
SENATE BILL 6501

State of Washington

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2006 Regular Session

By Senators Rockefeller, Poulsen, Morton, Honeyford, Fraser, Regala, Kohl-Welles, Rasmussen, Kline and Keiser; by request of Governor Gregoire

Read first time 01/13/2006. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to the creation of the Washington bioenergy loan
2 program; amending RCW 42.56.270; reenacting and amending RCW 43.84.092;
3 adding a new chapter to Title 43 RCW; providing an effective date; and
4 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 loan program is established to stimulate
19 the construction of facilities in Washington to generate energy from
20 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) "Department" means the department of community, trade, and
24 economic development.

25 (2) "Director" means the director of the department of community,
26 trade, and economic development.

27 (3) "Project" means the construction of facilities, including the
28 purchase of equipment, to convert farm products or wastes into
29 electricity or gaseous and liquid fuels. These specifically include
30 facilities to generate electricity or methane from the anaerobic
31 digestion of organic matter, and facilities for the extracting oils
32 from canola, rape, mustard, and other oilseeds.

33 NEW SECTION. **Sec. 3.** (1) A bioenergy loan program is established
34 within the department. The director may only approve an application
35 providing a loan for a project that the director finds:

1 (a) Will convert farm products or wastes directly into electricity
2 or into gaseous or liquid fuels;

3 (b) Demonstrates technical feasibility and probable business
4 success;

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

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

9 (e) The expenditure will result in new jobs, job retention, or
10 higher incomes for citizens of the state; and

11 (f) The expenditure is accompanied by private investment.

12 (2) The director may not approve an application if it fails to
13 provide for adequate reporting or disclosure of financial and
14 employment data to the director. The director may require an annual or
15 other periodic audit of the project books.

16 (3) The director may approve an application that results in a loan
17 of up to five million dollars.

18 (4) The director shall fix the terms and rates of these loans to
19 minimize the costs to the borrowers and to encourage establishment of
20 a viable bioenergy industry. The interest rates for these loans must
21 be one percent below the prime interest rate offered by private lending
22 institutions.

23 (5) The director may defer loan repayment for up to twelve months
24 or until the project starts to receive revenue from operations,
25 whichever is sooner.

26 NEW SECTION. **Sec. 4.** (1) The director may establish policies and
27 procedures necessary for processing, reviewing, and approving loan
28 applications made under this section.

29 (2) Each application must show in detail the nature of the project,
30 the source of the feedstock, and the technologies that will be used.
31 Each application must contain a credit analysis of the business to
32 receive the loan and a detailed feasibility analysis and business plan.

33 (3) The director shall consult with those agencies having expertise
34 and knowledge to assess the technical and business feasibility of the
35 project and probability of success. These agencies may include, but
36 are not limited to, Washington State University, the University of

1 Washington, the department of ecology, the department of agriculture,
2 and the Washington state conservation commission.

3 (4) If the total requested dollar amount of loans exceeds the
4 amount available in the Washington bioenergy loan account created in
5 section 5 of this act, the applications must be prioritized based upon
6 the following criteria:

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

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

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

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

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

17 NEW SECTION. **Sec. 5.** The Washington bioenergy loan account is
18 created in the state treasury. All receipts from appropriations made
19 to the account and loan payments of principal and interest derived from
20 loans made under this chapter must be deposited into the account.
21 Moneys in the account may be spent only after appropriation.
22 Expenditures from the account may be used only for loans for projects
23 consistent with this chapter. Administrative costs of the department
24 may not exceed three percent of the annual funds available for this
25 program.

26 NEW SECTION. **Sec. 6.** The director shall report to the legislature
27 and governor on the status of the Washington bioenergy loan program
28 created under this chapter, on or before December 1st of the years
29 2006, 2007, and 2009. This report must include information on the
30 projects that have been funded, the status of these projects, and their
31 environmental, energy savings, and job creation benefits.

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

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

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

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

10 (3) Financial and commercial information and records supplied by
11 private persons pertaining to export services provided under chapters
12 43.163 and 53.31 RCW, and by persons pertaining to export projects
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by
15 businesses or individuals during application for loans or program
16 services provided by chapters 43.-- (sections 1 through 6, 9, and 10 of
17 this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during
18 application for economic development loans or program services provided
19 by any local agency;

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

24 (6) Financial and commercial information supplied to the state
25 investment board by any person when the information relates to the
26 investment of public trust or retirement funds and when disclosure
27 would result in loss to such funds or in private loss to the providers
28 of this information;

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

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

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

37 (10) Financial information, including but not limited to account
38 numbers and values, and other identification numbers supplied by or on

1 behalf of a person, firm, corporation, limited liability company,
2 partnership, or other entity related to an application for a liquor
3 license, gambling license, or lottery retail license;

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

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

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

16 (ii) Financial or proprietary information collected from any person
17 and provided to the department of community, trade, and economic
18 development or the office of the governor in connection with the
19 siting, recruitment, expansion, retention, or relocation of that
20 person's business and until a siting decision is made, identifying
21 information of any person supplying information under this subsection
22 and the locations being considered for siting, relocation, or expansion
23 of a business;

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

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

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

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

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

4 (2) The treasury income account shall be utilized to pay or receive
5 funds associated with federal programs as required by the federal cash
6 management improvement act of 1990. The treasury income account is
7 subject in all respects to chapter 43.88 RCW, but no appropriation is
8 required for refunds or allocations of interest earnings required by
9 the cash management improvement act. Refunds of interest to the
10 federal treasury required under the cash management improvement act
11 fall under RCW 43.88.180 and shall not require appropriation. The
12 office of financial management shall determine the amounts due to or
13 from the federal government pursuant to the cash management improvement
14 act. The office of financial management may direct transfers of funds
15 between accounts as deemed necessary to implement the provisions of the
16 cash management improvement act, and this subsection. Refunds or
17 allocations shall occur prior to the distributions of earnings set
18 forth in subsection (4) of this section.

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

27 (4) Monthly, the state treasurer shall distribute the earnings
28 credited to the treasury income account. The state treasurer shall
29 credit the general fund with all the earnings credited to the treasury
30 income account except:

31 (a) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's and fund's
33 average daily balance for the period: The capitol building
34 construction account, the Cedar River channel construction and
35 operation account, the Central Washington University capital projects
36 account, the charitable, educational, penal and reformatory
37 institutions account, the common school construction fund, the county
38 criminal justice assistance account, the county sales and use tax

1 equalization account, the data processing building construction
2 account, the deferred compensation administrative account, the deferred
3 compensation principal account, the department of retirement systems
4 expense account, the developmental disabilities community trust
5 account, the drinking water assistance account, the drinking water
6 assistance administrative account, the drinking water assistance
7 repayment account, the Eastern Washington University capital projects
8 account, the education construction fund, the education legacy trust
9 account, the election account, the emergency reserve fund, The
10 Evergreen State College capital projects account, the federal forest
11 revolving account, the freight mobility investment account, the health
12 services account, the public health services account, the health system
13 capacity account, the personal health services account, the state
14 higher education construction account, the higher education
15 construction account, the highway infrastructure account, the high-
16 occupancy toll lanes operations account, the industrial insurance
17 premium refund account, the judges' retirement account, the judicial
18 retirement administrative account, the judicial retirement principal
19 account, the local leasehold excise tax account, the local real estate
20 excise tax account, the local sales and use tax account, the medical
21 aid account, the mobile home park relocation fund, the multimodal
22 transportation account, the municipal criminal justice assistance
23 account, the municipal sales and use tax equalization account, the
24 natural resources deposit account, the oyster reserve land account, the
25 perpetual surveillance and maintenance account, the public employees'
26 retirement system plan 1 account, the public employees' retirement
27 system combined plan 2 and plan 3 account, the public facilities
28 construction loan revolving account beginning July 1, 2004, the public
29 health supplemental account, the public works assistance account, the
30 Puyallup tribal settlement account, the real estate appraiser
31 commission account, the regional transportation investment district
32 account, the resource management cost account, the rural Washington
33 loan fund, the site closure account, the small city pavement and
34 sidewalk account, the special wildlife account, the state employees'
35 insurance account, the state employees' insurance reserve account, the
36 state investment board expense account, the state investment board
37 commingled trust fund accounts, the supplemental pension account, the
38 Tacoma Narrows toll bridge account, the teachers' retirement system

1 plan 1 account, the teachers' retirement system combined plan 2 and
2 plan 3 account, the tobacco prevention and control account, the tobacco
3 settlement account, the transportation infrastructure account, the
4 transportation partnership account, the tuition recovery trust fund,
5 the University of Washington bond retirement fund, the University of
6 Washington building account, the volunteer fire fighters' and reserve
7 officers' relief and pension principal fund, the volunteer fire
8 fighters' and reserve officers' administrative fund, the Washington
9 bioenergy loan account, the Washington fruit express account, the
10 Washington judicial retirement system account, the Washington law
11 enforcement officers' and fire fighters' system plan 1 retirement
12 account, the Washington law enforcement officers' and fire fighters'
13 system plan 2 retirement account, the Washington public safety
14 employees' plan 2 retirement account, the Washington school employees'
15 retirement system combined plan 2 and 3 account, the Washington state
16 health insurance pool account, the Washington state patrol retirement
17 account, the Washington State University building account, the
18 Washington State University bond retirement fund, the water pollution
19 control revolving fund, and the Western Washington University capital
20 projects account. Earnings derived from investing balances of the
21 agricultural permanent fund, the normal school permanent fund, the
22 permanent common school fund, the scientific permanent fund, and the
23 state university permanent fund shall be allocated to their respective
24 beneficiary accounts. All earnings to be distributed under this
25 subsection (4)(a) shall first be reduced by the allocation to the state
26 treasurer's service fund pursuant to RCW 43.08.190.

27 (b) The following accounts and funds shall receive eighty percent
28 of their proportionate share of earnings based upon each account's or
29 fund's average daily balance for the period: The aeronautics account,
30 the aircraft search and rescue account, the county arterial
31 preservation account, the department of licensing services account, the
32 essential rail assistance account, the ferry bond retirement fund, the
33 grade crossing protective fund, the high capacity transportation
34 account, the highway bond retirement fund, the highway safety account,
35 the motor vehicle fund, the motorcycle safety education account, the
36 pilotage account, the public transportation systems account, the Puget
37 Sound capital construction account, the Puget Sound ferry operations
38 account, the recreational vehicle account, the rural arterial trust

1 account, the safety and education account, the special category C
2 account, the state patrol highway account, the transportation 2003
3 account (nickel account), the transportation equipment fund, the
4 transportation fund, the transportation improvement account, the
5 transportation improvement board bond retirement account, and the urban
6 arterial trust account.

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

10 NEW SECTION. **Sec. 9.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 9 of this act
15 expire June 30, 2016. Any moneys in the Washington bioenergy loan
16 account on that date and any moneys received pursuant to loans made
17 under this chapter must be deposited in the general fund.

18 NEW SECTION. **Sec. 11.** Sections 1 through 6, 9, 10, and 12 of this
19 act constitute a new chapter in Title 43 RCW.

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

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