transportation and general
2 administration, and other applicable state and local governmental
3 entities and the private sector, to ensure the development of biofuel
4 fueling stations for use by state and local governmental motor vehicle
5 fleets, and to provide greater availability of public biofuel fueling
6 stations for use by state and local governmental motor vehicle fleets;

7 (4) Coordinating with the Western Washington University alternative
8 automobile program for opportunities to support new Washington state
9 technology for conversion of fossil fuel fleets to biofuel, hybrid, or
10 alternative fuel propulsion;

11 (5) Coordinating with the University of Washington's college of
12 forest management and the Olympic natural resources center for the
13 identification of barriers to using the state's forest resources for
14 fuel production, including the economic and transportation barriers of
15 physically bringing forest biomass to the market;

16 (6) Coordinating with the department of agriculture and Washington
17 State University for the identification of other barriers for future
18 biofuels development and development of strategies for furthering the
19 penetration of the Washington state fossil fuel market with Washington
20 produced biofuels, particularly among public entities.

21 **Sec. 5.** RCW 43.325.040 and 2007 c 348 s 305 are each amended to
22 read as follows:

23 (1) The energy freedom account is created in the state treasury.
24 All receipts from appropriations made to the account (~~and~~), any loan
25 payments of principal and interest derived from loans made under this
26 chapter, and moneys provided by the federal government for energy
27 independence and security, energy efficiency, renewable energy, and
28 conservation must be deposited into the account. Moneys in the account
29 may be spent only after appropriation. Expenditures from the account
30 may be used only for assistance for projects consistent with this
31 chapter or otherwise authorized by the legislature.

32 (2) The green energy incentive account is created in the state
33 treasury as a subaccount of the energy freedom account. All receipts
34 from appropriations made to the green energy incentive account shall be
35 deposited into the account, and may be spent only after appropriation.
36 Expenditures from the account may be used only for:

37 (a) Refueling projects awarded under this chapter;

1 (b) Pilot projects for plug-in hybrids, including grants provided
2 for the electrification program set forth in RCW 43.325.110; and

3 (c) Demonstration projects developed with state universities as
4 defined in RCW 28B.10.016 and local governments that result in the
5 design and building of a hydrogen vehicle fueling station.

6 (3) Any state agency receiving funding from the energy freedom
7 account is prohibited from retaining greater than three percent of any
8 funding provided from the energy freedom account for administrative
9 overhead or other deductions not directly associated with conducting
10 the research, projects, or other end products that the funding is
11 designed to produce unless this provision is waived in writing by the
12 director.

13 (4) Any university, institute, or other entity that is not a state
14 agency receiving funding from the energy freedom account is prohibited
15 from retaining greater than fifteen percent of any funding provided
16 from the energy freedom account for administrative overhead or other
17 deductions not directly associated with conducting the research,
18 projects, or other end products that the funding is designed to
19 produce.

20 (5) Subsections (2) through (4) of this section do not apply to
21 assistance awarded for projects under RCW 43.325.020(3).

22 **Sec. 6.** RCW 43.325.070 and 2007 c 348 s 303 are each amended to
23 read as follows:

24 (1) If the total requested dollar amount of assistance awarded for
25 projects under RCW 43.325.020(3) exceeds the amount available in the
26 energy freedom account created in RCW 43.325.040, the applications must
27 be prioritized based upon the following criteria:

28 (a) The extent to which the project will help reduce dependence on
29 petroleum fuels (~~and~~), imported energy, and alternative, renewable,
30 and efficient energy either directly or indirectly;

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

33 (c) The extent to which the project will establish a viable
34 bioenergy (~~or~~), biofuel, or alternative, renewable, or efficient
35 energy production capacity in Washington;

36 (d) The benefits to Washington's agricultural producers;

37 (e) The benefits to the health of Washington's forests;

1 (f) The beneficial uses of biogas; (~~and~~)

2 (g) The benefits to Washington's alternative, renewable, and
3 efficient energy industry; and

4 (h) The number and quality of jobs and economic benefits created by
5 the project.

6 (2) This section does not apply to grants or loans awarded for
7 refueling projects under RCW 43.325.020(4).

8 NEW SECTION. **Sec. 7.** Sections 1, 3, 5, and 6 of this act expire
9 June 30, 2016.

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