
SENATE BILL 6547

State of Washington

61st Legislature

2010 Regular Session

By Senators Kilmer, Ranker, Kohl-Welles, Shin, Prentice, Roach, Pridemore, McDermott, Regala, Murray, Fairley, Keiser, Kauffman, McAuliffe, Gordon, and Kline

Read first time 01/18/10. Referred to Committee on Ways & Means.

1 AN ACT Relating to creating jobs by funding construction of energy
2 cost saving improvements to public facilities; adding a new chapter to
3 Title 43 RCW; creating new sections; making an appropriation; and
4 providing for submission of certain sections of this act to a vote of
5 the people.

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

7 **PART I**

8 **SHORT TITLE AND INTENT**

9 NEW SECTION. **Sec. 101.** This act may be known and cited as the
10 jobs act.

11 NEW SECTION. **Sec. 102.** The legislature intends to create jobs in
12 every corner of Washington state by issuing bonds, which will catalyze
13 energy savings and repair work at public schools, state colleges and
14 universities, and other public buildings.

15 It is the intent of the legislature that these investments will
16 create jobs quickly and directly, at a time when the state's residents
17 need jobs.

1 The legislature intends that these job-creating projects save
2 taxpayers money, with an estimated one hundred ninety-one million
3 dollars saved each year in public schools and buildings through reduced
4 energy and operational costs, and improve the health and safety of
5 those buildings. The energy savings are equivalent to the use of an
6 estimated one hundred thirty thousand houses. It is also the intent of
7 the legislature that these job-creating projects lead to reduced
8 pollutants, as the weatherization and energy efficiency projects will
9 reduce pollution emissions by an estimated amount equivalent to
10 removing one hundred ninety-five thousand cars from the roads each
11 year.

12 **PART II**
13 **BOND AUTHORIZATION**

14 NEW SECTION. **Sec. 201.** (1) For the purpose of creating jobs by
15 constructing needed capital improvements to public facilities for
16 energy operational cost savings, the state finance committee is
17 authorized to issue general obligation bonds of the state of Washington
18 in the sum of eight hundred sixty-one million dollars, or so much
19 thereof as may be required, for this purpose and all costs incidental
20 thereto. The bonds issued under the authority of this section are
21 known as jobs act bonds.

22 (2) Bonds authorized in this section must be sold in the manner, at
23 the time or times, in amounts, and at such prices as the state finance
24 committee determines.

25 (3) The authorization to issue bonds contained in this chapter does
26 not expire until the full authorization has been issued.

27 (4) No bonds authorized in this section may be offered for sale
28 without prior legislative appropriation of the net proceeds of the sale
29 of the bonds.

30 NEW SECTION. **Sec. 202.** (1) The nondebt-limit reimbursable bond
31 retirement account must be used for the payment of the principal of and
32 interest on the bonds authorized in section 201 of this act.

33 (2) The state finance committee must, on or before June 30th of
34 each year, certify to the state treasurer the amount needed in the

1 ensuing twelve months to meet the bond retirement and interest
2 requirements on the bonds authorized in section 201 of this act.

3 NEW SECTION. **Sec. 203.** (1) Bonds issued under this section and
4 sections 201 and 202 of this act must state that they are a general
5 obligation of the state of Washington, must pledge the full faith and
6 credit of the state to the payment of the principal thereof and the
7 interest thereon, and must contain an unconditional promise to pay the
8 principal and interest as the same shall become due.

9 (2) The owner and holder of each of the bonds or the trustee for
10 the owner and holder of any of the bonds may by mandamus or other
11 appropriate proceeding require the transfer and payment of funds as
12 directed in this section.

13 **PART III**
14 **APPROPRIATIONS**

15 NEW SECTION. **Sec. 301.** (1) The department of commerce, in
16 consultation with the department of general administration and the
17 Washington State University energy program, shall administer the jobs
18 act.

19 (2) The department of general administration must develop
20 guidelines that are consistent with national and international energy
21 savings performance standards for the implementation of energy savings
22 performance contracting projects by the energy savings performance
23 contractors by December 31, 2010.

24 (3) The definitions in this section apply throughout this chapter
25 and section 302 of this act unless the context clearly requires
26 otherwise.

27 (a) "Cost-effectiveness" means that the present value to a state
28 agency, school district, local government, or subdivision of the state
29 of the energy reasonably expected to be saved or produced by a
30 facility, activity, measure, or piece of equipment over its useful
31 life, including any compensation received from a utility or the
32 Bonneville power administration, is greater than the net present value
33 of the costs of implementing, maintaining, and operating such facility,
34 activity, measure, or piece of equipment over its useful life, when
35 discounted at the cost of public borrowing.

1 (b) "Energy equipment" means energy management systems and any
2 equipment, materials, or supplies that are expected, upon installation,
3 to reduce the energy use or energy cost of an existing building or
4 facility, and the services associated with the equipment, materials, or
5 supplies, including but not limited to design, engineering, financing,
6 installation, project management, guarantees, operations, and
7 maintenance. Reduction in energy use or energy cost may also include
8 reductions in the use or cost of water, wastewater, or solid waste.

9 (c) "Energy savings performance contracting" means the process
10 authorized by chapter 39.35C RCW by which a company contracts with a
11 public agency to conduct energy audits and guarantee energy savings
12 from energy efficiency.

13 (d) "Operational cost savings" means savings realized from parts,
14 service fees, capital renewal costs, and other measurable annual
15 expenses to maintain and repair systems. This definition does not mean
16 labor savings related to existing facility staff.

17 (e) "Public facilities" means buildings, building components, and
18 major equipment or systems owned by state agencies, public school
19 districts, local governments, and subdivisions of the state.

20 (f) "Simple payback" means the total project cost including tax and
21 fees less utility incentives divided by the first year energy savings.

22 **NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF COMMERCE**

23 **Jobs Act**

24 The appropriation in this section is subject to the following
25 conditions and limitations:

26 (1) The appropriation is provided solely for grants to K-12 public
27 school districts, public higher education institutions, and other
28 state, locally, and subdivision of the state-owned public facilities
29 for energy and operational cost savings improvements and related
30 projects that result in energy and utility and operational cost
31 savings, as defined in section 301 of this act. Related projects are
32 those projects that must be completed in order for the energy
33 efficiency improvement to be effective.

34 (2) The department of commerce, in consultation with the department
35 of general administration, and the Washington State University energy
36 program shall establish a competitive process to solicit and evaluate
37 applications from K-12 public school districts, public higher education

1 institutions, state agencies, local governments, and subdivisions of
2 the state. Final grant awards shall be determined by the department of
3 commerce.

4 (3) Grants must be awarded in competitive rounds, as provided in
5 this subsection:

6 (a) Round 1: Grants to K-12 public school districts and public
7 higher education institutions, with at least five percent of the total
8 grant round for small K-12 school districts with fewer than 1,000 full-
9 time equivalent students.

10 (b) Round 2: Grants to K-12 public school districts, public higher
11 education institutions, state agencies, local governments, and
12 subdivisions of the state. Up to seventy-five percent of the total
13 grant round must be awarded to K-12 school districts and higher
14 education institutions. Within the seventy-five percent, at least five
15 percent of the grants awarded must be for K-12 school districts with
16 fewer than 1,000 full-time equivalent students.

17 (c) Additional competitive rounds: Grants shall be distributed the
18 same as established in (b) of this subsection.

19 (4) Within each competitive round, projects must be weighted and
20 prioritized based on the following criteria and in the following order:

21 (a) Leverage ratio: In each round, the higher the leverage ratio
22 of nonstate funding sources to state jobs act grant, the higher the
23 project ranking.

24 (b) Energy savings: In each round, the higher the energy savings,
25 the higher the project ranking. Applicants must submit documentation
26 that demonstrates energy and operational cost savings resulting from
27 the installation of the energy equipment and improvements. The
28 documentation must include but is not limited to the following:

29 (i) A description of the energy equipment and improvements; and

30 (ii) A description of the energy and operational cost savings. The
31 energy savings analysis shall be performed by a licensed engineer.

32 (c) Expediency of expenditure: Project readiness to spend funds
33 must be prioritized so that the legislative intent to expend funds
34 quickly is met.

35 (5) Projects that do not use energy savings performance contracting
36 must: (a) Verify energy and operational cost savings, as defined in
37 section 301 of this act, for ten years, (b) follow the department of
38 general administration's energy savings performance contracting project

1 guidelines developed pursuant to section 301 of this act, and (c)
2 employ a licensed engineer for the energy audit and construction. The
3 department of commerce may require third-party verification of savings
4 if a project is not implemented by an energy savings performance
5 contractor selected by the department of general administration through
6 the request of qualifications process. Third-party verification must
7 be conducted either by an energy savings performance contractor
8 selected by the department of general administration through a request
9 for qualifications or by a project or educational service district
10 resource conservation manager.

11 (6) To intensify competition, the department of commerce may only
12 award funds to the top eighty-five percent of projects applying in a
13 round until the department of commerce determines a final round is
14 appropriate. Projects that do not receive a grant award in one round
15 may reapply in subsequent rounds.

16 (7) Grant amounts awarded to each project must allow for the
17 maximum number of projects funded with the greatest energy and cost
18 benefit.

19 (8) The department of commerce must use bond proceeds to pay one-
20 half of the preliminary audit, up to five cents per square foot, if the
21 project does not meet the public owner's predetermined cost-
22 effectiveness criteria. The public owner must pay the other one-half
23 of the cost of the preliminary audit if the project does not meet the
24 public owner's predetermined cost-effectiveness criteria. The energy
25 savings performance contractor shall not charge for an investment grade
26 audit if the project does not meet the public owner's predetermined
27 cost-effectiveness criteria. The public owner must pay the full price
28 of an investment grade audit if they do not proceed with a project that
29 meets the owner's predetermined cost-effectiveness criteria.

30 (9) The department of commerce may charge projects administrative
31 fees. The department of commerce may pay the department of general
32 administration and the Washington State University energy program
33 administration fees in an amount determined through a memorandum of
34 understanding.

35 (10) The department of commerce and the department of general
36 administration must submit a joint report to the appropriate committees
37 of the legislature and the office of financial management on the timing

1 and use of the grant funds, program administrative function, and
2 administration fees by the end of each fiscal year, until the funds are
3 fully expended and all savings verification requirements are fulfilled.

4 Appropriation:

5	Washington Works Account--State	\$858,500,000
6	Prior Biennia (Expenditures)	\$0
7	Future Biennia (Projected Costs)	\$0
8	TOTAL	\$858,500,000

9 **PART IV**

10 **TECHNICAL PROVISIONS**

11 NEW SECTION. **Sec. 401.** (1) The legislature may provide additional
12 means for raising moneys for the payment of the principal of and
13 interest on the bonds authorized in section 201 of this act.

14 (2) The issuance of bonds under this chapter is not deemed to be
15 the only method to fund projects under this chapter.

16 (3) The office of the state treasurer must determine a mechanism to
17 allow individual Washington state residents to purchase jobs act bonds.

18 NEW SECTION. **Sec. 402.** The bonds authorized by this chapter
19 constitute a legal investment for all state funds or for funds under
20 state control and all funds of municipal corporations.

21 NEW SECTION. **Sec. 403.** The state finance committee is authorized
22 to prescribe the form, terms, conditions, and covenants of the bonds
23 provided for in this act, the time or times of sale of all or any
24 portion of them, and the conditions and manner of their sale and
25 issuance.

26 NEW SECTION. **Sec. 404.** The Washington works account is created in
27 the state treasury. All receipts from bonds authorized under section
28 201 of this act must be deposited in the account. Moneys in the
29 account may be spent only after appropriation. The proceeds from the
30 sale of the bonds authorized in section 201 of this act shall be
31 deposited in the account. Moneys in the account shall be used
32 exclusively for:

1 (1) The purposes of sections 301 and 302 of this act, which
2 includes energy operation cost savings improvements and related
3 projects that result in energy and operational cost savings for public
4 schools and other state and locally owned public facilities; and
5 (2) The payment of the expenses incurred in connection with the
6 sale and issuance of the bonds.

7 **PART V**
8 **REFERENDUM PROVISIONS**

9 NEW SECTION. **Sec. 501.** (1) The secretary of state shall submit
10 sections 101 through 203 of this act to the people for their adoption
11 and ratification, or rejection, at the next general election to be held
12 in this state, in accordance with Article II, section 1 and Article
13 VIII, section 3 of the state Constitution and the laws adopted to
14 facilitate their operation.

15 (2) If the people ratify this act as specified under subsection (1)
16 of this section, revenues generated shall be spent as detailed in this
17 act.

18 (3) Pursuant to RCW 29A.72.050(6), the statement of subject and
19 concise description for the ballot title shall read: "The legislature
20 has passed House Bill No (this act), concerning job creation
21 through school and other public capital projects. This bill would
22 promote job creation by authorizing bonds to construct energy
23 operational cost savings improvements and related projects to schools
24 and other public facilities."

25 NEW SECTION. **Sec. 502.** This act is contingent upon approval by
26 the voters of sections 101 through 203 of this act. If sections 101
27 through 203 of this act are not approved by the voters by December 1,
28 2010, this act is null and void.

29 NEW SECTION. **Sec. 503.** Sections 201 through 203, 301, and 401
30 through 404 of this act constitute a new chapter in Title 43 RCW.

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