

# SENATE BILL REPORT

## SB 5072

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As of January 22, 2009

**Title:** An act relating to the value of benefits provided to any executive officer, employee, or director of a public service company.

**Brief Description:** Concerning the value of benefits provided to any executive officer, employee, or director of a public service company.

**Sponsors:** Senator Murray.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 1/21/09.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Staff:** William Bridges (786-7416)

**Background:** The Washington Utilities and Transportation Commission (commission) is a three-member commission that has broad authority to regulate the rates, services, and practices of privately-owned utilities and transportation companies. The commission regulates these utilities under a "rate of return" system, where a utility is generally allowed to charge rates that cover its costs, plus an opportunity to make a fair profit.

Recovering Executive Compensation in Utility Rates. When determining the costs a regulated utility may recover in its rates, the commission may examine the compensation paid to executives, including such things as salaries, incentive bonuses, and stock options. The commission has broad authority to restrict executive compensation that can be recovered in rates. For example, in a 2000 rate case, the commission allowed an electric utility to recover only \$410,900 of a CEO's base salary of \$750,000. More recently, the commission prohibited the rate recovery of executive "change of control" compensation connected to the sale of Puget Sound Energy (PSE).

When considering the reasonableness of a utility's executive compensation, the commission examines such factors as the degree to which an executive's skills are necessary for regulated businesses versus unregulated lines; compensation received by executives at peer companies; the overall level of an executive's total compensation package; and the unique circumstances of each company.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Average Salary of the Three Highest-Paid Executives of Consumer-Owned Utilities. A "consumer-owned utility" can be a municipal electric utility, a public utility district (PUD), an irrigation district, a cooperative, or a mutual corporation or association that is engaged in the business of distributing electricity to more than one retail electric customer in the state. It is currently estimated that the three highest-paid executives of consumer-owned utilities in the state are the general managers of Chelan and Snohomish PUDs and the director of Tacoma Public Utilities. The average of their annual salaries is estimated at \$290,677.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The combined value of all cash and noncash benefits provided to any executive officer or director of a regulated gas or electric utility that exceeds the average of the annual salaries of the three highest paid executives of consumer-owned utilities in the state must not be recovered by the utility in its rates or charges.

"Consumer-owned utility" means a municipal electric utility, a PUD, an irrigation district, a cooperative, or a mutual corporation or association that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Executive compensation is a timely issue. The current economic crisis has shaken the confidence of the public and many believe it was caused by financial irresponsibility. President Obama has called for a new era of responsibility, and in that vein he has frozen the salaries of senior government officers. All must sacrifice. In this state, legislators have asked that their salary increases be placed on hold and the Washington State Investment Board has supported the efforts of the U.S. Securities & Exchange Commission to require full disclosure of executive compensation. The bill does not limit executive compensation; it only limits the recovery of compensation in rates. This bill will create a bright red line for the commission when it considers executive compensation in rate cases. The bill is a step in restoring public confidence in the economy.

CON: Companies do not seek rate-recovery for the total compensation of its executives. For example, in the recent merger case, executive "change in control" compensation was not included in rates. All companies are different and each should be examined on a case-by-case basis as is already done in the commission. There are no public utilities that offer gas and electric services like PSE, nor are there public utilities as large as PSE, so using public utilities for reference salaries is unfair. The bill makes an unfair comparison between the total compensation package of private utility executives and the base salaries of public utility executives. The bill punitively focuses on one sector of the utility business.

**Persons Testifying:** PRO: Senator Murray, prime sponsor; Senator Lisa Brown.

CON: Scott Bolton, PacifiCorp; Thomas Hunt, PSE.