
**Technology, Energy & Communications
Committee**

ESSB 6656

Brief Description: Implementing a pilot program for energy conservation services.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Murray, Rockefeller, Fraser and Shin).

Brief Summary of Engrossed Substitute Bill

- Allows municipalities within the electric service territories of Tacoma Public Utilities, Seattle City Light, and Puget Sound Energy to create and operate an energy conservation services utility until June 30, 2015.

Hearing Date: 2/17/10

Staff: Kara Durbin (786-7133).

Background:

General Powers of Municipal Utilities.

Municipal utilities in Washington are authorized to provide residents with gas, electricity, and other services that are charged by rates or fixed prices. If a municipality intends to purchase, acquire or construct a public utility, or expand an existing utility, the municipality generally must submit the matter for a public vote.

Municipal Bond Authority.

Municipalities, including municipal utilities, are authorized to issue and sell several types of bonds according to uniform procedures outlined in state and federal law. One of the types of bonds issued by municipalities is called a general obligation bond. General obligation bonds are

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payable from tax revenues of the municipality and any other funds lawfully available and pledged by the municipality for that purpose.

Municipalities are also authorized to issue revenue bonds. Revenue bonds are not general obligation debt of the issuing entity. Instead, payment is secured by the specific revenue pledged to pay the interest and principal on the bonds.

Constitutional and Statutory Provisions Authorizing Conservation.

The State Constitution generally prohibits the gift or loan of public money by state or local governments. An exception to this general prohibition was adopted in 1979 (Amendment 70 of the State Constitution) authorizing local governments engaged in the sale or distribution of energy to use operating revenues from such sales to finance conservation and energy efficiency measures for their residential customers. Any financing for conservation must be used for conservation purposes in existing structures and must not be used for the conversion from one energy source to another. Subsequent constitutional amendments have expanded the exception to allow energy conservation financing for all structures and to allow conservation financing for water (Amendment 86 of the State Constitution) and stormwater or sewer services (Amendment 91 of the State Constitution).

The statutes implementing Amendment 70 of the State Constitution for municipal utilities or public utility districts sets forth various criteria for financing energy conservation, including contracting-out provisions and payback terms and methods. Terms used in Amendment 70 of the State Constitution are also defined in statute. The term "conservation purposes in existing structures" is defined to include projects that allow a public utility's customers to generate all or a portion of their own electricity through on-site installation of solar, wind, geothermal or mini-hydroelectric generating systems, or other distributed generation systems that use fuel from on-site renewable resources. Projects are not considered a "conversion from one energy source to another" so long as they do not involve the substitution of one commercial energy supplier for another commercial energy supplier.

Energy Conservation Targets Under Initiative 937.

The Energy Independence Act, also known as Initiative 937, requires qualifying electric utilities to pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019 and update the assessments every two years for the next 10-year period. Beginning January 2010, each qualifying utility must meet biennial conservation targets that are consistent with its conservation assessments.

Summary of Bill:

Pilot Program for Municipal Energy Conservation Services Utilities.

Until June 30, 2015, municipalities wholly within the electric service territories of Tacoma Public Utilities, Seattle City Light, and Puget Sound Energy are eligible to create energy conservation services utilities. Energy conservation services means measures to reduce on-site energy consumption, such as energy audits, weatherization services, or financing the acquisition

and installation of distributed electricity generation systems. Energy conservation services are authorized only if the cost per unit of energy saved or produced is less than the cost per unit of energy produced by the next least costly new energy resource that could be acquired to meet future demand.

An eligible municipality may create an energy conservation services utility by ordinance; a public vote is not required. Prior to creating such a utility, the municipality's legislative authority must hold a public hearing and make a legislative determination that the energy conservation services proposed will: (1) make available additional or complementary services; (2) target underserved populations or areas; or (3) add incremental value to preexisting conservation programs and services offered by an electric or natural gas utility serving the municipality. In addition, energy conservation services utilities must create quality assurance programs that include specified criteria, such as a third-party, independent verification process.

The legislative authority of a municipality offering energy conservation services is authorized to set uniform rates or charges for energy conservation services provided to customers of the energy conservation services utility, if the rates charged are uniform for the same class of customer or service.

An eligible municipality's provision of energy conservation services must be consistent with, and not limit, supplant, replace, or conflict with, any authority to provide energy conservation services through an existing municipal utility. Municipal energy conservation services utilities are not authorized to generate, transmit, distribute, or sell electricity; nor may they restrain or limit the authority of any individual, partnership, corporation, private utility, or public utility from establishing and providing energy conservation services.

Lending Authority.

Energy conservation services utilities may finance conservation loans for improvements to existing structures for up to 240 months, with repayment in the form of incremental additions to the existing local government utility or tax bill. Municipalities must notify the appropriate servicer of an escrow account of any incremental increases in monthly mortgage payments if conservation loan payments have been added to a property tax bill.

An energy conservation services utility must approve the aggregate amount of conservation loans and the repayment terms by ordinance. Conservation loans must be secured by a statutory lien on the benefited property, not to exceed 5 percent of the current assessed value of the property. Such statutory liens are paramount and superior to any other lien or encumbrance created thereafter, except for liens for general taxes, special assessment district assessments, liens securing energy conservation loans issued by existing municipal utilities and public utility districts, and liens securing water conservation loans issued by counties.

Grants for the Poor.

Energy conservation services utilities may also provide grants for energy conservation improvements to existing structures owned or occupied by persons qualifying as poor or infirm consistent with the State Constitution.

Bond Authority.

An eligible municipality may issue general obligation or revenue bonds or other forms of indebtedness for providing all or part of the costs of energy conservation services. Revenues from loan payments may be pledged to secure and repay any general obligation or revenue bonds issued. To secure payment of the principal of and interest on any bonds or notes, a reserve fund may be created.

No municipality may enter into a contract to sell loans financed by an energy services conservation utility to a third party for the purpose of securitizing those loans without approval by the municipality's legislative authority. Any contract that requires a municipality to service loans that it originated must limit the liability of the municipality by prohibiting the commingling of its loans in a securities instrument with loans issued by other parties.

No indebtedness may be issued after June 30, 2015. However, indebtedness previously issued may continue to be serviced.

Initiative 937 Conservation Targets.

A qualifying electric utility under Initiative 937 may exclusively claim any conservation savings achieved by a municipal conservation services utility for purposes of complying with the Initiative.

Annual Reports.

Energy conservation service utilities must file annual reports that specify: (1) the number of customers served; (2) the amount of assistance per customer; (3) the estimated energy savings per customer; and (4) the effectiveness of their quality assurance programs. Municipalities must submit their reports to the respective electric utilities serving their residents, which must then consolidate the reports and submit them electronically to the appropriate committees of the Legislature by December 1 of each year until the pilot program expires.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.