

# SENATE BILL REPORT

## SHB 1446

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As Passed Senate, April 6, 2021

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

**Committee Activity:** Environment, Energy & Technology: 3/17/21, 3/23/21 [DP, DNP].

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

### Brief Summary of Bill

- Provides that an electric utility is in compliance with its biennial energy conservation target under the Energy Independence Act if events beyond the reasonable control of the utility prevented it from meeting the target.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Majority Report:** Do pass.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Brown, Das, Fortunato, Hobbs, Liias, Nguyen, Sheldon, Short, Stanford and Wellman.

**Minority Report:** Do not pass.

Signed by Senator Ericksen, Ranking Member.

**Staff:** Kimberly Cushing (786-7421)

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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.*

**Background:** Approved by voters in 2006, the Energy Independence Act (EIA), also known as I-937, requires qualifying electric utilities to meet targets for energy conservation and for using eligible renewable resources. Qualifying utilities are electric utilities with 25,000 or more customers in the state, and there are 18 utilities subject to the EIA.

Qualifying utilities must pursue all conservation that is cost-effective, reliable, and feasible. They need to identify the conservation potential over a 10-year period and set two-year targets.

For investor-owned utilities, the Utilities and Transportation Commission (UTC) determines compliance with the EIA. For all other utilities, the auditor is responsible for auditing compliance with the EIA. 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.

**Summary of Bill:** A qualifying utility is considered in compliance with its biennial acquisition target for cost-effective conservation if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the target. These events include:

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

A qualifying utility that did not meet a biennial conservation target is exempt from the administrative penalty if the UTC or the auditor determines the utility did not meet the target due to events beyond its reasonable control.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill is a result of COVID. To make energy efficiency work, you need willing customers. Utilities are reliant on business customers for conservation acquisition. However, businesses and residents have limited spending to the essential, which does not include investments in energy efficiency. Even if people want to invest, customer engagement has been limited during the pandemic because utility personnel may not be able to go on site to do inspections or assist with installations. For businesses closing, the payback on energy efficiency does not make sense. Utilities

cannot provide incentives beyond the value of energy saved. Utilities typically exceed biennial conservation targets, but the pandemic has significantly hampered delivery of programs due to supply chain disruptions, travel restrictions, and economic uncertainty. We need protection from penalties for force majeure events. If there is a penalty it is passed on and paid by ratepayers. The bill has been narrowed to more limited circumstances. The bill mimics exemptions for renewable energy. Do not put this language in a budget proviso because this situation could happen again and substantive changes to law should not be in the budget. There are lots of benefits from conservation. It saves money for customers and utilities; supports workers and small businesses who install efficiency measurers; and helps reduce emissions from greenhouse gases. The 2021 targets were set at end of 2019 but now may be difficult to meet. This is a fair and reasonable approach to create an exception for extraordinary circumstances.

OTHER: The EIA is a key driver for prioritizing conservation. Utilities regularly exceed targets. There have been changes due to COVID, but a statutory change is not necessary. All utilities have excess savings they can use to cover shortfalls. This could be addressed by a budget proviso or limit the bill to just COVID.

**Persons Testifying:** PRO: Representative Jake Fey, Prime Sponsor; John Rothlin, Avista; Steve Taylor, Cowlitz PUD; Nicolas Garcia, Washington Public Utilities District Association; Glenn Blackmon, Department of Commerce; Logan Bahr, Tacoma Public Utilities.

OTHER: Amy Wheelless, NW Energy Coalition.

**Persons Signed In To Testify But Not Testifying:** No one.