

ESSB 6501 - H COMM AMD

By Committee on Technology, Energy & Communications

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 energy markets makes our 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) Experts tell us that the global oil shortage will only worsen,
10 making the three dollars per gallon gasoline of the summer of 2005 seem
11 affordable;

12 (4) Each year, citizens and businesses in Washington state spend
13 nine billion dollars on gasoline and diesel, with those funds drained
14 from the state economy;

15 (5) Diesel soot from diesel engines ranks as the highest toxic air
16 pollutant in Washington, leading to hundreds of premature deaths and
17 increasing rates of asthma and other lung-related diseases;

18 (6) The use of biodiesel results in significantly less air
19 pollution than traditional diesel fuels and can help our citizens and
20 businesses conserve energy;

21 (7) Improper disposal and treatment of organic waste from farms and
22 livestock operations can have a significant negative impact on water
23 quality;

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

27 (9) Instead of leaving our economy at the mercy of global events,
28 and the policies of foreign nations, Washington state should adopt a
29 policy of energy independence;

1 (10) The energy freedom program is meant to lead Washington state
2 towards energy independence;

3 (11) Producing more energy here means cleaner, renewable energy
4 that includes, but is not limited to, biofuels, solar power, and wind
5 power;

6 (12) The biofuels industry is a new and developing industry now
7 limited by the availability of capital for construction of facilities
8 for converting farm and forest products into energy and fuels; and

9 (13) For biofuels to be economically viable in Washington, it will
10 be necessary to grow dedicated crops, construct crushers near farms,
11 and build refineries to create fuel.

12 Therefore, the legislature finds it is in the public interest to
13 reduce Washington's dependence on imported oil, expand renewable fuel
14 production and use in Washington, conserve energy, improve use of
15 renewable energy and energy efficiency measures, and promote
16 sustainable rural economic development by creating new jobs and
17 stimulating business and economic activity in local communities across
18 Washington.

19 To accomplish this, the energy freedom program is established to
20 stimulate strategic investment in facilities, infrastructure,
21 technologies, and research and development that will advance
22 Washington's move toward energy independence.

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

25 (1) "Board" means the energy freedom board.

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

28 (3) "Political subdivision" means any port district, county, city,
29 town, special purpose district, and any other municipal corporations or
30 quasi-municipal corporations in the state.

31 NEW SECTION. **Sec. 3.** (1) The energy freedom board is created to
32 exercise the powers granted under this chapter.

33 (2) The board consists of thirteen members as follows:

34 (a) One member shall be the director of the department of
35 agriculture or the director's designated representative;

1 (b) One member shall be the director of the department of
2 community, trade, and economic development or the director's designated
3 representative from the department's energy policy division;

4 (c) Four of the members shall be appointed as follows: Two members
5 from the house of representatives committee that has jurisdiction over
6 energy issues, one from each of the two major caucuses, to be appointed
7 by the speaker of the house of representatives; two members from the
8 senate committee that has jurisdiction over energy issues, one from
9 each of the two major caucuses, to be appointed by the president of the
10 senate; and

11 (d) Seven of the members shall be appointed by the governor: One
12 recognized expert in renewable energy; one representative from
13 Washington State University; one Washington state grower; one producer
14 of alternative fuels; one public fleet manager; one public buildings
15 manager; and one sustainable society advocate.

16 (3) The members appointed under subsection (2)(c) and (d) of this
17 section must initially be appointed to terms as follows: Three members
18 for two-year terms, four members for three-year terms, and four members
19 for four-year terms which includes the chair. Thereafter, each
20 succeeding term is four years. Appointees may be reappointed to serve
21 more than one term.

22 (4) The governor must select one of the members to serve as the
23 chair of the board. The members of the board shall elect one of their
24 members to serve as vice chair.

25 (5) The department must provide staff support to the board.

26 (6) Members of the board receive no compensation but shall be
27 reimbursed for travel expenses as provided in RCW 43.03.050 and
28 43.03.060.

29 NEW SECTION. **Sec. 4.** In addition to other applicable provisions
30 of law pertaining to conflicts of interest of public officials, no
31 board member, appointive or otherwise, may participate in any decision
32 on any board contract in which the board member has any interests,
33 direct or indirect, with any entity that would be the recipient of any
34 aid under this chapter.

35 NEW SECTION. **Sec. 5.** The board may:

1 (1) Accept from any federal agency loans or grants for the planning
2 or financing of any project and enter into agreements with such an
3 agency concerning the loans or grants;

4 (2) Accept any gifts, grants, or loan of funds, property, or
5 financial or other aid in any form from any other source on any terms
6 and conditions that are not in conflict with this chapter;

7 (3) Adopt rules under chapter 34.05 RCW as necessary to carry out
8 the purposes of this chapter; and

9 (4) Perform all acts and functions as necessary or convenient to
10 carry out the powers expressly granted or implied under this chapter.

11 NEW SECTION. **Sec. 6.** The board shall:

12 (1) Establish a competitive process to solicit proposals for and
13 prioritize project applications for potential funding;

14 (2) Adopt rules governing project eligibility and evaluation
15 criteria;

16 (3) Establish a peer review committee to include board members,
17 renewable energy specialists, energy conservation specialists,
18 scientists, and individuals with specific recognized expertise. The
19 peer review committee shall provide to the board an independent peer
20 review of all grant proposals submitted by Washington public research
21 institutions for the purposes specified in section 7(3) (a) and (c) of
22 this act that are determined to be competitive for a grant award. The
23 board shall review the findings of the peer review committee when
24 making final grant allocation decisions;

25 (4) Develop the prioritized list through open and public meetings;

26 (5) Establish performance measures against which the program will
27 be evaluated;

28 (6) Aggressively seek federal and other grant moneys;

29 (7) Report annually to the appropriate standing committees of the
30 legislature on the implementation of this chapter. The report must
31 include, but is not limited to: Information on the number of
32 applications for financial assistance; the grant or loan amount awarded
33 each project; a description of each project; the status of each funded
34 project, including the agricultural and environmental benefits of each
35 project, as well as the progress made by each project in creating jobs
36 and moving towards energy independence; the documentation of nonstate
37 funds to be used for each project; and progress against performance

1 measures developed under this chapter. The first report must be
2 submitted by December 31, 2006, to committees in the house of
3 representatives and senate with jurisdiction over energy issues.

4 NEW SECTION. **Sec. 7.** (1) The board is authorized to make low-
5 interest loans to political subdivisions of the state for the purposes
6 of assisting political subdivisions in financing the cost of new and
7 renewable energy and biofuel development projects and activities. A
8 grant may also be authorized for purposes designated in this chapter,
9 but only when, and to the extent that, a loan is not reasonably
10 possible, given the limited resources of the political subdivision and
11 the finding by the board that financial circumstances require grant
12 assistance to enable the project to move forward. Up to ten percent of
13 all financial assistance provided to political subdivisions by the
14 board may consist of grants. Political subdivisions applying for loans
15 and grants shall identify nonstate matching funds available for the
16 project, and shall specify deliverables to be achieved by proposed
17 projects and activities, including evidence that the proposed project
18 will result in a positive net energy output, if applicable.

19 (2) Applications for loans and grants must be made in the form and
20 manner as the board may prescribe.

21 (3) The board may provide financial assistance for the following
22 types of projects and activities including, but not limited to:

23 (a) Research and development of new and renewable energy and
24 biofuel sources including but not limited to biomass and associated
25 biofuel gases;

26 (b) Renewable energy and biofuel development infrastructure and
27 facilities;

28 (c) Research and development to develop markets for alternative
29 fuel byproducts; and

30 (d) Loans for small commercial energy audits and retrofits.

31 (4) Applications must be prioritized based on the following
32 criteria:

33 (a) The extent to which the project will contribute to the
34 establishment of a viable bioenergy production capacity in Washington;

35 (b) The benefits to Washington's agricultural producers;

36 (c) The extent to which the project will help conserve energy and

1 reduce dependence on petroleum fuels and imported energy, either
2 directly or indirectly;

3 (d) The extent to which the project will reduce air and water
4 pollution, either directly or indirectly;

5 (e) The number and quality of jobs, as well as the economic
6 benefits, created by the project;

7 (f) The extent to which the investment shows a direct link to
8 commercialization either by indirectly supporting the commercialization
9 of bioenergy intellectual property into a commercialized project, or by
10 directly assisting in moving a commercially viable project into the
11 marketplace for use by Washington state citizens; and

12 (g) The extent to which private funds have been leveraged.

13 (5) The board may approve an application that results in loans of
14 up to five million dollars. In no circumstances shall a loan approved
15 under this section constitute more than fifty percent of total project
16 funding.

17 (6) Financial assistance awarded to political subdivisions is one
18 time only and may not be used for ongoing operational expenses.

19 (7) Before any financial assistance application is approved, the
20 political subdivision must demonstrate to the board that no other
21 timely source of funding is available to it at costs reasonably similar
22 to financing available from the board.

23 (8) A responsible official of the political subdivision must be
24 present during board deliberations and provide information that the
25 board requests.

26 (9) The board may not approve an application if it fails to provide
27 for adequate reporting or disclosure of financial and employment data
28 to the board. The board may require an annual or other periodic audit
29 of the project books.

30 (10) The board may defer loan repayment for up to twenty-four
31 months or until the projects start to receive revenue from operations,
32 whichever is sooner.

33 (11) Upon receiving financial assistance, a political subdivision
34 must enter into appropriate contracts with any industry partners that
35 may be involved in the use of the facilities, infrastructure, or
36 equipment.

37 (12) Upon written notice to the political subdivision, the board

1 may suspend or cancel its loans or grants if any of the following
2 occur:

3 (a) The political subdivision fails to make satisfactory and
4 reasonable progress to complete the project, or the board concludes the
5 political subdivision will be unable to complete the project or any
6 portion of it; or

7 (b) The political subdivision or industry partners have made
8 misrepresentations in any information furnished to the board in
9 connection with the project.

10 (13) In the event that any portion of the loan or grant has been
11 paid to the political subdivision under this section at the time of
12 breach, or failure of the political subdivision to satisfactorily
13 perform, the board may require that the full amount of the loan or
14 grant, or a portion thereof, be repaid within a period specified by the
15 board.

16 (14) The board is authorized to award grants to Washington public
17 research institutions for the purposes specified in subsection (3)(a)
18 and (c) of this section.

19 NEW SECTION. **Sec. 8.** The energy freedom account is created in the
20 state treasury. All receipts from appropriations made to the account,
21 proceeds from other lawful sources, and loan payments of principal and
22 interest derived from loans made under this chapter must be deposited
23 into the account. Moneys in the account may be spent only after
24 appropriation. Expenditures from the account may be used only for
25 loans and grants to political subdivisions for renewable energy and
26 biofuel development projects and activities authorized under this
27 chapter.

28 NEW SECTION. **Sec. 9.** In accordance with Article VIII, sections 5
29 and 7 of the state Constitution, the credit of the state and counties,
30 cities, towns, and other municipal corporations shall not in any manner
31 be given or loaned to any individual, association, company, or
32 corporation in the administration of the grant and loan program
33 established in this chapter.

34 **Sec. 10.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
35 as follows:

1 (1) There is levied and there shall be collected from every person
2 a tax for the act or privilege of engaging within this state in any one
3 or more of the businesses herein mentioned. The tax shall be equal to
4 the gross income of the business, multiplied by the rate set out after
5 the business, as follows:

6 (a) Express, sewerage collection, and telegraph businesses: Three
7 and six-tenths percent;

8 (b) Light and power business: Three and sixty-two one-hundredths
9 percent;

10 (c) Gas distribution business: Three and six-tenths percent;

11 (d) Urban transportation business: Six-tenths of one percent;

12 (e) Vessels under sixty-five feet in length, except tugboats,
13 operating upon the waters within the state: Six-tenths of one percent;

14 (f) Motor transportation, railroad, railroad car, and tugboat
15 businesses, and all public service businesses other than ones mentioned
16 above: One and eight-tenths of one percent;

17 (g) Water distribution business: Four and seven-tenths percent.

18 (2) An additional tax is imposed equal to the rate specified in RCW
19 82.02.030 multiplied by the tax payable under subsection (1) of this
20 section.

21 (3) Twenty percent of the moneys collected under subsection (1) of
22 this section on water distribution businesses and sixty percent of the
23 moneys collected under subsection (1) of this section on sewerage
24 collection businesses shall be deposited in the public works assistance
25 account created in RCW 43.155.050.

26 (4) Of amounts deposited into the general fund pursuant to
27 subsection (1) of this section, the legislature may authorize a
28 transfer of up to twenty-five million dollars for the fiscal year
29 ending June 30, 2006, into the energy freedom account created in
30 section 8 of this act.

31 NEW SECTION. Sec. 11. This act takes effect July 1, 2006.

32 NEW SECTION. Sec. 12. This act expires June 30, 2016.

33 NEW SECTION. Sec. 13. Any moneys in the energy freedom account on
34 June 30, 2016, and all payments received after that date must be
35 deposited in the state general fund.

1 NEW SECTION. **Sec. 14.** Sections 1 through 9 and 13 of this act
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 15.** If a transfer from the general fund to the
4 energy freedom account created in section 8 of this act for the
5 purposes of this act, referencing this act by bill or chapter number,
6 is not provided by June 30, 2006, in the omnibus appropriations act,
7 this act is null and void."

8 Correct the title.

EFFECT: Strikes all provisions of the bill and replaces them with
the provisions of E3SHB 2939, the Energy Freedom Program bill.

The Energy Freedom Board, rather than the Department of
Agriculture, will make loan and grant decisions.

Public research institutions are eligible to receive grants.

Eligible projects include research and development of new and
renewable energy and biofuel sources; renewable energy and biofuel
development infrastructure and facilities; research and development to
develop markets for alternative fuel byproducts; and loans for
commercial energy audits and retrofits.

Criteria for loans and grants include contribution to a viable
bioenergy production, benefits to Washington agriculture, conservation
of energy and reduction of dependence on foreign fuel, assistance in
commercialization of bioenergy projects, environmental benefits, and
job creation.

The Board may authorize loans up to \$5 million per application.

Grants to political subdivisions are limited to 10% of all
financial assistance awarded by the Board.

Loans are limited to 50% of total project funding.

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