

HOUSE BILL REPORT

ESHB 1643

As Passed Legislature

Title: An act relating to energy conservation under the energy independence act.

Brief Description: Regarding energy conservation under the energy independence act.

Sponsors: House Committee on Technology & Economic Development (originally sponsored by Representatives Fey, Short, Upthegrove, Nealey, Pollet, Liias, Ormsby, Ryu and Moscoso).

Brief History:

Committee Activity:

Environment: 2/12/13.

Technology & Economic Development: 1/14/14, 2/4/14 [DPS].

Floor Activity:

Passed House: 2/17/14, 97-0.

Passed Senate: 3/5/14, 49-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Allows a qualifying utility to use cost-effective conservation achieved in excess of its biennial acquisition target to meet subsequent biennial acquisitions targets required by the Energy Independence Act.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Morris, Chair; Habib, Vice Chair; Short, Assistant Ranking Minority Member; Dahlquist, Fey, Freeman, Hudgins, Kochmar, Magendanz, Morrell, Ryu, Stonier, Tarleton, Vick, Walsh, Wylie and Zeiger.

Minority Report: Do not pass. Signed by 2 members: Representatives Smith, Ranking Minority Member; DeBolt.

Staff: Scott Richards (786-7156).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Energy Independence Act.

Approved by voters in 2006, the Energy Independence Act (EIA), also known as Initiative 937 or I-937, requires electric utilities with 25,000 or more customers to meet targets for energy conservation and eligible renewable resources. Utilities that must comply with the EIA are called qualifying utilities.

Energy Conservation Assessments and Targets.

Each qualifying electric utility must pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019, and update the assessments every two years for the next 10-year period. Beginning January 2010, each qualifying utility must meet biennial conservation targets that are consistent with its conservation assessments.

Pacific Northwest Electric Power and Conservation Planning Council.

The Pacific Northwest Electric Power and Conservation Planning Council (Power Council) was established in the federal Northwest Power Act of 1980. The governors of Washington, Oregon, Idaho, and Montana each appoint two members to the Power Council. Among its duties, the Power Council must develop a regional Power Plan at least every five years to meet the region's electricity needs. The EIA requires qualifying utilities to use methodologies consistent with the Power Council's Power Plan when calculating their achievable cost-effective conservation potential. At the time the EIA was approved by the voters of the state, the Power Council was operating under the Fifth Power Plan. It adopted its Sixth Power Plan in February 2010 and is working to adopt the Seventh Power Plan near the end of 2015.

Summary of Engrossed Substitute Bill:

Beginning January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than 20 percent of any biennial target may be met with excess conservation savings.

Beginning on January 1, 2014, a qualifying utility may use single large facility conservation savings to meet up to an additional 5 percent of the immediately subsequent two biennial acquisition targets, such that no more than 25 percent of any biennial target may be met with excess conservation savings. "Single large facility conservation savings" is defined as cost-effective conservation savings achieved in a single biennial period at the premises of a single utility customer whose annual electricity consumption prior to the conservation acquisition exceeded 5 average megawatts.

Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between 95,000 and 115,000 that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage, may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial

acquisition targets, such that no more than 25 percent of any biennial target may be met with excess conservation savings.

Each qualifying utility when identifying its achievable cost-effective conservation potential is required to use methodologies consistent with those used by the Pacific Northwest Electric Power and Conservation Planning Council (Power Council) in the most recently published regional power plan as it existed on the effective date of this act or such subsequent date as may be provided by the Department of Commerce or the Utilities and Transportation Commission by rule. A qualifying utility is not precluded from using its utility-specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential.

Appropriation: None.

Fiscal Note: Available from 2013.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Energy conservation is our state's cleanest and least expensive energy resource. This bill attempts to address an unintended consequence of the Energy Independence Act (EIA). What happens to the energy conservation achieved by a utility in excess of its targets? Especially during the early stages of the law, utilities were able to acquire the easy conservation first, at times achieving more than required. As time progressed it become difficult to achieve conservation in subsequent target biennia. There is language under development that the stakeholders would like the committee to consider that would allow utilities to use excess conservation before ever getting to the penalty phase of the EIA. Energy conservation is not a supply side resource. It is not built; it must be marketed. Current law assumes that utilities can achieve a precise amount of conservation per biennium. However, conservation comes in varying amounts. There needs to be a mechanism that allows utilities to smooth out conservation achieved over time. This bill does not address the times when very large industrial conservation projects occur. These single projects can be in megawatt amounts and may surpass the conservation needed by a utility to comply with the EIA's conservation acquisition targets. These achievements should be recognized in subsequent biennia.

(In support with concerns) The underlying bill does not get to the concerns of utilities. Most utilities would not like to find themselves in the penalty phase of the EIA before excess conservation can be used.

(With concerns) There are concerns about the existing bill and utilities are willing to work with the sponsor to develop language that keeps utilities out of the penalty phase of the EIA.

(Opposed) Waiving the penalty is an administratively simple approach. Any amendment to the conservation targets must be accompanied by a fix relating to which Power Plan utilities must use in identifying cost-effective conservation. The Department of Commerce should be

authorized to develop rules to make changes to the methodologies based on the current Power Plan as each new one is published. Conservation rollover issues identified in House Bill 1643 should be tabled for this session and considered as part of the process proposed in House Bill 2183. Under House Bill 2183, the Joint Committee of Energy Supply and Energy Conservation will be tasked to examine this issue and many others related to the EIA in a more comprehensive manner.

Persons Testifying: (In support) Representative Fey, prime sponsor; Steve Bicker, Tacoma Public Utilities District; Ann Rendahl, Utilities and Transportation Commission; and John Rothlin, Avista.

(In support with concerns) Dave Warren, Washington Public Utilities District Association.

(With concerns) Nancy Atwood, Puget Sound Energy.

(Opposed) Joni Bosh, Northwest Energy Coalition; Clifford Traisman, Washington Environmental Council; and Jessica Finn-Coven, Climate Solutions.

Persons Signed In To Testify But Not Testifying: