

HOUSE BILL REPORT

ESSB 5770

*As Reported By House Committee on:
Energy & Utilities*

Title: An act relating to obtaining additional electricity supplies through conservation and generation.

Brief Description: Authorizing obtaining electrical supplies through conservation and generation.

Sponsor(s): Senate Committee on Energy & Utilities
(originally sponsored by Senators Thorsness and Saling).

Brief History:

Reported by House Committee on:
Energy & Utilities, April 2, 1991, DPA.

**HOUSE COMMITTEE ON
ENERGY & UTILITIES**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Grant, Chair; H. Myers, Vice Chair; May, Ranking Minority Member; Hochstatter, Assistant Ranking Minority Member; Bray; Casada; Cooper; R. Fisher; Miller; and Rayburn.

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

Staff: Fred Adair (786-7113).

Background: The Northwest Power Planning Council plan states that the region's electrical power surplus of the 1980s is gone, and that a number of strategies should be pursued in order to acquire additional electrical resources to insure an adequate and reliable supply into the next century. Two of these strategies are acquisition of all cost-effective conservation and review by public service commissions of their regulatory policies to insure that utilities receive appropriate rate treatment in pursuing generating resources. Additionally, the state is totally dependent on imported oil and a number of factors could create an oil shortage.

The electric utility rates authorized by the Utilities and Transportation Commission (UTC) are based on a rate of return on the fair value of the property "used and useful

for service." The Supreme Court has interpreted this statutory language to mean that capital construction costs of regulated utilities cannot be used by the UTC in setting rates until construction is completed and the facility is in service. It is contended that this is an impediment to obtaining major new generating resources, and ultimately increases the costs to the customer because of higher financing costs. Non-regulated utilities do not have this statutory constraint.

In 1990, the Legislature modified the State Energy Code for new residential construction, to require more energy-efficient homes. It did not amend existing provisions for nonresidential buildings, which were adopted in 1986. Existing law simply requires adoption of a nonresidential code for new buildings that is designed to achieve a 10 percent reduction in energy consumption relative to buildings constructed under the previous code adopted in 1980.

Summary of Amended Bill: The Legislature finds that the state is facing an energy shortage, and that, for electricity, the Northwest Power Planning Council has recommended empowering utility commissions with more flexibility in rate regulation.

The UTC, in determining what property is used and useful for rate making purposes, may include the reasonable costs of construction work in progress to the extent that the UTC finds inclusion to be in the public interest.

The 1986 edition of the Washington State Energy Code is the minimum code for new nonresidential buildings. The Building Code Council may amend the code, by rule, if the amendments increase energy efficiency for typical new nonresidential buildings and are technically feasible, commercially available, and cost-effective to owners and tenants.

In developing amendments to the code, the council shall establish and consult with a technical advisory group with a broad range of interests represented, as specified.

Decisions to amend the code must be made by the council by December 15 of any year and amendments shall not take effect until the end of the next regular legislative session. Disputed provisions within a proposed amendment must receive legislative approval. Disputed items are those which receive less than a two-thirds vote by the State Building Code Council. Substantial amendments may be adopted no more frequently than every three years.

Amended Bill Compared to Engrossed Substitute Bill:

Findings are expanded to recognize the possibility of more than just an electric energy shortage. Costs of construction work in progress may be allowed if the UTC finds the allowance to be in the public interest. The research and development provisions are deleted. Nonresidential building code amendments become effective after subsequent completion of a regular legislative session. The disputed items approval was added.

Fiscal Note: Available.

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

Testimony For: The legislative findings could be understood to mean construction work in progress could eliminate rate increases. The findings should be revised to correct this.

Allowing costs of construction work in progress should be a tool available to the UTC. A Supreme Court decision now precludes this use. Witnesses differed on the value of allowing costs of construction work in progress.

Incorporation of research and development costs is an important incentive that should be available to the UTC. The UTC contends that it now has and has used this and other similar powers.

A higher nonresidential building energy code is a major energy conservation action that should be implemented. Legislative approval should not be required because the State Building Code Council is a much better technical forum than a legislative committee.

Testimony Against: None.

Witnesses: Marc Sullivan, Northwest Conservation Act Coalition (pro); Ted Bottiger, member, Northwest Power Planning Council (pro); Joe Munger, Process Fuels, Inc. (pro); Ron Newbry, Pacific Power and Light (pro); Tony Usibelli, State Energy Office (pro); Carol Monohon, Utilities and Transportation Commission (pro); Senator Leo Thorsness, prime sponsor (pro); and Chuck Adams, Assistant Attorney General (Public Counsel Section)(pro some sections and con other sections).