

CHAPTER 522

[Substitute House Bill No. 425]
DISTRICT HEATING SYSTEMS

AN ACT Relating to district heating systems; and amending RCW 80.62.010, 80.62.020, 35.97.020, and 35.97.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 94, Laws of 1983 and RCW 80.62.010 are each amended to read as follows:

The legislature finds that traditional utility regulation may pose unnecessary barriers to ~~((: (1) The widespread and rapid utilization of Washington's geothermal heat resource for district heating purposes, and (2) the efficient use of biomass materials and waste heat sources for district heating purposes))~~ using Washington's heat sources for district heating purposes. The legislature further finds that regulation may be necessary to protect the interests of the public in securing adequate heating services from these heat sources at reasonable cost. Therefore, it is the intent of the legislature and the purpose of this chapter to provide a streamlined permitting system which will encourage development and efficient utilization and distribution of heat while continuing to provide reasonable customer protections.

Sec. 2. Section 2, chapter 94, Laws of 1983 and RCW 80.62.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biomass ~~((materials))~~ energy system" means a system that provides for the production or collection of organic materials such as wood and agricultural residues and municipal solid waste that are primarily ((waste)) organic materials and the conversion or use of such ((materials can be used to generate heat directly)) material for the production of heat or substitute fuels through several processes including, but not limited to, burning, pyrolysis, or anaerobic digestion.

(2) "Geothermal heat" means the natural thermal energy of the earth.

(3) "Heat" means thermal energy.

(4) "Heat source" includes but is not limited to ~~((:))~~ (a) ~~((Generators of waste heat; (b) geothermal wells or springs; (c) combustion of biomass materials; or (d) collection of solar heat))~~ any integral part of a heat production or heat rejection system of an industrial facility, cogeneration facility, or electric power generation facility, (b) geothermal well or spring, (c) biomass energy system, (d) solar collection facility, and (e) hydrothermal resource or heat extraction process.

(5) "Heat supplier" means any private person, company, association, or corporation engaged or proposing to engage in developing, producing,

transmitting, distributing, delivering, furnishing, or selling to or for the public heat from a heat source for any beneficial use other than electricity generation.

(6) "Commission" means the utilities and transportation commission.

(7) "Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of cogeneration by a person or corporation.

(8) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source.

(9) "Waste heat" means the thermal energy which otherwise would be released to the environment from an industrial process, electric generation, or other process.

(10) "Hydrothermal resource" means the thermal energy available in wastewater, sewage effluent, wells, or other water sources, natural or manmade.

*Sec. 3. Section 1, chapter 216, Laws of 1983 and RCW 35.97.020 are each amended to read as follows:

(1) It is the intent of the legislature that heating systems authorized pursuant to this chapter be developed in a way that minimizes any long-term rate impacts on customers of existing utilities.

(2) Counties, cities, towns, irrigation districts which distribute electricity, sewer districts, water districts, ((and)) port districts, and metropolitan municipal corporations are authorized pursuant to this chapter to establish heating systems and ((provide)) supply heating services from Washington's heat sources ((including, but not limited to, geothermal heat, steam or water heated by a biomass energy system, waste heat, and energy from a cogeneration facility)).

(3) Before a municipality may establish by ordinance a heating system or supply heating services, it shall conduct a public hearing and assess the long-term impacts on rates of utility customers in the area proposed to be served.

(4) Nothing in this chapter authorizes any municipality to generate, transmit, distribute, or sell electricity.

*Sec. 3 was partially vetoed, see message at end of chapter.

Sec. 4. Section 2, chapter 216, Laws of 1983 and RCW 35.97.010 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biomass energy system" means a system that provides for the production or collection of organic materials such as wood and agricultural residues and municipal solid waste that are primarily ((waste)) organic materials and the conversion or use of that material for the production of ((energy)) heat or substitute fuels through several processes including, but not limited to, burning, pyrolysis, ((distillation,)) or anaerobic digestion.

(2) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source.

(3) "Cogeneration facility" means any machinery, equipment, structure, process, or property or any part thereof, installed or acquired for the primary purpose of cogeneration by a person or corporation.

(4) "Geothermal heat" means the natural thermal energy of the earth.

(5) "Waste heat" means the thermal energy which otherwise would be released to the environment from an industrial process, electric generation, or other process.

(6) "Heat" means thermal energy.

(7) "Heat source" includes but is not limited to (a) any integral part ((or process)) of a heat production or heat rejection system of an industrial facility, cogeneration facility, or electric power generation facility, (b) geothermal well or spring, (c) biomass energy system, (d) solar collection facility, and (e) hydrothermal resource or ((energy)) heat extraction process.

(8) "Municipality" means a county, city, town, ((sewer district, water district, port district, or)) irrigation district which distributes electricity, sewer district, water district, port district, or metropolitan municipal corporation.

(9) "Heating facilities or heating systems" means all real and personal property, or interests therein, necessary or useful for: (a) The acquisition, production, or extraction of heat; (b) the storage of heat; (c) the distribution of heat from its source to the place of utilization; (d) the extraction of heat at the place of utilization from the medium by which the heat is distributed; (e) the distribution of heat at the place of utilization; and (f) the conservation of heat.

(10) "Hydrothermal resource" means the thermal energy available in wastewater, sewage effluent, wells, or other water sources, natural or manmade.

Passed the House April 20, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor May 19, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 19, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 3(1) and 3(3), Substitute House Bill No. 425, entitled:

"AN ACT Relating to district heating systems."

The intent of the legislation, as stated in section 1, is "to provide a streamlined permitting system which will encourage development and efficient utilization and distribution of heat while continuing to provide reasonable consumer protections." Section 3(1) and 3(3) contradict this intent.

Section 3(1) states that the intent of the legislation is to minimize "any long-term rate impacts on customers of existing utilities." While harmful impacts should be minimized, I do not believe that beneficial impacts should be limited. Further, limiting consumer benefits contradicts the legislative intent of consumer protection.

Section 3(3) requires that public hearings be used to determine the effects district heating have on long-term utility rates. State law currently provides consumer protection by (1) requiring the establishment of district heating only by municipal legislative ordinance and (2) requiring the legislative authority to estimate consumer costs of such a system (RCW 35.97.050-060). Instead of streamlining the permitting system, section 3(3) retards the advancement of district heating while not furthering consumer protection.

With the exception of sections 3(1) and 3(3), Substitute House Bill No. 425 is approved."

CHAPTER 523

[Engrossed Senate Bill No. 5556]

FLOOD CONTROL

AN ACT Relating to flood control; amending RCW 86.16.010, 86.16.020, 86.16.035, 43.27A.200 and 43.83B.320; adding new sections to chapter 86.16 RCW; and repealing RCW 86.16.027, 86.16.030, 86.16.040, 86.16.050, 86.16.060, 86.16.065, 86.16.067, 86.16.070, 86.16.080, 86.16.085, 86.16.090, 86.16.100, 86.16.110, 86.16.130, and 86.16.170.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 159, Laws of 1935 and RCW 86.16.010 are each amended to read as follows:

The legislature finds that the alleviation of recurring flood damages to public and private property(;) and to the public health and safety(;-and to the development of the natural resources of the state is declared to be) is a matter of public concern(;-and). As an aid in effecting such alleviation the state of Washington, in the exercise of its sovereign and police powers, hereby assumes full regulatory control over the navigable and nonnavigable waters flowing or lying within the borders of the state subject always to the federal control of navigation, to the extent necessary to accomplish the objects of this chapter. In addition, in an effort to alleviate flood damage and expenditures of government funds, the federal government adopted the national flood insurance act of 1968 and subsequently the flood disaster protection act of 1973. The department of ecology is the state agency in Washington responsible for coordinating the floodplain management regulation elements aspects of the national flood insurance program.

Sec. 2. Section 3, chapter 159, Laws of 1935 and RCW 86.16.020 are each amended to read as follows:

((State regulatory control)) State-wide floodplain management regulation shall be exercised through ((regulatory orders, the designation of flood control zones and the issuance of permits, as hereinafter provided, and)); (1) Local governments' administration of the national flood insurance program regulation requirements, (2) the establishment of minimum state requirements for floodplain management, (3) the administration of floodplain management programs for local jurisdictions not participating in or meeting the requirements of the national flood insurance program, and (4) through the issuance of regulatory orders. This regulation shall be exercised over the