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**SUBSTITUTE SENATE BILL 5464**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Environment, Water & Energy (originally sponsored by Senators Rockefeller, Kastama, Delvin, and Chase)

READ FIRST TIME 02/21/11.

1       AN ACT Relating to creating the clean energy partnership; amending  
2       RCW 28B.38.020; reenacting and amending RCW 43.325.040; adding a new  
3       chapter to Title 43 RCW; providing contingent effective dates; and  
4       providing an expiration date.

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

6       NEW SECTION.   **Sec. 1.**   The legislature finds that a dynamic,  
7       public-private clean energy partnership is needed to implement the  
8       clean energy leadership council's plan.  The partnership should be  
9       highly competent, flexible, and have the ability to provide leadership  
10      and coordinate projects with a range of public and private entities.

11      The legislature finds that the Washington technology center and the  
12      Spokane intercollegiate research and technology institute have the  
13      optimal flexibility, statutory authorities, and administrative  
14      capabilities required to support a clean energy partnership and to  
15      achieve the performance metrics and outcomes of a clean energy  
16      partnership.

17      It is the intent of the legislature to establish a clean energy  
18      partnership as a joint endeavor between the Washington technology  
19      center and Spokane intercollegiate research and technology institute.

1 The clean energy partnership will have lead responsibility for  
2 developing and managing state programs and funding initiatives related  
3 to expanding the clean energy sector in Washington state, coordinating  
4 high-leverage clean energy initiatives, and implementing the clean  
5 energy leadership council's recommendations. Primary responsibility  
6 for developing and setting state energy policy shall remain with the  
7 department of commerce and other state agencies as provided in statute.

8 NEW SECTION. **Sec. 2.** The Washington clean energy partnership is  
9 created. The partnership shall develop, implement, and manage programs  
10 and funding initiatives related to expanding the clean energy sector in  
11 Washington. The partnership shall coordinate clean energy initiatives  
12 and implement the clean energy leadership council's recommendations  
13 provided in the Washington state clean energy leadership plan report.

14 NEW SECTION. **Sec. 3.** The definitions in this section apply  
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Committee" means the clean energy sector advisory committee.

17 (2) "Director" means the director of the partnership.

18 (3) "Partnership" means the Washington clean energy partnership.

19 NEW SECTION. **Sec. 4.** The partnership shall be administered as a  
20 programmatic activity as provided in chapter . . . , Laws of 2011  
21 (Senate Bill No. 5764).

22 NEW SECTION. **Sec. 5.** (1) The partnership shall be administered  
23 jointly by the Washington technology center and the Spokane  
24 intercollegiate research and technology institute or successor agency.

25 (2)(a) The executive directors of the Washington technology center  
26 and Spokane intercollegiate research and technology institute shall,  
27 with the approval of the clean energy sector advisory committee created  
28 in section 7 of this act, select and jointly appoint a director to  
29 manage the partnership.

30 (b) The director shall have complete charge of and supervisory  
31 powers over the partnership.

32 (3) The director shall consult with the committee created in  
33 section 7 of this act.

1 (4) State and federal funds, grants, private gifts, or  
2 contributions to further the purpose of the Washington clean energy  
3 partnership shall be appropriated to the Spokane intercollegiate  
4 research and technology institute and deposited into the Washington  
5 clean energy partnership fund.

6 (5) The Spokane intercollegiate research and technology institute  
7 shall perform, in conjunction with the Washington technology center  
8 under a performance contract, the work of the partnership.

9 (6) The partnership shall use all existing administrative  
10 capabilities and unique authorities of the Spokane intercollegiate  
11 research and technology institute and the Washington technology center  
12 to facilitate innovative, effective public-private partnerships and to  
13 help expand innovative companies.

14 NEW SECTION. **Sec. 6.** (1) The partnership shall, as funds are  
15 available:

16 (a) Implement the strategy and recommendations of the clean energy  
17 leadership council including implementing the first three market-  
18 driving initiatives identified by the council in its 2010 report:

19 (i) Combined energy efficiency, green buildings, and smart grid;

20 (ii) Renewable energy resource optimization and smart grid  
21 deployment; and

22 (iii) Bioenergy deployment acceleration;

23 (b) Assess periodically other potential opportunities, such as the  
24 production of thermal energy as a clean energy technology, and add  
25 market-driving initiatives if justified by comprehensive analysis;

26 (c) Serve as the primary point of contact and lead entity in the  
27 state for developing and coordinating clean energy-related initiatives  
28 and funding programs targeted at expanding the clean energy sector;

29 (d) Secure a minimum of fifty percent nonstate funds for projects  
30 undertaken by the partnership, however nonstate funds or moneys that  
31 the partnership is directed to manage that have different matching  
32 contribution requirements are not subject to this subsection (1)(d);

33 (e) Use state funding to demonstrate state commitment, serve as a  
34 catalyst for attracting matching funding from multiple sources, and  
35 stimulate collaborative projects among other purposes;

36 (f) By November 1, 2012, and November 1st biennially thereafter,  
37 submit a report to the legislature and the governor with

1 recommendations on ways to improve policy alignment, streamline  
2 regulatory requirements, and remove administrative barriers that limit  
3 the growth of the clean energy sector in Washington as well as a  
4 discussion of best practices encountered in implementing the  
5 market-driving initiatives;

6 (g) Work with the public and private utilities, district energy  
7 providers, and the utilities and transportation commission to develop  
8 recommendations to improve alignment of state investments, policies,  
9 and the work of the partnership, with the operations of utilities,  
10 including investor-owned utilities regulated by the utilities and  
11 transportation commission, however this subsection does not create a  
12 right in any person to challenge a regulatory decision of the utilities  
13 and transportation commission;

14 (h) Work with the legislature to establish a long-term, stable  
15 funding strategy appropriate for supporting the partnership;

16 (i) Track, identify, and create opportunities to attract federal  
17 and other nonstate funding, and make recommendations for increasing  
18 Washington's success rate in receiving federal and other nonstate  
19 funds;

20 (j) Work with regional public and private utilities to identify a  
21 process for understanding and prioritizing their goals and make  
22 recommendations for aligning, coordinating, and leveraging the  
23 partnership's investments with the needs of regional utilities in ways  
24 that help accelerate the growth of clean energy jobs and technology in  
25 the region;

26 (k) Participate fully in federal and other governmental programs  
27 and take such actions as are necessary and consistent with this chapter  
28 to secure for the partnership and the people of the state the benefits  
29 of those programs and to meet their requirements; and

30 (1) Conduct analyses as necessary to identify and communicate to  
31 policymakers the best opportunities for Washington to maintain and  
32 expand the clean energy sector in Washington state.

33 (2) Programs and funds related to the energy freedom, the green  
34 energy incentive, and the energy recovery act accounts, each created in  
35 RCW 43.325.040, shall be strategically managed to support the  
36 partnership.

37 (3) Existing energy policy and regulatory functions of the  
38 department of commerce shall remain with the state energy office.

1        NEW SECTION.    **Sec. 7.**    (1) The clean energy sector advisory  
2 committee is created. The executive directors of the Washington  
3 technology center and the Spokane intercollegiate research and  
4 technology institute shall appoint up to twenty members. A majority of  
5 the clean energy sector advisory committee must consist of  
6 representatives from companies or organizations that are directly  
7 involved with developing, deploying, or operating clean energy  
8 solutions. The committee members shall select a member to serve as its  
9 chair. The chair of the committee shall serve on the board of the  
10 Spokane intercollegiate research and technology institute.

11        (2) Duties of the committee include:

12        (a) Approving the appointment of the director of the partnership;

13        (b) Approving the annual operating budget of the partnership;

14        (c) Providing strategic guidance to the director on the needs of  
15 the clean energy sector; and

16        (d) Establishing priorities for the use of partnership funds,  
17 including approving the allocation of funds to projects.

18        **Sec. 8.**    RCW 28B.38.020 and 1998 c 344 s 10 are each amended to  
19 read as follows:

20        (1) The institute shall be administered by the board of directors.

21        (2) The board shall consist of the following members:

22        (a) Nine members of the general public. Of the general public  
23 membership, at least six shall be individuals who are associated with  
24 or employed by technology-based or manufacturing-based industries and  
25 have broad business experience and an understanding of high technology;

26        (b) The executive director of the Washington technology center or  
27 the director's designee;

28        (c) The provost of Washington State University or the provost's  
29 designee;

30        (d) The provost of Eastern Washington University or the provost's  
31 designee;

32        (e) The provost of Central Washington University or the provost's  
33 designee;

34        (f) The provost of the University of Washington or the provost's  
35 designee;

36        (g) An academic representative from the Spokane community colleges;

37        (h) One member from Gonzaga University; (~~and~~)

1 (i) One member from Whitworth (~~College~~) University; and

2 (j) The chair of the clean energy sector advisory committee created  
3 in section 7 of this act.

4 (3) The term of office for each board member, excluding the  
5 executive director of the Washington technology center, the provosts of  
6 Washington State University, Eastern Washington University, Central  
7 Washington University, (~~and~~) the University of Washington, and the  
8 chair of the clean energy sector advisory committee, shall be three  
9 years. The executive director of the institute shall be an ex officio,  
10 nonvoting member of the board. Board members shall be appointed by the  
11 governor. Initial appointments shall be for staggered terms to ensure  
12 the long-term continuity of the board. The board shall meet at least  
13 quarterly.

14 (4) The duties of the board include:

15 (a) Developing the general operating policies for the institute;

16 (b) Appointing the executive director of the institute;

17 (c) Approving the annual operating budget of the institute;

18 (d) Establishing priorities for the selection and funding of  
19 research projects that guarantee the greatest potential return on the  
20 state's investment;

21 (e) Approving and allocating funding for (~~research~~) projects  
22 conducted by the institute;

23 (f) In cooperation with the (~~department of community, trade, and~~  
24 ~~economic development~~) Washington clean energy partnership, developing  
25 a biennial work plan and five-year strategic plan for the institute  
26 that (~~are~~) aligns institute operations with the partnership  
27 consistent with the statewide technology development and  
28 commercialization goals;

29 (g) Coordinating with public, independent, and private institutions  
30 of higher education, and other participating institutions of higher  
31 education in the development of training, research, and development  
32 programs to be conducted at the institute that are targeted to meet  
33 industrial needs;

34 (h) Assisting the department of (~~community, trade, and economic~~  
35 ~~development~~) commerce in the department's efforts to develop state  
36 science and technology public policies and coordinate publicly funded  
37 programs;

1 (i) Reviewing annual progress reports on funded research projects;  
2 and

3 (j) Providing an annual report to the governor and the legislature  
4 detailing the activities and performance of the institute(~~(+and~~

5 ~~(k) Submitting annually to the department of community, trade, and~~  
6 ~~economic development an updated strategic plan and a statement of~~  
7 ~~performance measured against the mission, roles, and contractual~~  
8 ~~obligations of the institute)).~~

9 (5) The board may enter into contracts to fulfill its  
10 responsibilities and purposes under this chapter.

11 NEW SECTION. **Sec. 9.** The Washington clean energy partnership fund  
12 is created in the custody of the state treasurer to receive state and  
13 federal funds, grants, private gifts, or contributions to further the  
14 purpose of the Washington clean energy partnership. Only the director  
15 of the Washington clean energy partnership or the director's designee  
16 may authorize expenditures from the account. The account is subject to  
17 allotment procedures under chapter 43.88 RCW, but an appropriation is  
18 not required for expenditures.

19 **Sec. 10.** RCW 43.325.040 and 2009 c 564 s 942 and 2009 c 451 s 5  
20 are each reenacted and amended to read as follows:

21 (1) The energy freedom account is created in the state treasury.  
22 All receipts from appropriations made to the account and any loan  
23 payments of principal and interest derived from loans made under the  
24 energy freedom account must be deposited into the account. Moneys in  
25 the account may be spent only after appropriation. Expenditures from  
26 the account may be used only for financial assistance for further  
27 funding for projects consistent with this chapter or otherwise  
28 authorized by the legislature.

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

34 (a) Refueling projects awarded under this chapter;

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

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

4 (3)(a) The energy recovery act account is created in the state  
5 treasury. State and federal funds may be deposited into the account  
6 and any loan payments of principal and interest derived from loans made  
7 from the energy recovery act account must be deposited into the  
8 account. Moneys in the account may be spent only after appropriation.

9 (b) Expenditures from the account may be used only for loans, loan  
10 guarantees, and grants that encourage the establishment of innovative  
11 and sustainable industries for renewable energy and energy efficiency  
12 technology, including but not limited to:

13 (i) Renewable energy projects or programs that require interim  
14 financing to complete project development and implementation;

15 (ii) Companies with innovative, near-commercial or commercial,  
16 clean energy technology; ~~((and))~~

17 (iii) Energy efficiency technologies that have a viable repayment  
18 stream from reduced utility costs; and

19 (iv) Initiatives approved by the Washington clean energy  
20 partnership.

21 ~~((+e))~~ (4)(a) The director shall establish policies and procedures  
22 for processing, reviewing, and approving applications for funding under  
23 this section. ~~((When developing these))~~ The policies and procedures  
24 ~~(the department must consider the clean energy leadership strategy~~  
25 ~~developed under section 2, chapter 318, Laws of 2009))~~ developed under  
26 this section must be approved by the Washington clean energy  
27 partnership.

28 ~~((+d))~~ (b) The director shall enter into agreements with approved  
29 applicants to fix the term and rates of funding provided from this  
30 account.

31 ~~((+e))~~ (c) The policies and procedures of this subsection ~~((+3))~~  
32 (4) do not apply to assistance awarded for projects under RCW  
33 43.325.020(3).

34 ~~((+4))~~ (5) Any state agency receiving funding from the energy  
35 freedom account is prohibited from retaining greater than three percent  
36 of any funding provided from the energy freedom account for  
37 administrative overhead or other deductions not directly associated



1 with conducting the research, projects, or other end products that the  
2 funding is designed to produce unless this provision is waived in  
3 writing by the director.

4 ~~((+5))~~ (6) Any university, institute, or other entity that is not  
5 a state agency receiving funding from the energy freedom account is  
6 prohibited from retaining greater than fifteen percent of any funding  
7 provided from the energy freedom account for administrative overhead or  
8 other deductions not directly associated with conducting the research,  
9 projects, or other end products that the funding is designed to  
10 produce.

11 ~~((+6) Subsections (2), (4) and (5) of this section do not apply to  
12 assistance awarded for projects under RCW 43.325.020(3)).~~

13 ~~(7) During the 2009-2011 fiscal biennium, the legislature may  
14 transfer from the energy freedom account to the state general fund such  
15 amounts as reflect the excess fund balance of the account.)~~

16 NEW SECTION. **Sec. 11.** Sections 1 through 7 and 9 of this act  
17 constitute a new chapter in Title 43 RCW.

18 NEW SECTION. **Sec. 12.** Section 10 of this act expires June 30,  
19 2016.

20 NEW SECTION. **Sec. 13.** Section 4 of this act takes effect only if  
21 Senate Bill No. 5764 is signed into law by July 1, 2011.

22 NEW SECTION. **Sec. 14.** Sections 5, 7, and 8 of this act take  
23 effect only if Senate Bill No. 5764 is not signed into law by July 1,  
24 2011.

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