

HOUSE BILL REPORT

ESHB 1329

As Passed House:
February 27, 2023

Title: An act relating to preventing utility shutoffs for nonpayment during extreme heat.

Brief Description: Preventing utility shutoffs for nonpayment during extreme heat.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Mena, Alvarado, Berry, Duerr, Leavitt, Morgan, Ramel, Ryu, Senn, Simmons, Timmons, Kloba, Bateman, Slatter, Orwall, Reed, Lekanoff, Gregerson, Doglio, Tharinger, Cortes, Donaghy, Pollet, Callan, Fosse, Macri, Davis and Stonier; by request of Attorney General).

Brief History:

Committee Activity:

Environment & Energy: 1/23/23, 1/26/23, 2/9/23 [DPS].

Floor Activity:

Passed House: 2/27/23, 64-31.

Brief Summary of Engrossed Substitute Bill

- Prohibits utilities and landlords from involuntarily terminating water or electric service to any residential user during days for which the National Weather Service has issued certain heat-related alerts.
- Requires electric and water utilities and landlords to promptly make a reasonable attempt to reconnect service to a dwelling upon receipt of a request to reconnect utility service for a day in which the National Weather Service has issued certain heat-related alerts.
- Authorizes electric and water utilities and landlords, in connection with a request to reconnect service for a day for which a heat alert has been issued, to require the residential user to enter into a payment plan prior to reconnecting service to the dwelling.

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

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

Minority Report: Without recommendation. Signed by 2 members: Representatives Couture and Goehner.

Staff: Robert Hatfield (786-7117).

Background:

Prohibition on Utility Termination During High-Temperature Periods—Utilities Regulated by the Utilities and Transportation Commission.

Certain utilities, including investor-owned utilities, public utility districts, and city-operated utilities, are prohibited from terminating residential space heat utility services between November 15 and March 15 if a resident follows prescribed steps. To be eligible for this protection, the individual must notify the utility of the inability to pay for utility services, apply for home heating assistance, and apply for weatherization assistance. The utility and the customer enter into a payment plan that allows the customer to spread the cost of winter heat bills and past due amounts over the entire year. The repayment plan must not require monthly payments in excess of 7 percent of the customer's monthly income plus one-twelfth of any arrearages accrued from the date application is made and thereafter during November 15 through March 15.

Summary of Engrossed Substitute Bill:

Prohibition on Utility Termination During High-Temperature Periods—Utilities Regulated by the Utilities and Transportation Commission.

An electric company or water company regulated by the Utilities and Transportation Commission (UTC) must have and must abide by the terms of a tariff approved by the UTC that prohibits the electrical company or water company from effecting, due to lack of payment, an involuntary termination of utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the National Weather Service (NWS) has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

A residential user at whose dwelling electric utility service has been disconnected for lack of payment may request that the utility reconnect service on any day for which the NWS has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in

which the residential user's address is located. The utility must, through a process approved by the UTC, inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the utility.

Upon receipt of a request to reconnect service, a utility must promptly make a reasonable attempt to reconnect service to the dwelling. A utility, in connection with a request to reconnect service, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If a utility requires the residential user to enter into a repayment plan, the repayment plan must comply with the following requirements:

- a repayment plan required by a utility will be designed both to pay the past due bill by the following May 15, or as soon as possible after May 15 if needed to maintain monthly payments that are no greater than 6 percent of the customer's monthly income, and to pay for continued utility service;
- the plan may not require monthly payments in excess of 6 percent of the customer's monthly income;
- a customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than 6 percent of the customer's monthly income; and
- if assistance payments are received by the customer subsequent to implementation of the plan, the customer must contact the utility to reformulate the plan.

Reporting.

On an annual basis, each electrical company or water company regulated by the UTC must submit a report to the UTC that includes the total number of disconnections that occurred on each day for which the NWS issued or announced that it intended to issue a heat-related alert.

Prohibition on Utility Termination During High-Temperature Periods—Publicly-owned Utilities.

A publicly-owned electric company or water company may not effect, due to lack of payment, an involuntary termination of utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the NWS has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

A residential user at whose dwelling electric utility service has been disconnected for lack of payment may request that the utility reconnect service on any day for which the NWS has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The utility must inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the utility.

Upon receipt of a request to reconnect service, a utility must promptly make a reasonable attempt to reconnect service to the dwelling. A utility, in connection with a request to reconnect service, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If a utility requires the residential user to enter into a repayment plan, the repayment plan must comply with the following requirements:

- a repayment plan required by a utility will be designed both to pay the past due bill by the following May 15, or as soon as possible after May 15 if needed to maintain monthly payments that are no greater than 6 percent of the customer's monthly income, and to pay for continued utility service;
- the plan may not require monthly payments in excess of 6 percent of the customer's monthly income;
- a customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than 6 percent of the customer's monthly income; and
- if assistance payments are received by the customer subsequent to implementation of the plan, the customer must contact the utility to reformulate the plan.

Reporting.

On an annual basis, each publicly-owned utility with more than 25,000 electric customers or 2,500 water customers in Washington must produce a report that includes the total number of disconnections that occurred on each day for which the NWS issued, or announced that it intended to issue, a heat-related alert. The required information must be submitted in a form, timeline, and manner as prescribed by the Department of Commerce (Commerce). Utilities with fewer than 25,000 electric customers or 2,500 water customers in Washington must provide similar information upon request. Subject to availability, each utility company must provide any other information related to utility disconnections that is requested by Commerce.

Prohibition on Utility Termination During High-Temperature Periods—Residential Landlord Tenant Act and Manufactured and Mobile Home Act.

A landlord may not effect, due to lack of payment, an involuntary termination of utility service to any tenant, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the NWS has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the tenant's address is located.

A tenant at whose dwelling electric utility service has been disconnected for lack of payment may request that the landlord reconnect service on any day for which the NWS has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the tenant's address is located. The landlord must inform all tenants in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the landlord.

Upon receipt of a request to reconnect service, a landlord must promptly make a reasonable attempt to reconnect service to the dwelling. A landlord, in connection with a request to reconnect service, may require the tenant to enter into a payment plan prior to reconnecting service to the dwelling. If a landlord requires the tenant to enter into a repayment plan, the repayment plan must comply with the following requirements:

- a repayment plan required by a landlord will be designed both to pay the past due bill by the following May 15, or as soon as possible after May 15 if needed to maintain monthly payments that are no greater than 6 percent of the tenant's monthly income, and to pay for continued utility service;
- the plan may not require monthly payments in excess of 6 percent of the tenant's monthly income;
- a tenant may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than 6 percent of the tenant's monthly income; and
- if assistance payments are received by the tenant subsequent to implementation of the plan, the tenant must contact the landlord to reformulate the plan.

Appropriation: None.

Fiscal Note: Available.

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) Climate change will result in more extreme heat, even in Western Washington. There need to be a few changes in the bill. The reporting requirements are outside of the information that some utilities have access to; for example, one utility does not track temperatures. The reporting requirements are not necessary to accomplish the goals of the bill. The bill should have language added to provide that customers can contact their utility if they need to be reconnected during a high-heat event.

Some utilities already have existing policies regarding shutoffs during high-heat events. There are also operational concerns with the bill.

There should be language that fine-tunes how utilities are required to take temperature readings. The bill currently would require utilities to take temperature readings all across their service territory. There is a desire to clarify how to manage customers who have been disconnected prior to high-heat events. There need to be guardrails to implement this policy successfully.

The last two years have shown that extreme weather events disproportionately harm the

medically vulnerable. It is time for Washington to have a statewide standard so that residents can access potentially life-saving cooling energy.

Washington already protects people from being disconnected during cold months, but there are no protections during hot months. Extreme heat is becoming more common and deadly. The bill seeks to prevent disconnections when the temperature reaches 90 degrees Fahrenheit or higher. Utilities vary across the state; some are regulated by the Utilities and Transportation Commission, and some are not. The bill would create a single statewide policy that would be easy to understand and enforce. People would have protections regardless of their utility provider. Most electric utilities have remote shut-off capabilities, but water utilities typically do not.

It would be a good idea to use a heat index rather than use temperature alone. It would also be a good idea to expand the bill to include times of poor air quality.

The energy that utilities provide to people is critical for keeping people healthy in their homes. It is important to protect that access. This bill is a good statewide fix for what is currently a patchwork approach to utility shutoffs.

(Opposed) None.

(Other) There are operational concerns regarding the reporting and reconnection language in the bill.

One utility set a new record in its service territory last summer with 11 days in a row over 100 degrees Fahrenheit. One utility already has safety protocols in place that require contacting the resident before disconnecting. Assistance needs to be a part of the discussion, as well as regionalization.

Persons Testifying: (In support) Ruth Sawyer, Sierra Club; Guillermo Rogel, Front and Centered; Claire Richards, Washington Physicians for Social Responsibility; Mendy Droke, Seattle City Light; Logan Bahr, Tacoma Power; Rory Paine-Donovan and Lisa Gafken, Attorney General's Office; and Ryan Collins, Snohomish Public Utility District.

(Other) Joren Clowers, Washington Association of Sewer and Water Districts; and Isaac Kastama, Benton and Franklin Public Utility Districts.

Persons Signed In To Testify But Not Testifying: Cathy MacCaul, American Association of Retired Persons Washington State; Annabel Drayton, Northwest Energy Coalition; Joseph Carroll, Wolff, Hislop and Crockett; Paula Painter, City of Kent; Brandy DeLange, Association of Washington Cities; Austin Scharff, Department of Commerce; Steve Taylor, Cowlitz Public Utility District; Matt Miller, Puget Sound Energy; Christine Brewer, The Avista Corporation; Jay Balasbas, PacifiCorp; Andrea Scott-Murray; Marlene Feist, City of Spokane; Peter Godlewski, Association of Washington Business; and Bill

Clarke, Washington Public Utility District Association.