

HOUSE BILL REPORT

HB 2009

As Reported By House Committee On:

Energy & Utilities
Appropriations

Title: An act relating to the energy office.

Brief Description: Eliminating the state energy office.

Sponsors: Representatives Casada, Huff, Campbell, Clements, Goldsmith, Elliot, Pelesky, Backlund, Reams, Smith, Delvin, Blanton and Beeksma.

Brief History:

Committee Activity:

Energy & Utilities: 2/24/95, 2/28/95 [DPS];

Appropriations: 3/4/95, 3/6/95 [DP2S(w/o sub EN)].

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Casada, Chairman; Crouse, Vice Chairman; Hankins, Vice Chairman; Chandler; Huff; Mielke and Mitchell.

Minority Report: Do not pass. Signed by 4 members: Representatives Kessler, Ranking Minority Member; Kremen, Assistant Ranking Minority Member; Mastin and Patterson.

Staff: Nancy Stevenson (786-7137).

Background: The Washington State Energy Office (WSEO) was created statutorily in 1976. Currently the WSEO performs functions related to energy policy analysis, implementation of the state energy strategy, energy facility siting, nuclear safety and environmental monitoring, energy emergencies, renewable energy development, energy efficiency, energy codes, energy efficient transportation and public sector energy conservation.

The WSEO provides technical assistance to people, businesses, industries, and governmental institutions to help reduce energy costs.

The WSEO is primarily supported by federal funds made available to the state for energy conservation related purposes. Federal funds for these purposes are forecast to decline over the next few years. During the 1995-97 biennium, \$1,333,000 or 3 percent of the WSEO budget is provided by the state general fund.

The Governor's proposed 1995-97 budget recommends that "an examination of the appropriate role of the state in energy management and energy service delivery" take place.

Suggestions are that some state energy office services can be performed by other state or private entities and some functions can be eliminated.

In 1993, the Legislature created the Department of Community Trade and Economic Development (CTED) by merging the Department of Community Development and the Department of Trade and Economic Development. CTED is responsible, among other things, for promoting community and economic development within the state, coordinating and administering energy assistance and residential energy conservation programs, serving as central coordinator for state government in implementing the growth management act, and providing emergency management services.

Private nonprofit corporations can be formed separate from state government as a means of delivering technical assistance, research, and informational functions that might otherwise be provided by the state. The Western Library Network is an example of such a corporation.

Summary of Substitute Bill: The statute establishing the Washington State Energy Office is repealed. Some WSEO duties are transferred to CTED, while other duties are eliminated.

DUTIES TRANSFERRED TO CTED

The director of CTED is given the discretion to determine the extent to which WSEO employees will be hired to perform functions transferred to CTED. Some duties transferred to CTED are to be transferred later to a private nonprofit corporation, whereas other duties will remain the responsibility of CTED.

Functions to be Transferred to a Private Nonprofit Corporation. CTED is assigned duties regarding energy information, promoting energy conservation, energy codes, and renewable energy resources. CTED is required to cooperate with other organizations, agencies, and businesses inside and outside the state of Washington to establish a private non profit corporation for purposes of providing these services.

Time is allowed for a private nonprofit successor organization to be created to take on these duties. CTED is directed to cease providing these services by June 30, 1996, if a qualified private nonprofit corporation is established.

Provisions are made for transferring equipment, software, and other assets to the private nonprofit corporation.

CTED may provide personnel services under contract for up to two years after the creation of the successor organization. CTED may designate one or more persons to serve as a board member of the successor organization.

Duties Retained by CTED. Technical assistance functions related to energy efficient transportation are assigned to and retained by CTED.

CTED becomes responsible for administering air pollution control funds to local jurisdictions to assist employers in reaching commute trip reduction goals. CTED may receive funds to further the development of alternative fuels to meet the requirements of the clean air act.

The state's role in the coordination and regulation of energy emergencies is reestablished in CTED's Emergency Management Division unless legislation is passed designating the Military Department to perform emergency management duties.

ELIMINATED WSEO DUTIES

Public Sector Energy Conservation and Cogeneration. Statutes regarding energy conservation and cogeneration projects in publicly owned buildings are repealed. This includes the requirement for the state to investigate and develop cogeneration energy projects along with the authorization to sell energy produced by cogeneration projects.

Commute Trip Reduction Task Force. The Commute Trip Reduction Task Force is eliminated along with the Commute Trip Reduction Technical Assistance Team.

Technical Assistance and Policy Guidance. WSEO's responsibility for providing energy guidance and technical assistance to policy makers and others is eliminated, along with the responsibility for coordinating the implementation of the state energy strategy.

TECHNICAL CORRECTIONS

References to the WSEO are stricken, and statutes are otherwise updated.

Substitute Bill Compared to Original Bill: The substitute bill transfers duties to CTED only, rather than to four different state agencies, and gives the director of CTED discretion in deciding the extent to which WSEO employees will be hired to perform functions transferred to CTED. Functions relating to energy conservation in publicly owned buildings are eliminated rather than transferred to the Department of General Administration. The substitute clarifies that CTED is required to cooperate with other agencies and entities in creating a private nonprofit corporation, and adds a section describing the appropriation of funds.

Appropriation: Appropriations are made to the Department of Community, Trade, and Economic Development for specific functions established in the bill.

Fiscal Note: Requested on original bill February 20, 1995. Requested on substitute bill March 1, 1995.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: None.

Testimony Against: Timing issues: It is premature to eliminate the WSEO. The Governor has established a steering committee to review the role of the WSEO. Wait for the steering committee to complete its process. Take a slow and reasoned approach. It is appropriate to review the role of the WSEO after 20 years of operation. It is a new era where the federal government is reexamining its role and may be transferring more responsibility to the state in this area. More will be known next session.

Energy Policy: Maintain the energy policy analysis function. Now is the time to maintain energy policy capability given the full scale restructuring of the Bonneville Power Administration taking place.

Transfer issues: The bill is missing the transfer of existing personnel. This needs to be included. CTED has just recently merged. In transferring functions to CTED and then to a nonprofit makes administrative costs higher given two transfers are involved. Taking on new and different functions will take time and planning. There are likely unforeseen problems that will need resolution. Equal pay issues and loss of productivity are examples of hidden costs.

Transportation issues: Keep the Commute Trip Task Force in place. Collaboration has made the Commute Trip Task Force successful. Consider moving the commute trip and efficient transportation functions to the Department of Transportation.

Public Sector Conservation and Cogeneration: It is counter-productive to repeal cogeneration in state facilities. Life cycle cost analysis is effective. Why dismantle a successful mission that helps save money at the local school level. Keep control for designing schools with those that are energy conscious.

Other issues: Abolishing the WSEO does not save much state money. Avoid the unnecessary loss of talent and federal dollars by maintaining appropriate energy functions. To be able to compete successfully for federal dollars means maintaining energy expertise. Currently the WSEO benefits the rate payers. The bill is unnecessary and harmful to the citizens of the state. Using a private nonprofit organization does not ensure impartial objective information is provided to rate payers.

Testified: Judith Merchant, Mike McSorley, Alan Mountjoy-Venning, and Marvin Young, Washington State Energy Office; Vic Erickson, Economic Development Council of Seattle and King County; Dick Hayes, Kitsap Transit; Bill Roach and Gary Molyneaux, King County Metro; Katy Taylor, Spokane County Engineers; Cindy Custer, Bonneville Power Administration; Jim Lazar, Microdesign Northwest; Sara Patton, Northwest Conservation Act Coalition; Charlie Brown, Washington Natural Gas; John Doyle, Department of Transportation; Henry Romer, Archos Corp; Scott Merriman, Washington Environmental Council; Ray Tobiason, Washington Association of School Administrators; John Nimmons, JNA; Andrew Lofton, Department of Community, Trade, and Economic Development; Will Miller, North American Energy Services; Fito Koenig, Tres West Engineering; Kathy Vega, U.S. Department of Energy; and Devone Smith, Washington Stated Federation of State Employees.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Energy & Utilities. Signed by 17 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Cooke; Crouse; Foreman; Hargrove; Hickel; Lambert; Lisk; McMorris; Reams; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 12 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Brumsickle; Carlson; Chappell; Dellwo; Jacobsen; Poulsen; Rust; Thibaudeau and Wolfe.

Staff: Nancy Stevenson (786-7137).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Energy & Utilities: The second substitute bill allows the Department of Community Trade and Economic Development (CTED) to transfer the functions destined to go to a non profit corporation to more than one successor organization. Successor organizations can include trade associations or other tax exempt organizations that have been involved in energy conservation education and assistance. If CTED does not authorize a successor organization or organizations by June 30, 1996, then the energy efficiency, renewable energy, and energy code functions expire.

The second substitute deletes the provision for CTED to retain the right to repossess property transferred to a non profit corporation for up to five years. Also, the provision allowing CTED to provide personnel services under contract with a non profit for up to two years is deleted.

The Geothermal Account distribution is changed so that 50 percent goes to the Department of Natural Resources and 50 percent goes to affected counties.

The second substitute bill transfers transportation demand management and commute trip reduction functions to the Department of Transportation instead of CTED. It also reinstates the Commute Trip Reduction Task Force and the Technical Assistance Team.

The second substitute clarifies that CTED will be the repository of the petroleum database previously maintained by the WSEO.

The second substitute bill reinstates portions of the public sector conservation statutes: 1) public agencies may conduct life cycle cost analysis with a licensed professional energy consultant as needed; 2) state agencies, institutions of higher education, and school districts may implement conservation projects; 3) institutions of higher education may enter into cogeneration contracts; and 4) CTED has the responsibility to provide support for the Pacific Northwest Electric Power Planning and Conservation Act.

The appropriation section is deleted from the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: None.

Testimony Against: The bill is premature. We have heard the message that the state should have a reduced role in energy. The Legislature must consider ways in which federal funds can be maximized. The state must prevent lost opportunities, lost talent, and lost federal dollars. Let the stakeholder group complete its review. The repeal of state energy policy analysis and public sector programs are policy concerns. The WSEO clearing house provides easily accessible information that enables all of us in the energy design business to do a better job for our clients. Ninety-six percent of the WSEO budget is from funds other than the state general fund. WSEO helps save money for consumers, government, and businesses. It doesn't make sense to lose public sector energy benefits. WSEO has a good reputation for providing technical assistance.

Testimony Neutral: The Legislature should keep in mind as this question is deliberated that there are many hidden costs and issues. Costs include salary differential problems and keeping two sets of books. It is more costly for the state to transfer functions twice in moving functions to the Department of Community Trade and Economic Development and then to a non profit corporation.

Testified: Judith Merchant, Director, State Energy Office (con); Jim Lazar, citizen (con); Andrew Lofton, Deputy Director, Community Trade & Economic Development (neutral); Scott Meriman, Washington Environmental Council (con); Bev Hermanson, Washington Federation of State Employees (con); and Marvin Young, Washington State Energy Office (con).