

# SENATE BILL REPORT

## SB 5366

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As of January 31, 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:** Senators Nguyen, Cleveland, Dhingra, Hasegawa, Hunt, Kuderer, Liias, Lovelett, Randall, Saldaña, Stanford, Valdez and Wilson, C.; by request of Attorney General.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/31/23.

**Brief Summary of Bill**

- Prohibits electric or water utilities from involuntarily terminating service for nonpayment to residential users during extreme heat.
- Prohibits landlords from involuntarily terminating electric utility or water service due to lack of payment to residential tenants during extreme heat.
- Creates a civil cause of action for involuntary termination of water service for nonpayment to residential users during extreme heat.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Kimberly Cushing (786-7421)

**Background:** Winter Low-Income Payment Programs. Certain electric utilities, including investor-owned utilities (IOUs), public utility districts (PUDs), and city-owned utilities, are prohibited from terminating residential space heating utility service between November 15 through March 15 if the customer meets certain requirements.

To be eligible for the protections under the law, the customer must notify the utility of the

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inability to pay for utility services, provide self-certification of household income to the Department of Commerce (Commerce), apply for home heating assistance, apply for low-income weatherization assistance, and agree to a payment plan. The payment plan must be designed to pay the past due bill and continued utility service.

**Summary of Bill:** Extreme Heat. Extreme heat occurs:

- on a day when the local weather forecast, as predicted by the national weather service (NWS), indicates that the weather in the area of the residential user's service address will include temperatures that exceed 90 degrees Fahrenheit (°F);
- if by 8:00 am the actual weather is 90°F or higher; or
- on any day preceding a holiday or weekend when a forecast indicates that the temperature will be 90°F or above during the holiday or weekend.

Prohibited Termination of Utility Service During Extreme Heat. An electric or water utility may not involuntarily terminate utility service due to lack of payment to any residential user during extreme heat.

If extreme heat occurs, the utility must promptly contact affected customers and make reasonable attempts to reconnect service to an occupied dwelling that has been disconnected for lack of payment. Upon expiration of the NWS's forecast of 90°F or higher, a utility that has reconnected service as required for extreme heat may disconnect service without further notice if an appropriate payment arrangement has not been established.

Reporting. Annually, each consumer-owned utility (COU) with more than 25,000 electric customers or 2500 water customers in Washington must submit a report to Commerce that includes the total number of disconnections that occurred on each day that exceeded 90°F or on any day preceding a holiday or weekend when a forecast indicated that the temperature would be 90°F or above for those days.

COUs with less than 25,000 electric customers or 2500 water customers must provide similar information if it is requested by Commerce. Any other information requested by Commerce must be provided by all COUs, subject to availability. Required information must be submitted in a form, timeline, and manner prescribed by Commerce.

Annually, each IOU must submit a report to the Utilities and Transportation Commission that includes the total number of disconnections that occurred on each day, specifying whether the day exceeded 90°F, was preceding a holiday or weekend when a forecast indicated the temperature would be 90°F, or was between November 15 and March 15.

Prohibited Termination of Utility Service for Tenants During Extreme Heat. Under the Residential Landlord-Tenant Act and the Manufactured/Mobile Home Landlord-Tenant Act, landlords may not involuntarily terminate electric utility or water service due to lack of payment to any residential tenants during extreme heat.

In the event a residential tenant has been disconnected for nonpayment when the temperature will be 90°F or higher, the landlord must promptly contact affected tenants and make reasonable attempts to reconnect service to an occupied dwelling that has been disconnected. Upon expiration of the NWS's forecast of 90°F or higher, a landlord that has reconnected service as required for extreme heat may disconnect service without further notice if an appropriate payment arrangement has not been established.

Civil Cause of Action for Water Service Termination During Extreme Heat. A civil cause of action is created for any city, town, water district, or water company that involuntarily terminates water service due to lack of payment for any residential user during extreme heat.

If extreme heat occurs, the utility must promptly contact affected customers and make reasonable attempts to reconnect service to an occupied dwelling that has been disconnected for lack of payment. Upon expiration of the NWS's forecast of 90°F or higher, a utility that has reconnected service as required for extreme heat may disconnect service without further notice if an appropriate payment arrangement has not been established.

Any person subject to involuntary termination of their residential water service for nonpayment under extreme heat may file an action in superior court for recovery damages and the cost of the suit. Upon finding a violation of prohibited termination of water service, individuals can also seek an amount not to exceed \$1,000 per violation per day or actual damages, whichever is greater, injunctive relief, reasonable attorney's fees, and any other relief the court determines appropriate.

**Appropriation:** None.

**Fiscal Note:** Available.

**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:** PRO: In the past two summers, extreme heat has caused hundreds of deaths and thousands more seeking medical attention. Many of those deaths were for people 65 years or older. This bill is ultimately about saving lives and reducing stress on our first responders and health care system. This bill does not change how electric utilities are overseen or governed or require them to provide free services. It ensures people have access to utility service even when they cannot pay and is narrowly focused on disconnections for nonpayment. Having clean water and energy is critical during extreme weather conditions. We must prepare for the negative health impacts of extreme heat and other weather conditions. Many states have prohibited shutoffs when it is cold. The bill establishes a statewide policy that provides the same level of safety regardless of provider. The data reporting is an important factor of this legislation. For utilities to contact

customers regarding payments and notice of shut offs, the current standard is contact via mail due to a high volume of scammers posing as the utility companies. Instead, add language to the final shut-off notice stating that if the weather is predicted to exceed required temperatures, the customers should contact the utility to be reconnected. The current practice in winter months to reconnect customers who request it is a feasible model.

CON: There is an operational burden and expense for utility disconnect and reconnects which are managed by billing personnel. This may require utilities to be forced to dispatch personnel twice for each occurrence, on and off. The reliance on daily forecasts as presented would require billing associates to be paid overtime to monitor forecasts that may occur beyond business hours. There is no precedent for mandatory reconnection of disconnected customers who don't pay their bills. Washington would become an outlier if we follow through with the reconnection mandate. During extreme heat events, utilities may have to make the choice between operations on wildfire mitigation and electricity shutoffs due to limited staffing resources. One temperature fits all approach doesn't apply to the diverse terrain and climate of Washington.

OTHER: As regulator, the UTC is best positioned to regulate the investor on utilities with these policies and to work out the details. The bill as proposed contains prescriptive requirements that are unnecessary and do not take into account the unique characteristics of each utility service area. The 90 degree temperature mark will not fit for all regions in the state. Instead of a flat temperature, use of the national weather service heat advisory. Considering a heat index would take into consideration a number of different variables including humidity, regionality, and how low or high the temperature was the previous night. Reconnection of water service could cause significant property damage. Thus the customer should have to opt back into services. With limited staff, reconnection is a significant burden. Regional utilities serve multiple counties and customers. Public health services should have state assistance to pay for these things. There should be a statewide determination or directive to give indication to utilities for shut off and reconnection.

**Persons Testifying:** PRO: Senator Joe Nguyen, Prime Sponsor; Charlee Thompson, NW Energy Coalition; Kristin Ang, Faith Action Network; Mendy Droke, Seattle City Light; Logan Bahr, Tacoma Power; Jim Dennison, Sierra Club; Rory Paine-Donovan, Attorney General's Office; Lisa Gafken, Attorney General's Office; Ryan Collins, Snohomish PUD; Cathy MacCaul, AARP Washington State.

CON: Paul Griffin, Washington Rural Electric Cooperative Association; Greg Mendonca, Okanogan County Electric Cooperative; Chelsea Martin, Modern Electric Water Company.

OTHER: Christine Brewer, The Avista Corporation; Matt Miller, Puget Sound Energy; Jay Balasbas, PacifiCorp; Joren Clowers, Washington Association of Sewer & Water Districts; Isaac Kastama, Benton PUD & Franklin PUD; Jake Murray; Paula Painter, City of Kent; Brandy DeLange, Association of Washington Cities; Austin Scharff, Washington State Dept. of Commerce; Joseph Carroll, Wolff, Hislop and Crockett; Peter Godlewski, Association of Washington Business; BILL CLARKE, WA PUD Association; Charlie

Brown, NW Natural; Steve Taylor, Cowlitz Public Utility District No. 1.

**Persons Signed In To Testify But Not Testifying:** No one.