

HOUSE BILL REPORT

HB 2939

As Reported by House Committee On:
Technology, Energy & Communications
Appropriations
Capital Budget

Title: An act relating to creation of the energy freedom program.

Brief Description: Establishing the energy freedom program.

Sponsors: Representatives Grant, Dunshee, Linville, Kessler, Upthegrove, Kilmer, Ericks, Hasegawa, P. Sullivan, Santos, Green, Springer, Conway, Simpson and Hudgins.

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/17/06, 1/26/06 [DPS];
Appropriations: 2/1/06, 2/4/06 [DP2S(w/o sub TEC)].
Capital Budget: 2/6/06, 2/7/06 [DP3S(w/o 2sub APP)].

Brief Summary of Third Substitute Bill

- Establishes an Energy Freedom Program within the Department of Community, Trade and Economic Development (DCTED).
- Requires a 13 member Energy Freedom Board to establish a competitive process for awarding low-interest loans and grants to political subdivisions for the research and development of new and renewable energy sources, including infrastructure and facilities.
- Creates the Energy Freedom Account within the State Treasury.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

Staff: Kara Durbin (786-7133).

Background:

Oil Production and Consumption in the U.S.

According to the Energy Information Administration (EIA), in 2002, the United States consumed 19.656 million barrels of petroleum (crude oil and petroleum products) per day, or about one-quarter of total world oil production. More than half (62 percent) was imported oil. The EIA has projected that by 2025, total petroleum consumption in the U.S. will be approximately 28.3 million barrels per day.

While consumption of petroleum in the United States is increasing, oil production has been decreasing steadily since 1970. According to the EIA Annual Energy Outlook for 2004, U.S. petroleum production is expected to decrease slightly from 9.2 million barrels per day in 2002 to 8.6 million barrels per day by 2025, while consumption is expected to rise from 19.6 barrels per day in 2002 to 28.3 million per day by 2024, which represents approximately a 44 percent increase in consumption.

State Loan Programs for Renewable Energy

According to a study conducted by the National Renewable Energy Laboratory, there are at least 22 active loan programs in 19 states that provide low-cost financing for renewables. Funding for loan programs in these states varies. Some programs are funded by revolving loan funds, while others are funded through annual appropriations, the sale of bonds, or air-quality noncompliance penalty fees. More recently established programs such as those in New York, Ohio, and Wisconsin are funded by a system benefits charge. Total funding for state loan programs varies as well, with some programs operating with as little as \$200,000 per year, while others lend up to \$200 million per year.

Public Utility Tax

Public and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. The tax rate depends on the utility classification. Utility classifications include: 1) distribution of water; 2) generation/distribution of electrical power; 3) telegraph companies, distribution of natural gas, and collection of sewerage; 4) urban transportation and watercraft vessels under 65 feet in length; and 5) railroads, railroad car companies, motor transportation, and all other public service businesses. Most of the PUT is deposited in the state general fund. Certain receipts are earmarked for the Public Works Assistance Account.

Summary of Substitute Bill:

The Energy Freedom Program is established. The stated legislative purpose of the Energy Freedom Program is to stimulate strategic investment in facilities, infrastructure, technologies, and research and development that will advance Washington's move towards energy independence.

Energy Freedom Board

The Energy Freedom Board (Board) is created. Membership of the Board consists of 13 individuals: the director of the Department of Agriculture or the director's designee; the director of the Department of Community, Trade, and Economic Development (DCTED) or

the director's designee from the DCTED's energy policy division; four members of the Legislature who serve on committees with jurisdiction over energy issues; and seven members appointed by the Governor, including one recognized expert in renewable energy, one representative from Washington State University, one Washington state grower, one producer of alternative fuels, one public fleet manager, one public buildings manager, and one sustainable society advocate.

Staff support for the Board must be provided by DCTED. Members of the Board are appointed to staggered terms of two, three, or four years in duration and may be reappointed to serve more than one term.

Powers and Duties of the Board:

The Board is authorized to accept gifts, grants, or loan of funds or property from any source, so long as accepting the funds is not a conflict of interest.

The Board will develop criteria for low-interest loan or grant awards that may be given to political subdivisions of the state. The Board will also establish a competitive process for awarding low-interest loans and grants, including a peer review process involving Board members, renewable energy specialists, scientists, energy conservation specialists, and individuals with recognized expertise.

Financial assistance may be awarded by the Board for any of the following types of projects and activities:

- research and development of new and renewable energy and biofuel sources, including biomass, solar, and wind power;
- renewable energy and biofuel development infrastructure and facilities; and
- research and development to develop markets for alternative fuel byproducts.

Applicants for loans and grants must specify deliverables. Applications must be prioritized based on the following criteria:

- the extent to which the project will contribute to the establishment of a viable bioenergy production capacity in Washington;
- the benefits to Washington's agricultural producers;
- the extent to which the project will help conserve energy and reduce dependence on petroleum fuels and imported energy;
- the extent to which the project will reduce air and water pollution;
- the number and quality of jobs, as well as the economic benefits, created by the project;
- the extent to which the investment shows a direct link to commercialization either by indirectly supporting the commercialization of bioenergy intellectual property into a commercialized project, or by directly assisting in moving a commercially viable project into the marketplace for use by Washington citizens; and
- the extent to which private funds have been leveraged.

Upon receiving financial assistance from the Board, political subdivisions must enter into appropriate contracts with any industry partners involved in a funded project.

Energy Freedom Account

The Energy Freedom Account (Account) is created in the state treasury. Funds from the Account may only be spent after appropriation. Expenditures may be used only for loans and grants to political subdivisions for renewable energy and biofuel development projects and activities. Administrative costs are limited to 1 percent of the available funds in the Account.

Beginning July 1, 2006, for four fiscal years through June 30, 2010, the state treasurer shall transfer the sum of \$25 million dollars each fiscal year from the State General Fund to the Energy Freedom Account established in Section 8 of this Act, for a total of \$100 million.

These funds are appropriated from the Energy Freedom Account to the DCTED for the purposes of this Act.

The Energy Freedom Program expires June 30, 2016.

Substitute Bill Compared to Original Bill:

Additional findings are added to the intent section. The legislative membership on the Energy Freedom Board (Board) is modified to specify that legislative members must come from the House and Senate committees with jurisdiction over energy issues. The substitute adds that the report to the Legislature from the Board must include a description of each funded project's status; a description of each project's agricultural and environmental benefits; and a description of the progress made by each project in creating jobs and moving towards energy independence. The substitute adds that applications for loans and grants must specify deliverables. Criteria are added to the substitute bill by which the Board must prioritize applications. Political subdivisions receiving financial assistance under this bill are required to enter into appropriate contracts with industry partners involved in funded projects.

Administrative costs are limited to 1 percent of available funds in the Energy Freedom Account. The appropriation of State General Funds is changed from \$100 million to \$25 million per year for four consecutive fiscal years beginning July 1, 2006, and ending June 30, 2010. The account name is changed from "Energy Freedom Loan Account" to "Energy Freedom Account."

Appropriation: The sum of \$25 million from the Energy Freedom Loan Account is appropriated to the DCTED for the fiscal year beginning July 1, 2006.

Fiscal Note: Fiscal note requested on substitute on January 26, 2006.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for sections 1 through 11 and section 15, relating to the Energy Freedom Program and the state expenditure limit, which takes effect July 1, 2006, and section 12, relating to the state expenditure limit, which takes effect July 1, 2007.

Testimony For: The Energy Freedom Program is timely. Our state's energy supply is in flux; prices will only continue to go up. There needs to be research funds to explore alternative energy sources. We need to subsidize all forms of energy. These loan programs

will encourage the development of these alternative energy industries in the state. All of these biofuel bills have common goals: energy independence; growing and diversifying a rural economy; keeping economic benefits in the state. This loan program will help fund the crushing infrastructure for biodiesel.

Testimony Against: None.

Persons Testifying: (In support) Representative Dunshee; Jim Armstrong, Spokane County Conservation District; John Plaza, Seattle Biofuels; Jay Gordon, Washington State Dairy Federation; and Dave Warren, Washington Public Utility Districts Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 19 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Buri, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Chandler, Clements, Hinkle, Pearson, Priest and Talcott.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Technology, Energy & Communications:

The requirement that the Energy Freedom Board (Board) establish a peer review committee is removed. The allowable loan deferral period is increased from 12 months to 24 months. The Board is authorized to award grants to public research institutions for the research and development of renewable energy and biofuel sources, as well as markets for alternative fuel byproducts. Adequate reporting and disclosure of financial and employment data by applicants is required. The Board may require annual or other periodic audits of project books. The Board is authorized to cancel or suspend grants or loans to political subdivisions given certain circumstances. The requirement that no more than 1 percent of amounts in the Energy Freedom Account be used for administrative costs is removed. Transfers from the State General Fund to the Energy Freedom Account and the appropriations from the Energy Freedom Account are removed. Language pertaining to the I-601 expenditure limits is removed. A declaration is added that the state constitution's prohibition on the lending of public credit and the gift of public funds prohibit such a loan or gift in the administration of the Energy Freedom Program.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Second Substitute Bill: The bill takes effect July 1, 2006.

Testimony For: Thanks to the sponsors of this bill for recognizing that the state needs to create a financial infrastructure for these bioenergy projects. We need the state to share the financial risk with producers to see the biomass industry through its infancy. Loans should be offered below prime interest rates. Producers can already access capital through the state's industrial revenue bond system at several points below the market rate. The program the state creates should parallel IRB rates. Loan eligibility should not hinge on a credit analysis of the participating producers. Most ventures include new entities without a credit history, and farmers typically have complex and unconventional financial arrangements they are not eager to explain to outsiders. The credit analysis component could cause worthy applicants to pass on the state's program. The state already issues Industrial Revenue Bonds through the Washington Economic Development Finance Authority, but the capital is about \$10 million to \$25 million for exempt projects. This is too little for most commercial renewable energy projects. We propose the state hand its bonding capacity to government subdivisions so they could issue bonds in the \$25 to \$30 million range, to get to the level of financing that these projects need. The state can effectively lend capital to these projects without committing itself to large expenditures. These investments will take more commitment than conventional loan programs. The state should give loans at 3.5 to 4 percent and relax the terms and restrictions until they are inviting to farmers and other entrepreneurs. Plan on putting a mechanism into this program to allow the state to put its weight behind local economic development agencies. This bill is a powerful tool to help create strong public-private partnerships around the emerging biodiesel industry.

Testimony Against: None.

Persons Testifying: (In support) Kevin Fullerton, Institute for Washington's Future; and Kevin Raymond, Washington Biodiesel.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass and do not pass the second substitute bill by Committee on Appropriations. Signed by 22 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake, Chase, Eickmeyer, Ericks, Flannigan, Green, Hasegawa, Kretz, Lantz, McCune, Moeller, Morrell, Newhouse, O'Brien, Schual-Berke, Springer, Strow and Upthegrove.

Minority Report: Do not pass. Signed by 6 members: Representatives Clements, Cox, Ericksen, Kristiansen, Roach and Serben.

Staff: Susan Howson (786-7142).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Appropriations:

Of the total financial assistance provided by the Board to political subdivisions, not more than 10 percent may be in the form of grants. Loans are limited to a maximum of \$5 million per project and the Board is prohibited from funding more than 50 percent of a project. Applicants are required to provide evidence that a project will result in a positive net energy output, if applicable. The Board is authorized to provide financial assistance for small commercial energy audits or retrofits. A transfer of up to \$25 million is authorized from the public utility tax to the Energy Freedom Account. A null and void clause is added, under which a transfer must be made from the State General Fund to the Energy Freedom Account in the operating budget for the bill to take effect.

Appropriation: None.

Fiscal Note: Requested on February 7, 2006.

Effective Date of Third Substitute Bill: The bill takes effect July 1, 2006. However the bill is null and void if not funded in the budget.

Testimony For: None.

Testimony Against: None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.