

SENATE BILL REPORT

SB 5817

As of February 22, 1999

Title: An act relating to procedures for public utility districts to participate in wholesale electricity market activities.

Brief Description: Providing guidelines to allow public utility districts to enter the wholesale electricity market.

Sponsors: Senators Brown, Sellar, T. Sheldon and Hochstatter.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 2/23/99.

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

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Background: With the passage of the federal Energy Policy Act in 1992, the wholesale electricity market has been substantially deregulated. Wholesale power transactions have changed in many ways since then, including the introduction of new market entities and the increasing use of hourly and daily commodity transactions replacing traditional multi-year supply contracts.

Some public utility districts (PUDs) have suggested a need exists to modernize the PUD enabling statutes to reflect the changing wholesale power market and enable PUDs to respond to those changes in ways that would allow them to better serve their customers.

Current law restricts PUDs from entering into certain types of partnership and alliances with private entities and limits the ways in which PUDs may conduct wholesale power transactions or lease their assets. Current law is also ambiguous as to the extent of a PUD's ability to use financial risk management instruments to protect itself from market and price changes and supply risks.

Long standing case law and a recent Attorney General's opinion suggest that PUDs may acquire surplus generation only to the extent it is reasonably necessary to serve their customers' loads and projected load growth.

Summary of Bill: After approving an implementation plan, a public utility district (PUD) commission may adopt a resolution enabling it to engage in specified wholesale electric activities to serve its customer load requirements or to sell its surplus generation.

To serve its customer load requirements, a PUD may: (1) enter into agreements with any entity and participate with specified entities for carrying out authorized wholesale power activities, so long as the PUD does not assume joint liability for other participants, obtain stock ownership, or undertake financial risk management instruments not specifically

authorized; (2) enter into wholesale power transactions through contracts of three years or less without having to wait the 10-day waiting period; and (3) utilize any financial risk management instruments necessary for protecting against market losses or for securing energy supply, so long as the PUD separately tracks such transactions.

To utilize its surplus generation, a PUD may: (1) enter into agreements with any entity and participate with specified entities for carrying out authorized wholesale power activities, so long as the PUD does not assume joint liability for other participants, obtain stock ownership, or undertake financial risk management instruments not specifically authorized; (2) enter into wholesale power and related services transactions, construct, own, or operate electric generation plants and transmission systems without limitation on the quantity of the electric energy or capacity, so long as a PUD does not acquire such generation or transmission capacity through condemnation; and (3) lease its assets to maximize their operational and economic efficiency without requiring a public vote on 10 days' notice, so long as no lease term exceeds 50 years.

An implementation plan must include specific elements, including a description of the potential risks and benefits to the public interest of the prospective wholesale electric activities. The plan must be reviewed by an independent advisor who may make advisory recommendations to the PUD commission. Notice that the plan and independent advisor's report will be considered by the commission must be published in the newspaper at least 10 days prior to the public meeting. An implementation plan may be amended or rescinded by resolution of the commission under the same process as the initial adoption.

An exemption to the Public Records Act is created for wholesale electric PUD records that contain confidential market data or pricing information relating to the purchase, sale, or exchange or wholesale power, or related services. The exemption applies to records obtained by the PUD within one year of the public records request.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.