
SUBSTITUTE SENATE BILL 6501

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rockefeller, Poulsen, Morton, Honeyford, Fraser, Regala, Kohl-Welles, Rasmussen, Kline and Keiser; by request of Governor Gregoire)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to the creation of the Washington bioenergy
2 assistance program; amending RCW 42.56.270; reenacting and amending RCW
3 43.84.092; adding a new chapter to Title 15 RCW; providing an effective
4 date; and providing an expiration date.

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

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

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

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

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

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

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

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

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

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

14 Therefore, the legislature finds that it is in the public interest
15 to encourage the rapid adoption and use of bioenergy, to develop a
16 viable bioenergy industry within Washington state, and to support a
17 viable agriculture industry to grow bioenergy crops. To accomplish
18 this, the Washington bioenergy assistance program is established to
19 stimulate the construction of facilities in Washington to generate
20 energy from farm sources or convert organic matter into fuels.

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

23 (1) "Assistance" includes loans, leases, or other forms of
24 financial or technical assistance.

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

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

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

30 (5) "Project" means the construction of facilities, including the
31 purchase of equipment, to convert farm products or wastes into
32 electricity or gaseous and liquid fuels. These specifically include
33 facilities to generate electricity or methane from the anaerobic
34 digestion of organic matter, and facilities for the extracting oils
35 from canola, rape, mustard, and other oilseeds. "Project" may also
36 include the construction of facilities used to distribute and store
37 fuels that are produced from farm products or wastes.

1 NEW SECTION. **Sec. 3.** (1) A bioenergy assistance program is
2 established within the department. The director may approve an
3 application providing assistance for a project only if the director
4 finds:

5 (a) The project will convert farm products or wastes directly into
6 electricity or into gaseous or liquid fuels;

7 (b) The project demonstrates technical feasibility and probable
8 business success;

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

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

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

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

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

19 (h) The project will increase energy independence or diversity for
20 the state;

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

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

29 (k) The application provides for adequate reporting or disclosure
30 of financial and employment data to the director, and permits the
31 director to require an annual or other periodic audit of the project
32 books.

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

35 (3) The director shall enter into agreements with approved
36 applicants to fix the terms and rates of the assistance to minimize the
37 costs to the applicants, and to encourage establishment of a viable

1 bioenergy industry. The agreement shall include provisions to protect
2 the state's investment, taking into account depreciation and other
3 circumstances or market conditions.

4 (4) The director may defer any payments for up to twelve months or
5 until the project starts to receive revenue from operations, whichever
6 is sooner.

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

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

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

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

23 (4) If the total requested dollar amount of assistance exceeds the
24 amount available in the Washington bioenergy assistance account created
25 in section 5 of this act, the applications must be prioritized based
26 upon the following criteria:

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

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

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

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

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

1 NEW SECTION. **Sec. 5.** The Washington bioenergy assistance account
2 is created in the state treasury. All receipts from appropriations
3 made to the account and any loan payments of principal and interest
4 derived from loans made under this chapter must be deposited into the
5 account. Moneys in the account may be spent only after appropriation.
6 Expenditures from the account may be used only for assistance for
7 projects consistent with this chapter. Administrative costs of the
8 department may not exceed three percent of the annual funds available
9 for this program.

10 NEW SECTION. **Sec. 6.** The director shall report to the legislature
11 and governor on the status of the Washington bioenergy assistance
12 program created under this chapter, on or before December 1st of the
13 years 2006, 2007, and 2009. This report must include information on
14 the projects that have been funded, the status of these projects, and
15 their environmental, energy savings, and job creation benefits.

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

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

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

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

29 (3) Financial and commercial information and records supplied by
30 private persons pertaining to export services provided under chapters
31 43.163 and 53.31 RCW, and by persons pertaining to export projects
32 under RCW 43.23.035;

33 (4) Financial and commercial information and records supplied by
34 businesses or individuals during application for loans or program
35 services provided by chapters 43.-- (sections 1 through 6, 9, and 10 of

1 this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during
2 application for economic development loans or program services provided
3 by any local agency;

4 (5) Financial information, business plans, examination reports, and
5 any information produced or obtained in evaluating or examining a
6 business and industrial development corporation organized or seeking
7 certification under chapter 31.24 RCW;

8 (6) Financial and commercial information supplied to the state
9 investment board by any person when the information relates to the
10 investment of public trust or retirement funds and when disclosure
11 would result in loss to such funds or in private loss to the providers
12 of this information;

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

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

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

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

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

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

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

1 (ii) Financial or proprietary information collected from any person
2 and provided to the department of community, trade, and economic
3 development or the office of the governor in connection with the
4 siting, recruitment, expansion, retention, or relocation of that
5 person's business and until a siting decision is made, identifying
6 information of any person supplying information under this subsection
7 and the locations being considered for siting, relocation, or expansion
8 of a business;

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

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

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

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

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

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

1 cash management improvement act, and this subsection. Refunds or
2 allocations shall occur prior to the distributions of earnings set
3 forth in subsection (4) of this section.

4 (3) Except for the provisions of RCW 43.84.160, the treasury income
5 account may be utilized for the payment of purchased banking services
6 on behalf of treasury funds including, but not limited to, depository,
7 safekeeping, and disbursement functions for the state treasury and
8 affected state agencies. The treasury income account is subject in all
9 respects to chapter 43.88 RCW, but no appropriation is required for
10 payments to financial institutions. Payments shall occur prior to
11 distribution of earnings set forth in subsection (4) of this section.

12 (4) Monthly, the state treasurer shall distribute the earnings
13 credited to the treasury income account. The state treasurer shall
14 credit the general fund with all the earnings credited to the treasury
15 income account except:

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

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

1 health insurance pool account, the Washington state patrol retirement
2 account, the Washington State University building account, the
3 Washington State University bond retirement fund, the water pollution
4 control revolving fund, and the Western Washington University capital
5 projects account. Earnings derived from investing balances of the
6 agricultural permanent fund, the normal school permanent fund, the
7 permanent common school fund, the scientific permanent fund, and the
8 state university permanent fund shall be allocated to their respective
9 beneficiary accounts. All earnings to be distributed under this
10 subsection (4)(a) shall first be reduced by the allocation to the state
11 treasurer's service fund pursuant to RCW 43.08.190.

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

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

33 NEW SECTION. **Sec. 9.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 9 of this act
2 expire June 30, 2016. Any moneys in the Washington bioenergy
3 assistance account on that date and any moneys received pursuant to
4 assistance made under this chapter must be deposited in the general
5 fund.

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

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

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