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**SENATE BILL 6188**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** Senators Fairley, Brown, Kline and Kohl-Welles

Read first time 01/10/2000. Referred to Committee on Energy, Technology & Telecommunications.

1 AN ACT Relating to the restoration of investments in energy  
2 conservation, renewable resources, and low-income energy services; and  
3 adding a new chapter to Title 80 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) The state of Washington is affected by national, regional, and  
7 state-wide changes that are transforming the nature of the electric  
8 power industry;

9 (2) Washington has a long tradition of energy policies that support  
10 energy efficiency and renewable energy development. These policies  
11 have reduced air and water pollution and protected the environment,  
12 stimulated economic development, made homes more comfortable, reduced  
13 operating costs for businesses, and made industries more competitive;

14 (3) The Washington state electricity system study, commissioned by  
15 the 55th legislature through chapter 300, Laws of 1998, confirmed that  
16 current changes in the electric industry have had the unintended  
17 consequence of shortening utility planning horizons and reducing  
18 incentives for electric utilities to invest in energy conservation and  
19 renewable resources;

1 (4) The Washington state electricity system study also found that  
2 there are significant energy conservation resources that cost the same  
3 or less than the least costly new electric generation options and that  
4 while some nonhydroelectric renewable resources may not be cost-  
5 effective in the short-term, they provide significant environmental and  
6 energy system benefits to warrant development; and

7 (5) It is in the interest of Washington's economy and environment  
8 to have a competitively neutral and nonbypassable mechanism that will  
9 assure delivery of all cost-effective energy conservation, provide low-  
10 income households with energy efficiency services, and secure  
11 development of new nonhydroelectric renewable resources.

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

14 (1) "Auditor" means the office of the state auditor.

15 (2) "Commission" means the Washington state utilities and  
16 transportation commission.

17 (3) "Consumer-owned utility" includes a municipal electric utility  
18 formed under Title 35 RCW, a public utility district formed under Title  
19 54 RCW, an irrigation district formed under chapter 87.03 RCW, a  
20 cooperative formed under chapter 23.86 RCW, a mutual corporation or  
21 association formed under chapter 24.06 RCW, a port district formed  
22 under Title 53 RCW, or a water-sewer district formed under Title 57  
23 RCW, that is engaged in the business of distributing electricity to  
24 more than one retail electric customer in the state.

25 (4) "Department" means the department of community, trade, and  
26 economic development.

27 (5) "Direct service customer" means any end-user of electricity who  
28 obtains electricity directly from the transmission grid and not through  
29 a distribution utility, including those customers defined in section  
30 3(8) of the Pacific Northwest electric power planning and conservation  
31 act, P.L. 96-501.

32 (6) "Distribution utility" means any investor-owned or consumer-  
33 owned utility that owns, operates, or manages any distribution plant  
34 for hire within this state.

35 (7) "Governing body" means the board of directors, city council, or  
36 the commissioners of any consumer-owned utility as defined in this  
37 section.

1 (8) "Investor-owned utility" means a corporation owned by investors  
2 that meets the definition of RCW 80.04.010 and is engaged in  
3 distributing electricity to more than one retail electric customer in  
4 the state.

5 (9) "Low-income energy efficiency services" includes repairs,  
6 weatherization, installation of energy-efficient appliances and  
7 fixtures for low-income residences, and investment in new construction  
8 of low-income households to exceed the state energy code, for the  
9 purpose of enhancing energy efficiency.

10 (10) "Low-income" means a household meeting eligibility guidelines  
11 for the federal low-income home energy assistance program.

12 (11) "New nonhydroelectric renewable resource" means a renewable  
13 resource, renewable resource project or addition to an existing  
14 renewable resource project, excluding electric generation facilities  
15 fueled by water, that is contracted by a consumer-owned utility or  
16 investor-owned utility after December 31, 1999 or starts operation  
17 after December 31, 1999.

18 (12) "Renewable resources" as defined in RCW 19.29A.010 means  
19 electricity generation facilities fueled by: (a) Water; (b) wind; (c)  
20 solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass  
21 energy based on solid organic fuels from wood, forest, or field  
22 residues or dedicated energy crops that do not include wood pieces that  
23 have been treated with chemical preservatives such as creosote,  
24 pentachlorophenol, or copper chrome arsenic.

25 (13) "System benefits charge" means a nonbypassable competitively  
26 neutral charge on all end-use electricity customers and direct service  
27 customers to fund investment in energy conservation, renewable  
28 resources, and low-income energy efficiency services.

29 (14) "Total annual revenues from the retail sale of electricity  
30 services in the state" means the total amount of revenues spent each  
31 year by Washington end-users for electricity services including  
32 distribution, transmission, generation, ancillary services, metering  
33 and billing, transition charges, and other types of costs included in  
34 consumer-owned utility or investor-owned utility electric rates on the  
35 effective date of this act.

36 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2001, and each year  
37 from July 1st to June 30th thereafter, a minimum annual state-wide  
38 energy conservation, renewable resources, and low-income energy

1 efficiency services investment standard for investor-owned utilities,  
2 consumer-owned utilities, and direct service customers is established  
3 equal to at least three percent of the total annual revenues from the  
4 retail sale of electricity services in the state.

5 (2) Each Washington electricity distribution utility shall annually  
6 allocate at least three percent of the total annual revenues from the  
7 retail sale of electricity to consumers within its distribution service  
8 territory toward meeting this standard. Nothing in this chapter limits  
9 distribution utilities from exceeding this standard.

10 (3) Each direct service customer shall annually allocate at least  
11 three percent of its total expenditures for electric services toward  
12 meeting this standard. Nothing in this chapter limits direct service  
13 customers from exceeding this standard.

14 NEW SECTION. Sec. 4. (1) The appropriate nonbypassable collection  
15 mechanism to comply with the standard and allocation determination  
16 outlined in this chapter shall be determined by the commission for all  
17 distribution utilities under its jurisdiction. The mechanism must be  
18 nonbypassable for all customers regardless of energy supplier.

19 (2) All consumer-owned utilities will determine the appropriate  
20 nonbypassable collection mechanism to comply with the standard and  
21 allocation determination outlined in this chapter. The mechanism must  
22 be nonbypassable for all customers regardless of energy supplier.

23 (3) Any distribution utility that has fewer than seventeen  
24 customers per mile of line and has retail electric power rates that  
25 exceed the state average electric power rate as defined by the United  
26 States department of energy's energy information administration may, at  
27 its option, adopt a minimum standard less than the amount it is  
28 projected to collect under section 3 of this act, except that in no  
29 case may such a distribution utility spend less, on average, than one  
30 and one-half percent of revenues during the first five years after the  
31 effective date of this section.

32 (4) Each direct service customer shall annually forward to the  
33 distribution utility in the service territory of which the company is  
34 located an amount equal to the amount specified in section 3(3) of this  
35 act, less those funds qualifying under section 5(3) of this act. In  
36 determining its total annual expenditures for retail electric services,  
37 the direct service customer either shall rely on consumption and total  
38 revenue data from the 1994 report "Generation and Sales Statistics from

1 the Bonneville Power Administration" or shall provide documentation to  
2 the department showing expenditure data for the most recent annual  
3 period ending June 30th. If a direct service customer chooses to  
4 provide expenditure data to the department, from that time forward, the  
5 customer may no longer rely on 1994 data. Documentation provided to  
6 the department is considered proprietary information. The department  
7 can report such information only in the aggregate for all direct  
8 service customers in the state.

9 NEW SECTION. **Sec. 5.** (1) Funds shall be allocated for the  
10 following purposes:

11 (a) Energy conservation measures, including but not limited to  
12 local conservation and regional market transformation efforts;

13 (b) New nonhydroelectric renewable resources, including new local  
14 and regional renewable energy projects and research, development, or  
15 demonstration projects; and

16 (c) Low-income energy efficiency services.

17 (2) The funds collected by investor-owned utilities and consumer-  
18 owned utilities under the minimum standard shall be expended as  
19 follows:

20 (a) 49.5 percent of the funds shall be allocated at the discretion  
21 of the distribution utility for purposes identified in subsection (1)  
22 of this section. The distribution utility may use a portion of these  
23 funds for administration and evaluation activities related to  
24 implementation of this act;

25 (b) 14 percent of the funds shall be invested in cost-effective  
26 regional energy efficiency market transformation activities.  
27 Distribution utilities contributing to the Northwest energy efficiency  
28 alliance through their Bonneville power administration rates will be  
29 credited an equivalent amount toward this portion of the charge;

30 (c) 12.5 percent of the funds shall be forwarded to the department  
31 for administering programs that provide low-income energy efficiency  
32 services. These funds may be distributed through the state-wide  
33 network of weatherization assistance program providers for  
34 weatherization of residences occupied by low-income households;

35 (d) 12.5 percent of the funds shall be devoted to the above market  
36 costs of the development and commercialization of new nonhydroelectric  
37 renewable resources, renewable resource research and development, and  
38 development and demonstration of distributed renewable resources;

1 (e) 11 percent of the funds shall be invested in cost-effective  
2 conservation; and

3 (f) .5 percent of the funds shall be forwarded to the department to  
4 fund its responsibilities set forth in this chapter.

5 (3)(a) Direct service customers and any end-use customer of a  
6 distribution utility that uses large amounts of electricity (defined as  
7 > 10 aMW per facility) shall receive credit for up to 36.5 percent of  
8 the minimum standard for the funds that it contributes to the  
9 distribution utility for local installation of energy efficiency  
10 measures, if the customer invests these funds in documented cost-  
11 effective conservation investments made in the customer's facilities.  
12 Such credit shall not include the customer's contribution to low-income  
13 energy efficiency service costs. If an independent audit determines  
14 there is no available conservation measure at the site that would have  
15 a simple payback of one and one-half to ten years, the customer shall  
16 receive the full credit of 36.5 percent of the minimum standard.

17 (i) The department will confirm that energy savings from the  
18 package of energy conservation measures implemented by a direct service  
19 customer has a cost less than or equal to the customer's avoided costs  
20 and each individual measure has simple payback greater than eighteen  
21 months. Upon determination, a customer may apply for a credit for  
22 those costs from the local distribution utility to whom they send their  
23 funds.

24 (ii) The distribution utility will confirm that energy savings from  
25 the package of energy conservation measures implemented by an end-use  
26 customer under (a) of this subsection has a cost less than or equal to  
27 the customer's avoided costs and each individual measure has simple  
28 payback greater than eighteen months. Upon determination, a customer  
29 may receive a credit for those costs from its distribution utility.

30 (b) A direct service customer and any end-use customer of a  
31 distribution utility that uses large amounts of electricity as defined  
32 in (a) of this subsection is eligible for a credit for up to 36.5  
33 percent of the minimum standard for direct investments in new  
34 nonhydroelectric renewable resources for use within the customer's  
35 facility.

36 (c) A direct service customer contributing to the Northwest energy  
37 efficiency alliance through its Bonneville power administration rates  
38 is eligible for a credit for up to fourteen percent of the minimum  
39 standard.

1        NEW SECTION.    **Sec. 6.**    (1) On or before October 1, 2002, and  
2 annually thereafter, each investor-owned utility must demonstrate to  
3 the commission compliance with the minimum annual investment standard  
4 created in section 3 of this act for the annual period ending the  
5 previous June 30th.

6        (2) On or before October 1, 2002, and annually thereafter, each  
7 consumer-owned utility and direct service customer must demonstrate to  
8 the auditor, or by independent audit, compliance with the minimum  
9 annual investment standard created in section 3 of this act for the  
10 annual period ending the previous June 30th.

11        (3) Consumer-owned distribution utilities may demonstrate their  
12 compliance with the minimum investment standard "in the aggregate" by  
13 participating in collaborative/consortia efforts with other Washington  
14 consumer-owned distribution utilities.

15        (4) If the auditor or commission determines, within sixty days  
16 after receipt of utility compliance filing, that a utility has failed  
17 to collect funds to meet the minimum investment standard for the  
18 previous reporting period, the distribution utility shall immediately  
19 implement a tariff to collect a uniform nonbypassable system benefits  
20 charge. The tariff will collect revenue equivalent to achieving the  
21 minimum investment standard as if implemented according to section 3 of  
22 this act.

23        (5) If by July 1, 2003, and annually thereafter, the auditor or  
24 commission determines that a utility's compliance filing shows that  
25 less than ninety percent of funds collected to meet the minimum  
26 investment standard have been allocated for the purposes described in  
27 section 5 of this act and if the department has allocated more than  
28 ninety percent of the total funds forwarded to the department under  
29 section 5 of this act for administering programs that provide low-  
30 income energy efficiency services, the unallocated utility funds will  
31 be forwarded to the department for additional investment in low-income  
32 energy efficiency programs. Otherwise, unallocated funds will be  
33 carried over for expenditure by the utility in the following year.

34        (6) A commission-regulated distribution utility's expenses for the  
35 local conservation (excluding low-income energy efficiency services)  
36 portion of the funds must be for cost-effective conservation (based on  
37 avoided generation, transmission and distribution costs, and associated  
38 environmental externality costs) and approved and verified by the  
39 commission.

1 (7) A consumer-owned utility's expenses for the local conservation  
2 portion of the funds (excluding low-income energy efficiency services)  
3 must be for cost-effective conservation (based on avoided generation,  
4 transmission and distribution costs, and associated environmental  
5 externality costs) and approved and verified by the governing body.

6 (8) The department shall convene a group of stakeholders, including  
7 the commission, to advise on the development of criteria for energy  
8 conservation, market transformation and renewable energy expenditures,  
9 program implementation guidelines that qualify toward the minimum  
10 annual expenditure standard, and a dispute resolution process to  
11 address distribution utility or direct service customer complaints on  
12 findings of failure to comply with program implementation guidelines.  
13 The department will consider all existing and appropriate criteria and  
14 guidelines where applicable, and may rely on work of regional power  
15 planning committees in determining criteria and guidelines. The  
16 commission has the final authority to approve criteria and program  
17 implementation guidelines for the investor-owned utilities. The  
18 department shall adopt rules for reporting energy conservation and  
19 renewable resource expenditures and energy savings as applicable. No  
20 expenditures for power from renewable resource projects memorialized in  
21 contracts or memorandum of understandings before January 1, 2000, shall  
22 be eligible for meeting the minimum expenditure standard of this  
23 chapter.

24 (9) In the event that a consumer-owned utility fails to satisfy the  
25 program implementation guidelines developed in subsection (8) of this  
26 section, the department will issue a warning to the noncomplying  
27 utility and provide technical assistance to the utility to improve  
28 program effectiveness. After two consecutive years of unacceptable  
29 programs, the department will assume program responsibility and  
30 distribute funds for the noncomplying utility in accordance with the  
31 allocation formulas set forth in section 5 of this act, except that the  
32 funds to be used for local conservation, excluding low-income energy  
33 efficiency services, may, at the discretion of the department, be  
34 competitively bid to an energy service provider, to an energy  
35 conservation nonprofit organization, or to the noncomplying utility to  
36 be spent on energy conservation projects in the noncomplying utility's  
37 service territory until such time as the noncompliance is remediated.  
38 During this period of interim administration, the department will not



1 make any commitments greater than three years of the local conservation  
2 funding it is administering.

3 (10) In the event that an investor-owned utility fails to satisfy  
4 the program implementation guidelines developed in subsection (8) of  
5 this section, the commission will issue a warning to the noncomplying  
6 utility and notify the department, which will provide technical  
7 assistance to the utility to improve program effectiveness. After two  
8 consecutive years of unacceptable programs, the department will assume  
9 program responsibility and distribute funds for the noncomplying  
10 utility in accordance with the allocation formulas set forth in section  
11 5 of this act, except that the funds to be used for local conservation  
12 excluding low-income energy efficiency services, may, at the discretion  
13 of the department, be competitively bid to an energy service provider,  
14 to an energy conservation nonprofit organization, or to the  
15 noncomplying utility to be spent on energy conservation projects in the  
16 noncomplying utility's service territory until such time as the  
17 noncompliance is remediated. During this period of interim  
18 administration, the department will not make any commitments greater  
19 than three years of the local conservation funding it is administering.

20 NEW SECTION. **Sec. 7.** (1) On or before December 1, 2003, and  
21 biennially thereafter, the department shall submit a report to the  
22 legislature on the accomplishments of the investment standard created  
23 in this chapter and unachieved cost-effective opportunities, and make  
24 recommendations for revisions to the standard.

25 (2) On or before January 1, 2010, the department shall review and  
26 recommend continuation, modification, or discontinuation of the minimum  
27 investment standard based on an assessment of the effectiveness of the  
28 standard, market conditions, and unachieved opportunities.

29 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute  
30 a new chapter in Title 80 RCW.

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