

SENATE BILL REPORT

ESHB 2645

As Passed Senate - Amended, March 7, 2020

Title: An act relating to the photovoltaic module stewardship and takeback program.

Brief Description: Concerning the photovoltaic module stewardship and takeback program.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Smith, Eslick and Pollet).

Brief History: Passed House: 2/16/20, 95-1.

Committee Activity: Environment, Energy & Technology: 2/20/20, 2/25/20 [DPA-WM, DNP, w/oRec].

Ways & Means: 2/28/20, 3/02/20 [DPA (ENET), DNP, w/oRec].

Floor Activity:

Passed Senate - Amended: 3/07/20, 48-1.

Brief Summary of Amended Bill

- Prohibits a manufacturer, distributor, retailer, or installer from selling or offering for sale a photovoltaic (PV) module that has an approved stewardship plan beginning January 1, 2023, instead of January 1, 2021.
- Requires a manufacturer or its designated stewardship organization to provide an annual report to the Department of Ecology on the implementation of its stewardship plan beginning April 1, 2023, instead of April 1, 2022.
- Amends the definition of "PV module" under the PV Module Stewardship and Takeback Program to include interconnections, terminals, and protective devices, that are part of a system connected to the grid or utility service.
- Directs the Washington State University Energy Program to convene a PV Module Recovery, Reuse, and Recycling Work Group and submit a report to the Legislature and Governor by December 1, 2021, on potential methodologies for the management of end-of-life PV modules.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Das, Hobbs, Lias, McCoy, Nguyen, Rivers, Stanford and Wellman.

Minority Report: Do not pass.

Signed by Senator Ericksen, Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Fortunato, Assistant Ranking Member, Environment; Sheldon, Assistant Ranking Member, Energy & Technology; Brown and Short.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Lias, Muzzall, Pedersen, Van De Wege, Wagoner and Warnick.

Minority Report: Do not pass.

Signed by Senator Honeyford, Assistant Ranking Member, Capital.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Becker, Schoesler and Wilson, L..

Staff: Jed Herman (786-7346)

Background: Solar Module Stewardship and Takeback Program. In 2017, as part of the Renewable Energy Production Incentive Program legislation, the Legislature required the manufacturers of PV modules to finance a takeback and recycling system. The Legislature directed each manufacturer to prepare and submit a stewardship plan to the Department of Ecology (Ecology) by January 1, 2020, or within 30 days of its first sale of a PV module in or into the state. The stewardship plans must accept all PV modules sold in or into the state after July 1, 2017, and include an adequate funding mechanism that ensures PV modules can be delivered to take-back locations without cost to the last owner or holder.

The Legislature directed Ecology to establish a process to develop guidance for a Solar Module Stewardship and Takeback Program (stewardship program) for manufacturers developing PV module stewardship plans. Ecology published its initial *Manufacturer Plan Guidance for the PV Module Stewardship Program* in July 2019, and revised it in January 2020.

Beginning January 1, 2021, no manufacturer may sell or offer for sale a PV module in or into the state unless the manufacturer has submitted a stewardship plan to Ecology and received plan approval. Ecology must approve a stewardship plan if it determines the plan addresses each element outlined in its guidance document.

Ecology must send a written warning to a manufacturer that is not participating in a plan and may assess a penalty of up to \$10,000 for each sale of a PV module in or into Washington by a manufacturer after the initial written warning. Penalties may be appealed to the Superior Court of Thurston County within 180 days of receipt of notice.

A manufacturer may participate in a national program in lieu of preparing a stewardship plan under the state program, if it is substantially equivalent to the intent of the state program.

Summary of Amended Bill: Beginning July 1, 2023, instead of 2021, no manufacturer, distributor, retailer, or installer may sell or offer for sale a PV module in or into the state unless the manufacturer of the PV module has submitted a stewardship plan and received Ecology's approval.

A manufacturer must submit a stewardship plan by July 1, 2022, instead of January 1, 2020. Annual reporting requirements for manufacturers or a designated stewardship organization to provide information on plan implementation and performance goals to Ecology are delayed two years, from April 1, 2022, to April 1, 2024.

It is clarified that for each sale of a PV module in or into the state that does not have a stewardship plan approved by Ecology, Ecology may assess a penalty of up to \$10,000 on the PV module's manufacturer.

Ecology must send a written warning to a distributor, retailer, or installer that sells or installs a PV module made by a manufacturer that is not participating in a plan. The warning must inform the distributor, retailer, or installer that they may no longer sell or install a PV module if a stewardship plan for that brand has not been submitted by the manufacturer and approved by Ecology within 30 days of the notice.

The definition of "PV module" is amended to include interconnections, terminals, and protective devices, such as diodes, that are part of a system connected to the grid or utility service. Definitions are also added for distributor, installer, predecessor, and retailer.

PV Module Recovery, Reuse, and Recycling Work Group. Subject to the availability of amounts appropriated for this purpose, the Washington State University (WSU) Energy Program must convene a PV Module Recovery, Reuse, and Recycling Work Group (work group) to review and provide recommendations on the potential methodologies for the management of end-of-life PV modules, including modules for utility-scale solar projects.

The WSU Energy Program must submit its findings and recommendations in a final report to the Legislature and Governor by December 1, 2021. Participation in the the work group is voluntary and without compensation. The work group membership must include, but is not limited to, members representing the following:

- manufacturers of PV modules;
- a national solar industry group;
- solar installers in the state;
- a utility-scale solar project;
- a nonprofit organization with expertise in waste minimization;

- solid waste programs from a city and a county;
- an organization with expertise in PV module recycling;
- a community-based environmental justice group; and
- Ecology.

Appropriation: None.

Fiscal Note: Available (Partial).

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: The stewardship plan is important. It is the first of its kind in the nation. Working with industry partners we need a little more time to get the stewardship right. Europe has been doing it for some time and we can learn from them. This bill is a more complete version than the Senate bill. We like the changes to the task force to work through challenges with the program. In the long run, a national program would be best. A striking amendment will move everything out 2.5 years and include that the WSU Energy program present "findings."

Persons Testifying (Environment, Energy & Technology): PRO: Representative Norma Smith, Prime Sponsor; Courtney Blatz, Solar Installers of Washington; Heather Trim, Zero Waste Washington; Dave Warren, Silfab Solar.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on Bill as Amended by Environment, Energy & Technology (Ways & Means): PRO: The product stewardship program established in 2017 is not working as well as it should. We need this bill to delay the effective date and allow information from WSU to help structure the program. We like the bill as it fixes some loopholes.

Persons Testifying (Ways & Means): PRO: Dave Warren, Silfab Solar; Heather Trim, Zero Waste Washington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.