

# HOUSE BILL REPORT

## SHB 1446

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### As Passed Legislature

**Title:** An act relating to prohibiting a utility from being assessed a penalty for not meeting its biennial acquisition target for cost-effective conservation in special circumstances outside the utility's control.

**Brief Description:** Prohibiting a utility from being assessed a penalty for not meeting its biennial acquisition target for cost-effective conservation in special circumstances outside the utility's control.

**Sponsors:** House Committee on Environment & Energy (originally sponsored by Representative Fey).

**Brief History:**

**Committee Activity:**

Environment & Energy: 2/9/21, 2/15/21 [DPS].

**Floor Activity:**

Passed House: 3/3/21, 93-4.

Passed Senate: 4/6/21, 49-0.

Passed Legislature.

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| <p style="text-align: center;"><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Provides that utilities are in compliance with cost-effective conservation acquisition targets if events beyond the reasonable control of the utility prevented it from meeting the conservation target.</li></ul> |
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### HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Boehnke, Fey, Goehner, Ramel, Shewmake and Slatter.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 1 member: Representative Berry.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Harris-Talley.

**Staff:** Jacob Lipson (786-7196).

**Background:**

The Energy Independence Act (EIA) was approved by voters in 2006. The EIA requires an electric utility with more than 25,000 customers to meet targets for energy conservation and to meet a certain percent of its annual load with eligible renewable resources. These utilities must pursue all available conservation that is cost-effective, reliable, and feasible.

Every two years, the qualifying utility must review and update an assessment of its achievable cost-effective conservation potential for the subsequent 10-year period. The qualifying utility must establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its 10-year assessment. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent 10-year period.

The EIA also requires electric utilities with more than 25,000 customers to use eligible renewable resources or acquire equivalent renewable energy credits (RECs), or both, to meet the following targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

The Utilities and Transportation Commission determines compliance with the requirements of the EIA for investor-owned utilities. The State Auditor's Office is responsible for auditing compliance with the EIA for consumer-owned utilities, and the Office of the Attorney General is responsible for enforcing that compliance. Utilities that fail to comply with energy conservation or renewable energy targets owe an administrative penalty for each megawatt-hour of shortfall of \$50, adjusted annually for inflation. Utilities that do not meet an annual renewable energy target are exempt from administrative penalties under certain circumstances, including if the utility did not experience load growth or invested at least 4 percent of retail revenue on the incremental costs of eligible renewable resources or the cost of RECs.

**Summary of Substitute Bill:**

Electric utilities with more than 25,000 customers are considered in compliance with

biennial acquisition targets for cost-effective conservation if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented the utility from meeting the conservation target. Events that an electric utility may demonstrate were beyond its reasonable control, could not have been anticipated or ameliorated, and that prevented it from meeting a conservation target include:

- natural disasters resulting in the issuance of extended emergency declarations;
- the cancellation of significant conservation projects; and
- actions of a governmental authority that adversely affects the acquisition of cost-effective conservation.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) When the initiative establishing the Energy Independence Act was passed, there was not adequate contemplation of how to address unanticipated events. Conservation programs need customer participation in order to be effective. Pandemic-driven uncertainty in many manufacturing industries has led utility customers to postpone capital expenditures on energy conservation projects. Many conservation projects are planned years in advance, and the postponement of only a few large industrial customer conservation projects has the potential to make it impossible for some utilities to achieve their conservation targets. Other electric utility conservation efforts and projects were put on hold due to staffing illnesses, customer hesitation to allow people to enter their homes, and supply chain disruptions that made energy-efficient appliances unavailable. Utilities that have historically been successful at surpassing conservation targets were not able to foresee that the pandemic would undercut their plans for the achievement of short-term conservation targets. The penalties levied on utilities for violations of cost-effective conservation requirements can be costly. Energy conservation programs offer significant benefits to utilities and their customers. Utilities must make their best efforts to achieve conservation, but this year has presented unusual circumstances that state law should take into consideration. In order to avoid penalties, this bill would still require utilities to demonstrate that failure to achieve conservation targets resulted from circumstances beyond their control.

(Opposed) The bill is premature because we will not know until the end of this year whether any utilities have actually failed to achieve their energy conservation targets. Every utility has exceeded conservation goals for as long as they have been in effect. The exemptions for utility penalties are too broad, and should be focused narrowly on a short-term solution to the current circumstances.

**Persons Testifying:** (In support) Representative Fey, prime sponsor; Nicolas Garcia, Washington Public Utility Districts Association; Steve Taylor and Jen Langdon, Cowlitz Public Utility District; John Rothlin, Avista; Logan Bahr, Tacoma Public Utilities; and Glenn Blackmon, Department of Commerce State Energy Office.

(Opposed) Joni Bosh, Northwest Energy Coalition.

**Persons Signed In To Testify But Not Testifying:** None.