

HOUSE BILL REPORT

ESSB 5348

As Passed House:

April 13, 2005

Title: An act relating to maintenance and repair of electrical appliances by a public utility district.

Brief Description: Authorizing certain PUDs to operate an electrical appliance repair service.

Sponsors: By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Pridemore, Kastama, Fraser and Kline).

Brief History:

Committee Activity:

Technology, Energy & Communications: 3/31/05 [DP].

Floor Activity:

Passed House: 4/13/05, 51-45.

Brief Summary of Engrossed Substitute Bill

- Authorizes certain public utility districts (PUDs) to operate an electrical appliance repair service.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: Do pass. Signed by 6 members: Representatives Morris, Chair; Kilmer, Vice Chair; Ericks, Hudgins, Takko and Wallace.

Minority Report: Do not pass. Signed by 4 members: Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Nixon and Sump.

Staff: Sarah Dylag (786-7109).

Background:

For nearly 60 years, Clark Public Utilities, also known as Clark County Public Utility District, has repaired major electrical appliances, such as central furnaces, heat pumps, and ovens. The utility offers the repair service to promote conservation and energy efficiency. The utility does not generally sell or lease appliances, although it sometimes sells water heaters.

In 1998, an opinion issued by the Washington State Attorney General concluded that PUDs do not have the legal authority to repair appliances other than those they sell or lease.

In 2002, a trial court permanently enjoined Clark Public Utilities from repairing appliances, declaring the utility did not have the legal authority to repair electrical appliances other than those it sold or leased. The court stayed the injunction pending appeals. The state Court of Appeals affirmed the trial court's decision in 2003. The utility appealed to the state Supreme Court, which accepted the case and heard oral arguments on January 19, 2005. An opinion is expected this year.

Summary of Bill:

Among other things, the Legislature recognizes the long tradition of repairing appliances by certain public utility districts. The Legislature also understands that the repair services help citizens save money and energy. The intent of the Legislature is to have these services be financially self-supporting and not subsidized by any other customer rate structures.

Any public utility district that has operated an electrical appliance repair service for at least 10 years prior to the effective date of this act, may continue to operate an electrical appliance repair service within its service district.

When a PUD operates an electrical appliance repair service, it must do the following:

- charge a true and fair cost for the service;
 - keep public financial records on the service; and
 - develop and use measures to evaluate the performance of the service.
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Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill applies to an existing program that has been around for 66 years. The bill does not involve internet or telecommunications services. This is not a question about whether Clark Public Utilities should provide this service. This is about whether they can provide the service. The current court case on this issue is not about competition with the private sector; it is about whether the Legislature has authorized the service. This bill provides that authorization.

This is a case of market failure. The PUD provides the service because the private sector is not meeting consumer needs. The PUD provides a valuable service.

This bill allows locally elected officials to determine whether it is in the best interest of customers to continue providing this service. Clark Public Utilities repair service has co-existed with the private sector for 60 years. The repair is only for large, existing heating and cooling appliances, the largest portion of a customer's electric bill. This is a one-of-a-kind service and serves more than 14,000 customer-owners.

Clark Public Utilities does take out permits when work requires a permit, particularly changing water heaters. Technicians are licensed and receive training. They do high quality, professional, and safe work.

Testimony Against: The state should not intervene in a rule that already exists and works well for other public utility districts. Clark County should not be made the exception to the rule. This is not the same as the state intervening to make sure people have a necessary service. There are private companies that serve the population, offering senior discounts, low income discounts, and competitive pricing.

There is a perception that private heating contractors are price gouging and that is not true. The private sector can and does provide good service. This bill is not favorable to small businesses and demonstrates that the state is not in favor of small business. This bill does not promote free and fair competition.

Operation of this service by Clark Public Utilities is an illegal service. Courts have decided that this is illegal. This bill sets a precedent for funneling taxpayer dollars into an illegal business. In addition, what happens if other counties start doing the same thing? There is concern that this will set precedent for other PUDs.

When the PUD offers this service, there is a risk that the PUD will subsidize the service. It is difficult to accomplish having this part of the PUD be unsubsidized. Even if the PUD operations are open to public scrutiny, this bill will just open things up to more legal scrutiny and challenge. In addition, what happens if this bill passes and the services are subsidized by the PUD? What are the penalties?

Marketing resources should be considered. The Clark Public Utilities website has excessive advertising for these service and also provides mailing inserts advertising the issue. Private companies cannot do the same. Consumers hooking up electricity in the PUD are immediately notified by the PUD about these services. Consumers have no reason to research the other options.

The people of the county can be served without this bill being passed. There are plenty of people willing to provide service to consumers.

The concern here should be with what is in the consumer's best interest. The state should enforce current law. There are licensing and certification laws related to providing this service and they should be enforced. There is concern that the PUD is sending unlicensed people to do work and that is not legal. There is also concern about permitting and whether the PUD is following the permitting rules.

There should be a better definition of "appliance" in the bill. There should also be a limitation that the service only applies to low income customers.

Persons Testifying: (In support) Senator Pridemore, prime sponsor; and Robin Appleford, Nancy Barnes, and Rick Cantonwine, Clark Public Utility District.

(Opposed) Teri and Jeff Miller, Miller's Heating; Rabyeen and Ryan Albertus, Albatross Heating and Air Conditioning; Cliff Poe, A-Beatitudes Heating and Cooling; David Adams, All Phase Heating; Greg Nolan, Nolan Heating and Air; Tena Risley, Inland Northwest Heating Ventilation and Air Conditioning Training Center; Nathan Kysar, Nate's Plumbing, Incorporated; and Earl Gooch.

(Available for questions) Ron Fuller, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.