SENATE BILL REPORT
SB 5465

As of February 3, 2025

Title: An act relating to authorizing electrical companies to securitize certain wildfire-related costs to lower costs to customers.

Brief Description: Authorizing electrical companies to securitize certain wildfire-related costs to lower costs to customers.

Sponsors: Senators Shewmake, Boehnke and Chapman.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/04/25.

Brief Summary of Bill

- Permits electrical, gas, and water companies (utilities) to apply to the Utilities and Transportation Commission (UTC) for a financing order authorizing the utility to issue bonds to recover certain costs related to emergency events, such as wildfires.
- Authorizes the UTC to issue a financing order, if certain specific conditions are met, to allow recovery bondable rate recovery expenditures, issue bonds, and impose separate rate recovery charges on customers.
- Prohibits the state from being obligated to pay or guarantee any bond under this act.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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Background: Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) is a three-member commission with broad authority to regulate the

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rates, services, and practices of a variety of businesses in the state, including electric investor-owned utilities. The UTC must ensure rates charged by these companies are fair, just, and reasonable.

Under current law, with approval of the UTC, investor-owned utilities may issue conservation bonds and pledge conservation investment assets as collateral for the conservation bonds. Conservation investments may be bondable if the UTC determines that the expenditures were incurred in conformance with a conservation service tariff, and that the expenditures were prudent and financing through theses bonds is more favorable to the customer than other alternatives.

Electric Utility Wildfire Mitigation Plans. In 2023, the Legislature directed The Department of Natural Resources, in consultation with the Energy Resilience and Emergency Management Office, to contract with a consultant to recommend an electric utility wildfire mitigation plan (plan) format and identify a list of elements to be included in the plans by April 1, 2024. Each electric utility was required to review, revise, and adopt its plan by October 31, 2024, and every three years thereafter.

Each investor-owned electric utility must submit its plan to the UTC for review, and the UTC will confirm whether or not the plan contains the recommended elements. The UTC is not liable for a utility's implementation of its plan. A investor-owned electric utility may pursue recovery of costs and investments associated with a plan through a rate case proceeding.

Securitization. According to S&P Global, electric utility companies throughout the U.S. have used securitization, a financing mechanism, as a means to recover various costs, including, but not limited to, those related to:
- storm damages;
- wildfire damages and related risk mitigation expenses; and
- winterization, or hardening of electrical grids.

In certain U.S. states the securitization of costs related to impactful events has been made possible by state statute. State statutes provide that costs along with debt service on the bonds and transaction fees and expenses, among others, will be paid through a surcharge appearing on the monthly bill of the utility's retail customers.

Summary of Bill: State Policy and Pledge. It is the policy of Washington State to encourage the financing of certain costs and expenses by electrical, gas, and water companies (utilities) at the lowest, reasonable, and prudent cost to utility customers, which requires certainty. As a result, the state must pledge and agree not to impair the provisions that authorize the UTC to issue financing orders that create rate recovery assets (assets), establish rate recovery charges (charges) that customers cannot avoid, and provide rights and remedies to utilities, bondholders, and financing parties until all payments on the bonds and financing costs are fully paid.

Bondable Rate Recovery Expenditures and Rate Recovery Assets. A utility may finance or refinance bondable rate recovery expenditures (bondable expenditures) with the approval of the UTC.

Bondable expenditures are all of a utility's costs and expenditures that have been incurred, or will be incurred by a certain date, associated with:

- an event that is the subject of a federal or state declaration of disaster or emergency, such as severe weather, catastrophic wildfire, earthquake, pandemic, or other event that causes or threatens to cause widespread loss of life, injury to person or property, human suffering, or financial loss, including the costs and expenses owed by a utility to its customers or others as a result of the event. It does not include civil or criminal fines or penalties; and
- energy or water conservation measures and services intended to improve the efficiency of electricity, gas, or water end use, as provided under current law.

The utility may grant a security interest in assets as collateral for rate recover bonds (bonds). An asset is the utility's right to recover from customers the bondable expenditures and related costs and expenses approved in a financing order, including the right to:

- impose charges authorized under a financing order or obtain periodic adjustments of charges; and
- all claims, payments, moneys specified in a financing order, regardless of whether these amounts are comingled.

Procedures are established for perfecting a security interest, transferring assets, and enforcing security interests. Security interests are subject to the Uniform Commercial Code, except when there is a conflict with these provisions. Any successor utility must satisfy all obligations of the utility under an approved contract governing the bonds.

Financing Order. The UTC may issue a financing order to authorize one or more of the following:

- recovering of bondable expenditures and financing costs;
- creating assets;
- issuing bonds;
- imposing or adjusting charges; or
- selling or transferring assets.

A utility may apply to the UTC for a financing order designating all or part of rate recovery expenditures as bondable expenditures to finance or refinance bonds. The utility may request the designation to happen in a separate proceeding or at a general rate case.

After notice and an opportunity for a hearing, the UTC may approve an application if the UTC finds that:

- the bondable expenditures are reasonable and prudent;

- financing or refinancing bondable expenditures through bonds is likely to be more favorable to utility customers than other methods of rate recovery; and
- bonds, or other types of indebtedness approved by the UTC, are reasonably likely to receive at a minimum a determination of investment grade by credit rating agencies.

The UTC must issue an order approving or denying the application within 180 days. If the UTC approves the application, it should issue a financing order. A financing order must specify the highest amount that qualifies as bondable expenditures. For bondable expenditures associated with a disaster or emergency, the UTC may include capital and operating costs, lost revenue, costs and expenses to be recovered later from third parties or insurers and returned to customers in a rate proceeding, and carrying costs or charges.

Specific provisions must be included in a financing order including:

- confirming the existence of recoverable bondable expenditures and authorization to recover them and associated financing costs;
- authorization to create the assets and impose charges;
- a requirement that the charges be ongoing and not avoided until all principal is paid;
- a methodology for allocating charges between different classes of customers, adjusting charges as necessary;
- authorization for issuing a series of bonds, assigning assets to a financing subsidiary and granting security interests in the assets, and bond documentation;
- authorization to earn a return on moneys advanced by the utility to fund advance, reserves, or capital accounts established under the terms of the agreement;
- a finding that the bonds and charges are expected to provide the lowest possible, reasonable, and prudent cost on a net present value basis to customers as compared to other methods of financing and recovery;
- an expiration date for the financing order;
- a requirement to notify the UTC if the utility recovers costs and expenses from a third party or insurer; and
- any other conditions the UTC finds appropriate.

Charges may not be avoided by utility customers located within a utility's service territory as it existed on the date of the financing order, even if a customer receives services from a successor company; the customer elects to receive electricity, natural gas or water from another company in the service territory; or the customer changes customer class.

Until bond and financing costs are paid in full, the UTC may not revalue the bondable expenditures or financing costs for rate-making purposes; determine that rates or revenues in the financing order are unjust or unreasonable; impair assets, charges, or bonds; rescind the financing order, or consider the bonds as utility debt, assets as utility revenue, or bondable expenditures as utility costs.

The UTC is prohibited from requiring a utility to apply for a financing order to designate expenditures as bondable expenditures.

Events or Bonds Issued Prior to the Effective Date. For costs incurred by utilities before the effective date of the bill for disasters or emergency or conservation measures and services, specific criteria determine whether they constitute bondable expenditures.

The provisions in the bill apply prospectively and not retroactively. Nothing impairs or affects the validity of any conservation bonds issued under current law. Conservation bonds issued prior to the effective date of the bill are governed by the provisions as they existed at the time such conservation bonds were issued.

State Not Obligated. The state, or any agency, is not obligated to pay or guarantee any bond issued under this act.

Definitions. Conservation bonds become a subset of the rate recovery bonds, and conservation investments are redefined as either recovery assets or bondable rate recovery expenditures.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.