

E3SHB 2939 - S COMM AMD

By Committee on Water, Energy & Environment

NOT ADOPTED 03/02/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Washington's dependence on energy supplied from outside the
5 state and volatile global energy markets makes its economy and citizens
6 vulnerable to unpredictable and high energy prices;

7 (2) Washington's dependence on petroleum-based fuels increases
8 energy costs for citizens and businesses;

9 (3) Diesel soot from diesel engines ranks as the highest toxic air
10 pollutant in Washington, leading to hundreds of premature deaths and
11 increasing rates of asthmas and other lung diseases;

12 (4) The use of biodiesel results in significantly less air
13 pollution than traditional diesel fuels;

14 (5) Improper disposal and treatment of organic waste from farms and
15 livestock operations can have a significant negative impact on water
16 quality;

17 (6) Washington has abundant supplies of organic wastes from farms
18 that can be used for energy production and abundant farmland where
19 crops could be grown to supplement or supplant petroleum-based fuels;

20 (7) The use of energy and fuel derived from these sources can help
21 citizens and business conserve energy and reduce the use of petroleum-
22 based fuels, would improve air and water quality in Washington, reduce
23 environmental risks from farm wastes, create new markets for farm
24 products, and provide new industries and jobs for Washington citizens;
25 and

26 (8) The bioenergy industry is a new and developing industry that
27 is, in part, limited by the availability of capital for the
28 construction of facilities for converting farm and forest products into
29 energy and fuels.

1 Therefore, the legislature finds that it is in the public interest
2 to encourage the rapid adoption and use of bioenergy, to develop a
3 viable bioenergy industry within Washington state, and to support a
4 viable agriculture industry to grow bioenergy crops. To accomplish
5 this, the energy freedom program is established to stimulate the
6 construction of facilities in Washington to generate energy from farm
7 sources or convert organic matter into fuels.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Assistance" includes loans, leases, product purchases, or
11 other forms of financial or technical assistance.

12 (2) "Department" means the department of agriculture.

13 (3) "Director" means the director of the department of agriculture.

14 (4) "Political subdivision" means any port district, county, city,
15 town, special purpose district, and any other municipal corporation or
16 quasi-municipal corporation in the state.

17 (5) "Project" means the construction of facilities, including the
18 purchase of equipment, to convert farm products or wastes into
19 electricity or gaseous and liquid fuels or other coproducts associated
20 with such conversion. These specifically include facilities, fixed or
21 mobile, to generate electricity or methane from the anaerobic digestion
22 of organic matter, and facilities for the extracting oils from canola,
23 rape, mustard, and other oilseeds. "Project" may also include the
24 construction of facilities used to distribute and store fuels that are
25 produced from farm products or wastes.

26 NEW SECTION. **Sec. 3.** (1) The energy freedom program is
27 established within the department. The director, in cooperation with
28 the department of community, trade, and economic development, may
29 approve an application providing assistance for a project only if the
30 director finds:

31 (a) The project will convert farm products or wastes directly into
32 electricity or into gaseous or liquid fuels or other coproducts
33 associated with such conversion;

34 (b) The project demonstrates technical feasibility and probable
35 business success;

1 (c) The business or facility produces long-term economic benefits
2 to the state, a region of the state, or a particular community in the
3 state;

4 (d) The project does not require continuing state support;

5 (e) The assistance will result in new jobs, job retention, or
6 higher incomes for citizens of the state;

7 (f) The assistance is accompanied by private investment;

8 (g) The state is provided an option under the assistance agreement
9 to purchase a portion of the fuel or feedstock to be produced by the
10 project, exercisable by the department of general administration;

11 (h) The project will increase energy independence or diversity for
12 the state;

13 (i) The project will use feed stocks produced in the state, if
14 feasible, except this criterion shall not apply to the construction of
15 facilities used to distribute and store fuels that are produced from
16 farm products or wastes;

17 (j) Any product produced by the project will be suitable for its
18 intended use, will meet accepted national or state standards, and will
19 be stored and distributed in a safe and environmentally sound manner;

20 (k) The application provides for adequate reporting or disclosure
21 of financial and employment data to the director, and permits the
22 director to require an annual or other periodic audit of the project
23 books; and

24 (1) For applications seeking direct financial assistance, the
25 applicant is unable to secure adequate financing from other sources.

26 (2) The director may approve an application for assistance up to
27 five million dollars.

28 (3) The director shall enter into agreements with approved
29 applicants to fix the terms and rates of the assistance to minimize the
30 costs to the applicants, and to encourage establishment of a viable
31 bioenergy industry. The agreement shall include provisions to protect
32 the state's investment, taking into account depreciation and other
33 circumstances or market conditions. In the event the department of
34 general administration coordinates a biodiesel technical assistance
35 team, the agreement shall incorporate the appropriate best management
36 practices developed by the team.

37 (4) The director may defer any payments for up to twelve months or

1 until the project starts to receive revenue from operations, whichever
2 is sooner.

3 (5) Political subdivisions and private entities, including economic
4 development councils, may participate in the program.

5 NEW SECTION. **Sec. 4.** (1) The director may establish policies and
6 procedures necessary for processing, reviewing, and approving
7 applications made under this section.

8 (2) Each application must show in detail the nature of the project,
9 the source of the feedstock, and the technologies that will be used.
10 Each application must contain a credit analysis of the applicant and a
11 detailed feasibility analysis and business plan.

12 (3) The director shall consult with those agencies having expertise
13 and knowledge to assess the technical and business feasibility of the
14 project and probability of success. These agencies may include, but
15 are not limited to, Washington State University, the University of
16 Washington, the department of ecology, the department of community,
17 trade, and economic development, and the Washington state conservation
18 commission.

19 (4) If the total requested dollar amount of assistance exceeds the
20 amount available in the energy freedom account created in section 5 of
21 this act, the applications must be prioritized based upon the following
22 criteria:

23 (a) The extent to which the project will help conserve energy and
24 reduce dependence on petroleum fuels and imported energy either
25 directly or indirectly;

26 (b) The extent to which the project will reduce air and water
27 pollution either directly or indirectly;

28 (c) The extent to which the project will establish a viable
29 bioenergy production capacity in Washington;

30 (d) The benefits to Washington's agriculture producers; and

31 (e) The number and quality of jobs and economic benefits created by
32 the project.

33 NEW SECTION. **Sec. 5.** The energy freedom account is created in the
34 state treasury. All receipts from appropriations made to the account
35 and any loan payments of principal and interest derived from loans made
36 under this chapter must be deposited into the account. Moneys in the

1 account may be spent only after appropriation. Expenditures from the
2 account may be used only for assistance for projects consistent with
3 this chapter. Administrative costs of the department may not exceed
4 three percent of the total funds available for this program.

5 NEW SECTION. **Sec. 6.** The director shall report to the legislature
6 and governor on the status of the energy freedom program created under
7 this chapter, on or before December 1st of the years 2006, 2007, and
8 2009. This report must include information on the projects that have
9 been funded, the status of these projects, and their environmental,
10 energy savings, and job creation benefits.

11 **Sec. 7.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to
12 read as follows:

13 The following financial, commercial, and proprietary information is
14 exempt from disclosure under this chapter:

15 (1) Valuable formulae, designs, drawings, computer source code or
16 object code, and research data obtained by any agency within five years
17 of the request for disclosure when disclosure would produce private
18 gain and public loss;

19 (2) Financial information supplied by or on behalf of a person,
20 firm, or corporation for the purpose of qualifying to submit a bid or
21 proposal for (a) a ferry system construction or repair contract as
22 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
23 or improvement as required by RCW 47.28.070;

24 (3) Financial and commercial information and records supplied by
25 private persons pertaining to export services provided under chapters
26 43.163 and 53.31 RCW, and by persons pertaining to export projects
27 under RCW 43.23.035;

28 (4) Financial and commercial information and records supplied by
29 businesses or individuals during application for loans or program
30 services provided by chapters 43.-- (sections 1 through 6, 9, and 10 of
31 this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during
32 application for economic development loans or program services provided
33 by any local agency;

34 (5) Financial information, business plans, examination reports, and
35 any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW;

3 (6) Financial and commercial information supplied to the state
4 investment board by any person when the information relates to the
5 investment of public trust or retirement funds and when disclosure
6 would result in loss to such funds or in private loss to the providers
7 of this information;

8 (7) Financial and valuable trade information under RCW 51.36.120;

9 (8) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the clean Washington
11 center in applications for, or delivery of, program services under
12 chapter 70.95H RCW;

13 (9) Financial and commercial information requested by the public
14 stadium authority from any person or organization that leases or uses
15 the stadium and exhibition center as defined in RCW 36.102.010;

16 (10) Financial information, including but not limited to account
17 numbers and values, and other identification numbers supplied by or on
18 behalf of a person, firm, corporation, limited liability company,
19 partnership, or other entity related to an application for a liquor
20 license, gambling license, or lottery retail license;

21 (11) Proprietary data, trade secrets, or other information that
22 relates to: (a) A vendor's unique methods of conducting business; (b)
23 data unique to the product or services of the vendor; or (c)
24 determining prices or rates to be charged for services, submitted by
25 any vendor to the department of social and health services for purposes
26 of the development, acquisition, or implementation of state purchased
27 health care as defined in RCW 41.05.011; and

28 (12)(a) When supplied to and in the records of the department of
29 community, trade, and economic development:

30 (i) Financial and proprietary information collected from any person
31 and provided to the department of community, trade, and economic
32 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

33 (ii) Financial or proprietary information collected from any person
34 and provided to the department of community, trade, and economic
35 development or the office of the governor in connection with the
36 siting, recruitment, expansion, retention, or relocation of that
37 person's business and until a siting decision is made, identifying

1 information of any person supplying information under this subsection
2 and the locations being considered for siting, relocation, or expansion
3 of a business;

4 (b) When developed by the department of community, trade, and
5 economic development based on information as described in (a)(i) of
6 this subsection, any work product is not exempt from disclosure;

7 (c) For the purposes of this subsection, "siting decision" means
8 the decision to acquire or not to acquire a site;

9 (d) If there is no written contact for a period of sixty days to
10 the department of community, trade, and economic development from a
11 person connected with siting, recruitment, expansion, retention, or
12 relocation of that person's business, information described in (a)(ii)
13 of this subsection will be available to the public under this chapter.

14 **Sec. 8.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005
15 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 are
16 each reenacted and amended to read as follows:

17 (1) All earnings of investments of surplus balances in the state
18 treasury shall be deposited to the treasury income account, which
19 account is hereby established in the state treasury.

20 (2) The treasury income account shall be utilized to pay or receive
21 funds associated with federal programs as required by the federal cash
22 management improvement act of 1990. The treasury income account is
23 subject in all respects to chapter 43.88 RCW, but no appropriation is
24 required for refunds or allocations of interest earnings required by
25 the cash management improvement act. Refunds of interest to the
26 federal treasury required under the cash management improvement act
27 fall under RCW 43.88.180 and shall not require appropriation. The
28 office of financial management shall determine the amounts due to or
29 from the federal government pursuant to the cash management improvement
30 act. The office of financial management may direct transfers of funds
31 between accounts as deemed necessary to implement the provisions of the
32 cash management improvement act, and this subsection. Refunds or
33 allocations shall occur prior to the distributions of earnings set
34 forth in subsection (4) of this section.

35 (3) Except for the provisions of RCW 43.84.160, the treasury income
36 account may be utilized for the payment of purchased banking services
37 on behalf of treasury funds including, but not limited to, depository,

1 safekeeping, and disbursement functions for the state treasury and
2 affected state agencies. The treasury income account is subject in all
3 respects to chapter 43.88 RCW, but no appropriation is required for
4 payments to financial institutions. Payments shall occur prior to
5 distribution of earnings set forth in subsection (4) of this section.

6 (4) Monthly, the state treasurer shall distribute the earnings
7 credited to the treasury income account. The state treasurer shall
8 credit the general fund with all the earnings credited to the treasury
9 income account except:

10 (a) The following accounts and funds shall receive their
11 proportionate share of earnings based upon each account's and fund's
12 average daily balance for the period: The capitol building
13 construction account, the Cedar River channel construction and
14 operation account, the Central Washington University capital projects
15 account, the charitable, educational, penal and reformatory
16 institutions account, the common school construction fund, the county
17 criminal justice assistance account, the county sales and use tax
18 equalization account, the data processing building construction
19 account, the deferred compensation administrative account, the deferred
20 compensation principal account, the department of retirement systems
21 expense account, the developmental disabilities community trust
22 account, the drinking water assistance account, the drinking water
23 assistance administrative account, the drinking water assistance
24 repayment account, the Eastern Washington University capital projects
25 account, the education construction fund, the education legacy trust
26 account, the election account, the emergency reserve fund, the energy
27 freedom account, The Evergreen State College capital projects account,
28 the federal forest revolving account, the freight mobility investment
29 account, the health services account, the public health services
30 account, the health system capacity account, the personal health
31 services account, the state higher education construction account, the
32 higher education construction account, the highway infrastructure
33 account, the high-occupancy toll lanes operations account, the
34 industrial insurance premium refund account, the judges' retirement
35 account, the judicial retirement administrative account, the judicial
36 retirement principal account, the local leasehold excise tax account,
37 the local real estate excise tax account, the local sales and use tax
38 account, the medical aid account, the mobile home park relocation fund,

1 the multimodal transportation account, the municipal criminal justice
2 assistance account, the municipal sales and use tax equalization
3 account, the natural resources deposit account, the oyster reserve land
4 account, the perpetual surveillance and maintenance account, the public
5 employees' retirement system plan 1 account, the public employees'
6 retirement system combined plan 2 and plan 3 account, the public
7 facilities construction loan revolving account beginning July 1, 2004,
8 the public health supplemental account, the public works assistance
9 account, the Puyallup tribal settlement account, the real estate
10 appraiser commission account, the regional transportation investment
11 district account, the resource management cost account, the rural
12 Washington loan fund, the site closure account, the small city pavement
13 and sidewalk account, the special wildlife account, the state
14 employees' insurance account, the state employees' insurance reserve
15 account, the state investment board expense account, the state
16 investment board commingled trust fund accounts, the supplemental
17 pension account, the Tacoma Narrows toll bridge account, the teachers'
18 retirement system plan 1 account, the teachers' retirement system
19 combined plan 2 and plan 3 account, the tobacco prevention and control
20 account, the tobacco settlement account, the transportation
21 infrastructure account, the transportation partnership account, the
22 tuition recovery trust fund, the University of Washington bond
23 retirement fund, the University of Washington building account, the
24 volunteer fire fighters' and reserve officers' relief and pension
25 principal fund, the volunteer fire fighters' and reserve officers'
26 administrative fund, the Washington fruit express account, the
27 Washington judicial retirement system account, the Washington law
28 enforcement officers' and fire fighters' system plan 1 retirement
29 account, the Washington law enforcement officers' and fire fighters'
30 system plan 2 retirement account, the Washington public safety
31 employees' plan 2 retirement account, the Washington school employees'
32 retirement system combined plan 2 and 3 account, the Washington state
33 health insurance pool account, the Washington state patrol retirement
34 account, the Washington State University building account, the
35 Washington State University bond retirement fund, the water pollution
36 control revolving fund, and the Western Washington University capital
37 projects account. Earnings derived from investing balances of the
38 agricultural permanent fund, the normal school permanent fund, the

1 permanent common school fund, the scientific permanent fund, and the
2 state university permanent fund shall be allocated to their respective
3 beneficiary accounts. All earnings to be distributed under this
4 subsection (4)(a) shall first be reduced by the allocation to the state
5 treasurer's service fund pursuant to RCW 43.08.190.

6 (b) The following accounts and funds shall receive eighty percent
7 of their proportionate share of earnings based upon each account's or
8 fund's average daily balance for the period: The aeronautics account,
9 the aircraft search and rescue account, the county arterial
10 preservation account, the department of licensing services account, the
11 essential rail assistance account, the ferry bond retirement fund, the
12 grade crossing protective fund, the high capacity transportation
13 account, the highway bond retirement fund, the highway safety account,
14 the motor vehicle fund, the motorcycle safety education account, the
15 pilotage account, the public transportation systems account, the Puget
16 Sound capital construction account, the Puget Sound ferry operations
17 account, the recreational vehicle account, the rural arterial trust
18 account, the safety and education account, the special category C
19 account, the state patrol highway account, the transportation 2003
20 account (nickel account), the transportation equipment fund, the
21 transportation fund, the transportation improvement account, the
22 transportation improvement board bond retirement account, and the urban
23 arterial trust account.

24 (5) In conformance with Article II, section 37 of the state
25 Constitution, no treasury accounts or funds shall be allocated earnings
26 without the specific affirmative directive of this section.

27 NEW SECTION. **Sec. 9.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 9 of this act
32 expire June 30, 2016. Any moneys in the energy freedom account on that
33 date and any moneys received pursuant to assistance made under this
34 chapter must be deposited in the general fund.

1 NEW SECTION. **Sec. 11.** Sections 1 through 6, 9, 10, and 12 of this
2 act constitute a new chapter in Title 15 RCW.

3 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2006."

E3SHB 2939 - S COMM AMD

By Committee on Water, Energy & Environment

NOT ADOPTED 03/02/2006

4 On page 1, line 1 of the title, after "program;" strike the
5 remainder of the title and insert "amending RCW 42.56.270; reenacting
6 and amending RCW 43.84.092; adding a new chapter to Title 15 RCW;
7 providing an effective date; and providing an expiration date."

--- END ---