

# SENATE BILL REPORT

## ESSB 5541

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As Passed Senate, April 9, 2001

**Title:** An act relating to responding to energy supply shortages.

**Brief Description:** Exempting wind, fuel cells, biomass waste, or solar energy electric generating facilities from sales and use taxes.

**Sponsors:** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Jacobsen, Eide, Patterson, Fraser, Regala, Kline, Spanel, Kohl-Welles, Roach and Winsley; by request of Governor Locke).

**Brief History:**

**Committee Activity:** Environment, Energy & Water: 2/1/01, 2/15/01 [DPS-WM].

Ways & Means: 2/26/01, 3/26/01 [DPS (EEW)].

Passed Senate: 4/9/01, 48-0.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

**Majority Report:** That Substitute Senate Bill No. 5541 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Honeyford, Jacobsen, McDonald and Morton.

**Staff:** Jim Metropulos (786-7784)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5541 as recommended by Committee on Environment, Energy & Water be substituted therefor, and the substitute bill do pass.

Signed by Senators Brown, Chair; Constantine, Vice Chair; Fairley, Vice Chair; Fraser, Hewitt, Honeyford, Kline, Kohl-Welles, Long, Rasmussen, Regala, Roach, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Zarelli.

**Staff:** David Schumacher (786-7474)

**Background:** In 1996 the Legislature provided an exemption from the retail sales and use taxes for machinery and equipment used directly in generating electricity using wind or solar energy. In 1998 the exemption was expanded to include machinery and equipment used in generating electricity from landfill gas. The exemption also includes the installation of the equipment including labor and services. The exemption expires June 30, 2005.

The exemption applies to facilities capable of generating 200 kilowatts (200,000 watts) or more of electricity.

The phrase "used directly" means that the machinery and equipment exempt from the tax must be part of the process of capturing energy from wind, sun, or landfill gas, converting that energy to electricity, and transforming or transmitting the electricity for entry into electric transmission and distribution systems.

The sales tax is paid on each retail sale of most articles of tangible property and certain services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. Major items exempt from tax include food for human consumption, prescription drugs, motor vehicle fuel, utility services, professional services, certain business services, and items that become a component part of another product for sale.

In 1977, the Legislature authorized the creation of a Joint Committee on Energy and Utilities to be formed during a condition of energy supply alert or energy emergency. The committee would be made up of four members of the Senate from the energy and utilities committee and four members of the House of Representatives from the energy and utilities committee. Upon the declaration of the Governor of a condition of energy supply alert or energy emergency, the committee meets to receive any plans proposed by the Governor. The committee reviews such plans and transmits its recommendations to the Governor for review.

Since 1977, Washington has not declared an energy supply alert or energy emergency. Thus, conditions authorizing the creation of a Joint Committee on Energy and Utilities have never materialized in the state. Therefore, the committee has never met.

**Summary of Bill:** The sales tax exemption for wind, solar, and landfill gas powered electrical generating facilities is lowered from 200 kilowatts (200,000 watts) to 200 watts. The sales tax exemption for machinery and equipment installed by consumers who generate electricity is extended by four years to June 30, 2009.

Fuel cells and machinery and equipment using biomass waste are added to the list of energy sources eligible for a sales and use tax exemption. Fuel cells are defined as electrochemical reactions that generate electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

Biomass waste is defined as organic materials such as animal waste, food processing waste, wood and agricultural residues, sewage, and municipal solid waste.

The Legislature's Joint Committee on Energy and Utilities is renamed the Joint Committee on Energy Shortages.

The President of the Senate appoints four members from the Senate to serve on the committee, including the chair of the committee responsible for energy issues. Two members from each political party must be appointed.

The Speaker or Co-Speakers of the House of Representatives nominate four members from the House of Representatives to serve on the committee, including the chair or co-chairs of the committee responsible for energy issues. Two members from each political party must be appointed.

The committee elects a chairperson and a vice-chairperson. The chairperson must be a member of the House of Representatives in even-numbered years and a member of the Senate in odd-numbered years. In the case of a tie in the membership of the House of Representatives in an even-numbered year, the committee elects co-chairs from the House of Representatives in that year.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2001.

**Testimony For (Environment, Energy & Water):** This bill would promote energy diversification. It is important to encourage small-scale clean energy facilities during the current energy crisis. The bill should include fuel cells.

**Testimony Against (Environment, Energy & Water):** None.

**Testified (Environment, Energy & Water):** Senator Jacobsen, prime sponsor; Tom Starrs, Renewable Northwest Project (pro); Danielle Dixon, NW Energy Coalition (pro); Collins Sprague, Avista Corp. (pro w/amend.); Dave Danner, Governor's Office.

**Testimony For (Ways & Means):** This is a part of Governor Locke's energy package. It will offer the same tax break to small producers that is now available only to the very large. Homeowners, farmers and small businesses will now be included. This allows us to "get the rooftops working" for energy production.

**Testimony Against (Ways & Means):** None.

**Testified (Ways & Means):** Danielle Dixon, NW Energy Coalition; Eric Espenhorst, Friends of Earth; Jim Hedrick, OFM; Collins Sprague, AVISTA, Corp.