

ESHB 2289 - S COMM AMD

By Committee on Environment, Water & Energy

NOT ADOPTED 04/17/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to modify the
4 energy freedom program and account in order to receive federal funds
5 and other sources of funding. Also, the legislature intends to expand
6 the mission of the energy freedom program to accelerate energy
7 efficiency improvements, renewable energy improvements, and deployment
8 of innovative energy technologies. Additionally, the legislature
9 intends to support, through the energy freedom program, research,
10 demonstration, and commercialization of energy efficiency improvements,
11 renewable energy improvements, and innovation energy technologies.

12 **Sec. 2.** RCW 43.325.010 and 2007 c 348 s 301 are each amended to
13 read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Applicant" means the state and any political subdivision of
17 the state, including port districts, counties, cities, towns, special
18 purpose districts, and other municipal corporations or quasi-municipal
19 corporations. "Applicant" may also include federally recognized tribes
20 ~~((and))~~, state institutions of higher education with appropriate
21 research capabilities, any organization described in section 501(c)(3)
22 of the internal revenue code, and private entities that are eligible to
23 receive federal funds.

24 (2) "Alternative fuel" means all products or energy sources used to
25 propel motor vehicles, other than conventional gasoline, diesel, or
26 reformulated gasoline. "Alternative fuel" includes, but is not limited
27 to, cellulose, liquefied petroleum gas, liquefied natural gas,
28 compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels
29 containing seventy percent or more by volume of alcohol fuel, fuels

1 that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel,
2 nonhazardous motor fuel, or electricity, excluding onboard electric
3 generation.

4 (3) "Assistance" includes loans, leases, product purchases, or
5 other forms of financial or technical assistance.

6 (4) "Biofuel" includes, but is not limited to, biodiesel, ethanol,
7 and ethanol blend fuels and renewable liquid natural gas or liquid
8 compressed natural gas made from biogas.

9 (5) "Biogas" includes waste gases derived from landfills and
10 wastewater treatment plants and dairy and farm wastes.

11 (6) "Cellulose" means lignocellulosic, hemicellulosic, or other
12 cellulosic matter that is available on a renewable or recurring basis,
13 including dedicated energy crops and trees, wood and wood residues,
14 plants, grasses, agricultural residues, fibers, animal wastes and other
15 waste materials, and municipal solid waste.

16 (7) "Coordinator" means the person appointed by the director of the
17 department of community, trade, and economic development.

18 (8) "Department" means the department of community, trade, and
19 economic development.

20 (9) "Director" means the director of the department of community,
21 trade, and economic development.

22 (10) "Energy efficiency improvement" means an installation or
23 modification that is designed to reduce energy consumption. The term
24 includes, but is not limited to: Insulation; storm windows and doors;
25 automatic energy control systems; energy efficiency audits; heating,
26 ventilating, or air conditioning and distribution system modifications
27 or replacements in buildings or central plants; caulking and weather
28 stripping; energy recovery systems; geothermal heat pumps; and day
29 lighting systems.

30 (11) "Green highway zone" means an area in the state designated by
31 the department that is within reasonable proximity of state route
32 number 5, state route number 90, and state route number 82.

33 ((+11)) (12) "Innovative energy technology" means, but is not
34 limited to, the following: Smart grid or smart metering; biogas from
35 landfills, wastewater treatment plants, anaerobic digesters, or other
36 processes; wave or tidal power; fuel cells; high efficiency
37 cogeneration; and energy storage systems.

1 (13) "Peer review committee" means a board, appointed by the
2 director, that includes bioenergy specialists, energy conservation
3 specialists, scientists, and individuals with specific recognized
4 expertise.

5 ~~((+12+))~~ (14) "Project" means the construction of facilities,
6 including the purchase of equipment, to convert farm products or wastes
7 into electricity or gaseous or liquid fuels or other coproducts
8 associated with such conversion, or clean energy projects as identified
9 by the clean energy initiative as created in section 2, chapter . . .
10 (Substitute Senate Bill No. 5921), Laws of 2009. These specifically
11 include fixed or mobile facilities to generate electricity or methane
12 from the anaerobic digestion of organic matter, and fixed or mobile
13 facilities for extracting oils from canola, rape, mustard, and other
14 oilseeds. "Project" may also include the construction of facilities
15 associated with such conversion for the distribution and storage of
16 such feedstocks and fuels. The definition of project does not apply to
17 projects as described in RCW 43.325.020(5).

18 (15) "Renewable energy improvements" means a fixture, product,
19 system, device, or interacting group of devices that produces energy
20 from renewable resources. The term includes, but is not limited to:
21 Photovoltaic systems; solar thermal systems; small wind systems;
22 biomass systems; and geothermal systems.

23 ~~((+13+))~~ (16) "Refueling project" means the construction of new
24 alternative fuel refueling facilities, as well as upgrades and
25 expansion of existing refueling facilities, that will enable these
26 facilities to offer alternative fuels to the public.

27 ~~((+14+))~~ (17) "Research and development project" means research and
28 development, by an institution of higher education as defined in
29 subsection (1) of this section, relating to:

30 (a) Bioenergy sources including but not limited to biomass and
31 associated gases; or

32 (b) The development of markets for bioenergy coproducts.

33 **Sec. 3.** RCW 43.325.020 and 2007 c 348 s 302 are each amended to
34 read as follows:

35 (1) The energy freedom program is established within the
36 department. The director may establish policies and procedures

1 necessary for processing, reviewing, and approving applications made
2 under this chapter.

3 (2) When reviewing applications submitted under this program, the
4 director shall consult with those agencies and other public entities
5 having expertise and knowledge to assess the technical and business
6 feasibility of the project and probability of success. These agencies
7 may include, but are not limited to, Washington State University, the
8 University of Washington, the department of ecology, the department of
9 natural resources, the department of agriculture, the department of
10 general administration, local clean air authorities, ~~((and))~~ the
11 Washington state conservation commission, and the clean energy
12 initiative as created in section 2, chapter . . . (Substitute Senate
13 Bill No. 5921), Laws of 2009.

14 (3) Except as provided in subsections (4) and (5) of this section,
15 the director, in cooperation with the department of agriculture, may
16 approve an application only if the director finds:

17 (a) The project will convert farm products, wastes, cellulose, or
18 biogas directly into electricity or biofuel or other coproducts
19 associated with such conversion;

20 (b) The project demonstrates technical feasibility and directly
21 assists in moving a commercially viable project into the marketplace
22 for use by Washington state citizens;

23 (c) The facility will produce long-term economic benefits to the
24 state, a region of the state, or a particular community in the state;

25 (d) The project does not require continuing state support;

26 (e) The assistance will result in new jobs, job retention, or
27 higher incomes for citizens of the state;

28 (f) The state is provided an option under the assistance agreement
29 to purchase a portion of the fuel or feedstock to be produced by the
30 project, exercisable by the department of general administration;

31 (g) The project will increase energy independence or diversity for
32 the state;

33 (h) The project will use feedstocks produced in the state, if
34 feasible, except this criterion does not apply to the construction of
35 facilities used to distribute and store fuels that are produced from
36 farm products or wastes;

37 (i) Any product produced by the project will be suitable for its

1 intended use, will meet accepted national or state standards, and will
2 be stored and distributed in a safe and environmentally sound manner;

3 (j) The application provides for adequate reporting or disclosure
4 of financial and employment data to the director, and permits the
5 director to require an annual or other periodic audit of the project
6 books; and

7 (k) For research and development projects, the application has been
8 independently reviewed by a peer review committee as defined in RCW
9 43.325.010 and the findings delivered to the director.

10 (4) When reviewing an application for a refueling project, the
11 coordinator may award a grant or a loan to an applicant if the director
12 finds:

13 (a) The project will offer alternative fuels to the motoring
14 public;

15 (b) The project does not require continued state support;

16 (c) The project is located within a green highway zone as defined
17 in RCW 43.325.010;

18 (d) The project will contribute towards an efficient and adequately
19 spaced alternative fuel refueling network along the green highways
20 designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

21 (e) The project will result in increased access to alternative
22 fueling infrastructure for the motoring public along the green highways
23 designated in RCW 47.17.020, 47.17.135, and 47.17.140.

24 (5) When reviewing an application for energy efficiency
25 improvements, renewable energy improvements, or innovative energy
26 technology, the director may award a grant or a loan to an applicant if
27 the director finds:

28 (a) The project or program will result in increased access for the
29 public, state and local governments, and businesses to energy
30 efficiency improvements, renewable energy improvements, or innovative
31 energy technologies;

32 (b) The project or program demonstrates technical feasibility and
33 directly assists in moving a commercially viable project into the
34 marketplace for use by Washington state citizens;

35 (c) The project or program does not require continued state
36 support; or

37 (d) The federal government has provided funds with a limited time

1 frame for use for energy independence and security, energy efficiency,
2 renewable energy, innovative energy technologies, or conservation.

3 (6)(a) The director may approve a project application for
4 assistance under subsection (3) of this section up to five million
5 dollars. In no circumstances shall this assistance constitute more
6 than fifty percent of the total project cost.

7 (b) The director may approve a refueling project application for a
8 grant or a loan under subsection (4) of this section up to fifty
9 thousand dollars. In no circumstances shall a grant or a loan award
10 constitute more than fifty percent of the total project cost.

11 ((+6)) (7) The director shall enter into agreements with approved
12 applicants to fix the terms and rates of the assistance to minimize the
13 costs to the applicants, and to encourage establishment of a viable
14 bioenergy or biofuel industry, or a viable energy efficiency, renewable
15 energy, or innovative energy technology industry. The agreement shall
16 include provisions to protect the state's investment, including a
17 requirement that a successful applicant enter into contracts with any
18 partners that may be involved in the use of any assistance provided
19 under this program, including services, facilities, infrastructure, or
20 equipment. Contracts with any partners shall become part of the
21 application record.

22 ((+7)) (8) The director may defer any payments for up to twenty-
23 four months or until the project starts to receive revenue from
24 operations, whichever is sooner.

25 **Sec. 4.** RCW 43.325.030 and 2007 c 348 s 205 are each amended to
26 read as follows:

27 The ((~~director of the department~~)) office of the governor shall
28 appoint a coordinator that is responsible for:

29 (1) Convening the clean energy initiative as created in section 2,
30 chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009;

31 (2) Managing, directing, inventorying, and coordinating state
32 efforts to promote, develop, and encourage ((a)) biofuel((s)) and
33 energy efficiency, renewable energy, and innovative energy technology
34 markets in Washington;

35 ((+2)) (3) Developing, coordinating, and overseeing the
36 implementation of a plan, or series of plans, for the production,
37 transport, distribution, and delivery of energy efficiency, renewable

1 energy, and innovative energy technology products and services as well
2 as biofuels produced predominantly from recycled products or Washington
3 feedstocks;

4 ((+3)) (4) Working with the departments of transportation and
5 general administration, and other applicable state and local
6 governmental entities and the private sector, to ensure the development
7 of biofuel fueling stations for use by state and local governmental
8 motor vehicle fleets, and to provide greater availability of public
9 biofuel fueling stations for use by state and local governmental motor
10 vehicle fleets;

11 ((+4)) (5) Coordinating with the Western Washington University
12 alternative automobile program for opportunities to support new
13 Washington state technology for conversion of fossil fuel fleets to
14 biofuel, hybrid, or alternative fuel propulsion;

15 ((+5)) (6) Coordinating with the University of Washington's
16 college of forest management and the Olympic natural resources center
17 for the identification of barriers to using the state's forest
18 resources for fuel production, including the economic and
19 transportation barriers of physically bringing forest biomass to the
20 market;

21 ((+6)) (7) Coordinating with the department of agriculture and
22 Washington State University for the identification of other barriers
23 for future biofuels development and development of strategies for
24 furthering the penetration of the Washington state fossil fuel market
25 with Washington produced biofuels, particularly among public entities.

26 **Sec. 5.** RCW 43.325.040 and 2007 c 348 s 305 are each amended to
27 read as follows:

28 (1) The energy freedom account is created in the state treasury.
29 All receipts from appropriations made to the account and any loan
30 payments of principal and interest derived from loans made under this
31 chapter must be deposited into the account. Moneys in the account may
32 be spent only after appropriation. Expenditures from the account may
33 be used only for assistance for projects consistent with this chapter
34 or otherwise authorized by the legislature.

35 (a) Repayments of principal and interest from loans made to
36 projects defined in RCW 43.325.010(14) must be used only for financial
37 assistance to further funding of projects defined under that section.

1 (b) Repayments of principal and interest from loans made to energy
2 efficiency improvement, renewable energy improvement, and innovative
3 energy technology projects as defined in RCW 43.325.010 must be used
4 only for financial assistance to further funding of projects defined
5 under that section.

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

11 (a) Refueling projects awarded under this chapter;

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

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

17 (3) The nonstate energy account is created in the state treasury.
18 All receipts from appropriations made to the nonstate energy account
19 shall be deposited into the account and may be spent only after
20 appropriation. Money provided by the federal government for energy
21 independence and security, innovative energy technologies, energy
22 efficiency, renewable energy, and conservation must be deposited into
23 the nonstate energy account.

24 (a) To the energy efficiency assistance account created in section
25 110, chapter . . . (Engrossed Second Substitute Senate Bill No. 5649),
26 Laws of 2009 there is appropriated from the nonstate energy account for
27 the biennium ending June 30, 2011, a sum of thirty million dollars of
28 the federal funds received by the state pursuant to the federal
29 American recovery and reinvestment act of 2009 (P.L. 111-5), the
30 federal energy independence and security act of 2007 (P.L. 110-140),
31 the federal energy policy and conservation act (Title 42 U.S.C. Sec.
32 6321), and the energy efficient appliance rebate program authorized by
33 the federal energy policy act of 2005 (P.L. 109-58), for the purpose of
34 funding the energy efficiency assistance program as created in section
35 102, chapter . . . (Engrossed Second Substitute Senate Bill No. 5649),
36 Laws of 2009.

37 (b) There is appropriated from the nonstate energy account to

1 Washington State University the sum of fifteen million dollars for the
2 fiscal year ending June 30, 2010, and fifteen million dollars for the
3 fiscal year ending June 30, 2011.

4 (4) Any state agency receiving funding from the energy freedom
5 account is prohibited from retaining greater than three percent of any
6 funding provided from the energy freedom account for administrative
7 overhead or other deductions not directly associated with conducting
8 the research, projects, or other end products that the funding is
9 designed to produce unless this provision is waived in writing by the
10 director.

11 ((+4)) (5) Any university, institute, or other entity that is not
12 a state agency receiving funding from the energy freedom account is
13 prohibited from retaining greater than fifteen percent of any funding
14 provided from the energy freedom account for administrative overhead or
15 other deductions not directly associated with conducting the research,
16 projects, or other end products that the funding is designed to
17 produce.

18 ((+5)) (6) For the purposes of funding the clean energy leadership
19 initiative, as created in section 2, chapter . . . (Substitute Senate
20 Bill No. 5921), Laws of 2009 there is appropriated from the nonstate
21 energy account to Washington State University the sum of five hundred
22 thousand dollars for the fiscal year ending June 30, 2010.

23 (7) Subsections (2) through ((+4)) (5) of this section do not
24 apply to assistance awarded for projects under RCW 43.325.020(3).

25 **Sec. 6.** RCW 43.325.070 and 2007 c 348 s 303 are each amended to
26 read as follows:

27 (1) If the total requested dollar amount of assistance awarded for
28 projects under RCW 43.325.020(3) exceeds the amount available in the
29 energy freedom account created in RCW 43.325.040, the applications must
30 be prioritized based upon the following criteria:

31 (a) The extent to which the project will help reduce dependence on
32 petroleum fuels and imported energy either directly or indirectly;

33 (b) The extent to which the project will reduce air and water
34 pollution either directly or indirectly;

35 (c) The extent to which the project will establish a viable
36 bioenergy ((+)), biofuel production capacity, energy efficiency,

1 renewable energy, or innovative energy technology industry in
2 Washington;

3 (d) The benefits to Washington's agricultural producers;

4 (e) The benefits to the health of Washington's forests;

5 (f) The beneficial uses of biogas; (~~and~~)

6 (g) The number and quality of jobs and economic benefits created by
7 the project; and

8 (h) Other criteria determined by the clean energy initiative.

9 (2) This section does not apply to grants or loans awarded for
10 refueling projects under RCW 43.325.020 (4) and (6).

11 NEW SECTION. Sec. 7. Sections 2, 3, 5, and 6 of this act expire
12 June 30, 2016.

13 NEW SECTION. Sec. 8. This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately."

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17 On page 1, line 1 of the title, after "program;" strike the
18 remainder of the title and insert "amending RCW 43.325.010, 43.325.020,
19 43.325.030, 43.325.040, and 43.325.070; creating a new section; making
20 appropriations; providing an expiration date; and declaring an
21 emergency."

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