

SENATE BILL REPORT

2SHB 1095

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, March 31, 2015

Title: An act relating to promoting thermal energy efficiency.

Brief Description: Promoting thermal energy efficiency.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Morris and Hudgins).

Brief History: Passed House: 3/05/15, 98-0.

Committee Activity: Energy, Environment & Telecommunications: 3/17/15, 3/31/15 [DPA-WM, w/oRec].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; McCoy, Ranking Minority Member; Brown, Cleveland, Habib and Ranker.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and Honeyford.

Staff: William Bridges (786-7416)

Background: Energy Conservation in Design of Public Facilities. A life-cycle cost analysis must be conducted prior to the construction or renovation of a major facility, which is defined as a publicly owned or leased building having 25,000 square feet or more of usable floor space. Among other things, the analysis must include an evaluation of the energy consumed at the building that is prepared by a professional engineer or licensed architect.

Integrated Resource Plan (IRP). All investor-owned and consumer-owned electric utilities in the state with more than 25,000 customers must develop IRPs. All other electric utilities in the state, including those that essentially receive all their power from the Bonneville Power Administration, must file either an IRP or a less-detailed resource plan.

An IRP must describe the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the

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utility and its ratepayers. An IRP must include a number components, such as an assessment of commercially available conservation and efficiency resources.

Combined Heat and Power (CHP) Systems. CHP systems sequentially produce electricity and useful thermal energy from a common fuel source and are sometimes called cogeneration systems.

Washington State University (WSU) Energy Program. The WSU Energy Program is a self-supported department within the university. Its staff offers technical expertise to government entities and the general public through a number of energy-related programs, such as resource conservation management, agricultural efficiency, and workforce and economic development.

Washington Utilities and Transportation Commission (UTC). The UTC is a three-member commission that has broad authority to regulate the rates, services, and practices of a variety of businesses in the state, including electric investor-owned utilities.

District Thermal Energy Systems and UTC Jurisdiction. Under current law, a district thermal energy system is generally defined as a system that distributes thermal energy to two or more buildings from a central plant to heat or cool spaces. Thermal energy services generally means the provision of thermal energy from a district thermal energy system. The UTC is not authorized to regulate the rates or services of companies that provide district thermal energy services.

Air Operating Permits. The Department of Ecology (Ecology) and seven local air quality agencies administer Washington's air operating permit standards under the Washington Clean Air Act. An air operating permit specifies certain requirements for air pollution sources, including permissible emission levels.

Boiler Maximum Achievable Control Technology (MACT). The Boiler MACT rules are air emission standards set by the Environmental Protection Agency (EPA) for industrial, commercial, and institutional boilers and process heaters that emit specified amounts of air pollutants, such as mercury, dioxin, and lead. Among other things, the rules require covered entities to complete a one-time energy assessment that identifies such things as potential energy conservation measures.

Summary of Bill (Recommended Amendments): Requiring a Life-Cycle Cost Analysis Before the Construction or Renovation of Critical Government Facilities. The list of facilities that must undergo a life-cycle cost analysis prior to construction or renovation is expanded to include critical governmental facilities. A critical governmental facility is a publicly owned building or district energy system that is expected to:

- be continuously occupied;
- maintain operations for at least 6000 hours each year;
- have a peak electricity demand exceeding 500 kilowatts (kW); and
- serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including such facilities as a prison, police station, or hospital.

An energy-consumption analysis conducted as part of a life-cycle cost analysis for a major facility or critical governmental facility must include the identification and analysis of critical loads for each energy system. In addition, a CHP system feasibility assessment must be part of the energy consumption analysis for critical government facilities.

Incorporating CHP Systems into IRPs. By December 31, 2016, an electric utility with over 25,000 customers in the state must:

- value CHP as having both energy and capacity for specified purposes; and
- offer a minimum term of 15 years for power purchase agreements for the electric output of CHP systems, or a lesser mutually agreed term.

Provisions are added concerning the recovery of fuel costs related to electricity purchases from a CHP system, the inclusion of CHP systems in IRPs, and the reporting of existing and potential CHP systems to the WSU Energy Program for analysis.

Clarifying the UTC Regulation of Thermal Energy Systems. The UTC retains the authority to issue or enforce any order affecting CHP facilities owned or operated by an electrical company that are subsidized by a regulated service. References to district thermal energy systems are removed. A thermal energy system is defined as any system that provides thermal energy for space heating, space cooling, or process uses from a central plant or CHP facility, and that distributes the thermal energy to two or more buildings.

Requiring Ecology to Establish General Air Operating Permits. Ecology must establish a general air operating permit or permit by rule for new stationary natural gas engines used in a CHP system. The general permit or permit by rule must establish emission limits for air contaminants released by stationary natural gas engines. Criteria is listed that Ecology may consider when establishing a general permit or permit by rule, such as the geographic location in which a stationary natural gas engine may be used and the total annual operating hours of a stationary natural gas engine.

Requiring Actions by Entities Covered by EPA's Boiler MACT Rules. An entity required to complete an energy assessment under the Boiler MACT standards must:

- by January 31, 2016, submit nonproprietary information reported in the energy assessment electronically to Ecology or to the air pollution control authority that issues the air operating permit for the source; and
- by January 1, 2017, submit a report electronically to the WSU Energy Program that identifies, if applicable, the economic, technical, and other barriers to implementing thermal energy efficiency opportunities identified in the energy assessment.

A covered entity that has not completed an energy assessment under federal boiler MACT rules must request a free CHP site qualification screening from the U.S. Department of Energy.

Expressing Legislative Findings and Intent. Various legislative findings are made and the intent of the Legislature is expressed concerning the importance of CHP systems.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (Recommended Amendments): Clarifies

that CHP feasibility assessments are only required for critical governmental facilities. Strikes the authority of the UTC to establish a voluntary emission reduction program.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Second Substitute House Bill: PRO: The provision authorizing the UTC to establish a voluntary emission reduction program does not work and should be modeled on Oregon's proposed program. The bill conforms with items in the 2012 state energy strategy that supports the formal consideration of CHP systems in IRPs and the extension of power purchase agreements with CHPs to 15 years. The inclusion of CHPs in life-cycle analysis for planned public buildings is supported.

OTHER: The WSU Energy Program has the in-house expertise to perform the duties specified in the bill. The sections concerning EPA energy assessments and the streamlining of permits by Ecology may not work together. A current lawsuit in federal court may affect EPA's authority to require energy assessments, which in turn would affect the energy assessment requirements in this bill. Language following the proposed voluntary emission reduction program in Oregon should be used, and the program should sunset if a carbon pricing program is adopted in Washington. The voluntary emission reduction program needs to be improved. Concerns are expressed about valuing energy and capacity of CHPs. It is preferred that power purchase agreements stay at five years. The IRP is a planning process and should not contain mandatory terms. Fifteen-year power purchase agreements may violate the federal Public Utility Regulatory Policies Act (PURPA). The term cogeneration is used in PURPA instead of CHP.

Persons Testifying: PRO: Scott Nelson, NW Natural Gas; Tony Usibelli, Energy Office, Dept. of Commerce.

OTHER: Jim Jesernig, NW Industrial Gas Users; Sheila Riggs, Dave Sjoding, WSU Energy Program; John Rothlin, Avista; Dave Warren, WA PUD Assn.; Bill Stauffacher, NW Pulp and Paper Assn.; Nancy Atwood, Puget Sound Energy.

Persons Signed in to Testify But Not Testifying: No one.