
SECOND SUBSTITUTE HOUSE BILL 1035

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Morris, Hudgins, Eickmeyer, Linville and B. Sullivan)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to anaerobic digestion power; adding a new chapter
2 to Title 43 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature declares it to be a clear
5 public purpose and governmental function to promote anaerobic digestion
6 as both a waste treatment technology and a sustainable energy-producing
7 technology. The legislature finds that anaerobic digester projects in
8 the state provide numerous environmental benefits; they reduce odors
9 from organic waste, control pathogens, minimize sludge production,
10 conserve nutrients, and reduce greenhouse gas emissions. In addition
11 to providing environmental benefits, anaerobic digestion produces power
12 using a clean, renewable resource. Encouraging the development of
13 anaerobic digestion power will reduce the state's reliance on other
14 fossil fuel-based sources to meet existing and projected load
15 requirements, which provides a substantial benefit to the citizens of
16 the state.

17 Despite the numerous environmental and energy-producing benefits
18 that result from anaerobic digester projects, many potential anaerobic
19 digester projects are not pursued in this state because of the high

1 capital costs for construction of such projects. Therefore, it is the
2 intent of the legislature to establish a clean streams grant program to
3 assist anaerobic digestion power producers by bringing down the cost of
4 the initial capital investment.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Anaerobic digester project" means a facility that processes
8 animal manure or agricultural waste into biogas and dried manure using
9 microorganisms in a decomposition process within a closed, oxygen-free
10 container.

11 (2) "Department" means the department of community, trade, and
12 economic development.

13 (3) "Director" means the director of the department of community,
14 trade, and economic development.

15 (4) "Power producer" means an individual or business that generates
16 power from an anaerobic digester located in the state, or an individual
17 or business that anticipates generation of power from an anaerobic
18 digester located in the state upon completion of the anaerobic digester
19 project.

20 NEW SECTION. **Sec. 3.** (1) In order to be eligible for a grant
21 under section 4 of this act, a person or entity that is in the process
22 of developing an anaerobic digester project in this state must, prior
23 to completion of the project, submit a call for subscriptions seeking
24 a power purchase agreement offer from an electric utility to purchase
25 power from the anaerobic digester project.

26 (2) Once a power purchase agreement offer has been made by a
27 potential purchaser, the power producer must ask their local electric
28 utility for transmission access to wheel the power from the generation
29 site to the potential purchaser who submitted the highest bid, if the
30 highest bid was not made by the local electric utility.

31 (3) If an agreement for transmission access cannot be reached
32 between the local electric utility and the power producer, the power
33 producer may send a written purchase request to the local electric
34 utility to request that the utility purchase the output of the
35 anaerobic digester project at the utility's avoided cost as required

1 under applicable federal law that obligates the utility to purchase
2 power from a qualifying facility.

3 (4) Once a power producer has secured a power purchase agreement
4 offer from a potential purchaser and has secured transmission access
5 for the power, the power producer may send a request to the department
6 to apply for a clean streams grant.

7 NEW SECTION. **Sec. 4.** (1) The department shall establish a clean
8 streams grant program to encourage the construction of anaerobic
9 digester projects in the state. A grant may be awarded to a producer
10 of anaerobic digester power that seeks assistance to pay for the
11 capital costs associated with their initial investment that have not
12 been satisfied by other funding sources.

13 (2) A power producer may apply for a clean streams grant by
14 submitting (a) the power purchase agreement offer between the power
15 producer and the purchaser, including the estimated revenue over the
16 life of the contract, and (b) a detailed analysis of the initial
17 capital investment cost of the anaerobic digester project.

18 (3) The department shall review applications from eligible power
19 producers. At a minimum, a power producer must meet the following
20 criteria in order to be eligible to participate in the grant program:

21 (a) The power producer is carrying original debt on the initial
22 capital investment in the anaerobic digester project that has not been
23 satisfied by other federal, state, or private funding sources;

24 (b) The power producer has secured a power purchase agreement offer
25 from a potential purchaser for the electricity; and

26 (c) The power producer was unable to secure sufficient revenue from
27 a potential purchaser to recover the initial capital investment over
28 the length of the power purchase agreement offer.

29 (4)(a) In determining the amount of the grant award, the department
30 shall review an applicant's power purchase agreement offer. Any grant
31 award determined by the department must supply the power producer with
32 no more than the power producer's cost to finance the initial capital
33 investment during the period of the power purchase agreement, minus the
34 revenue to be generated by the power purchase agreement offer between
35 the power producer and the potential purchaser, and minus any federal,
36 state, or private funding received for the anaerobic digester project.

1 (b) The grant award shall be based upon the annual electricity
2 output of the anaerobic digester project. The grant will be reviewed
3 annually. Upon review, the grant award may be adjusted to reflect
4 actual power produced for the previous year as compared to the
5 projected amount of power used to calculate the amount of the original
6 grant award.

7 (5) Once the department determines that a grant application
8 satisfies the criteria outlined in subsection (3) of this section, the
9 department shall, within sixty days, make a decision on whether to
10 offer a grant to the power purchaser. If the department decides to
11 extend a grant to a power producer, the grant award shall be contingent
12 on the power producer demonstrating actual production of power from the
13 anaerobic digester project.

14 (6) The department may adopt rules as necessary to implement the
15 grant award process under this section.

16 (7) Availability of grant funding from the department is contingent
17 on the availability of specific appropriations. If appropriations are
18 insufficient to cover all anaerobic digestion projects applying for a
19 grant, the department may prioritize and prorate grant awards as
20 necessary.

21 NEW SECTION. **Sec. 5.** The clean streams and clear sky subaccount
22 is created in the energy freedom account. All receipts from
23 appropriations made to the clean streams and clear sky subaccount shall
24 be deposited into the subaccount. Expenditures from the subaccount may
25 be used only for projects and activities authorized under this chapter
26 and under the clear sky program established in chapter . . . (Proposed
27 Substitute House Bill No. 1036 (H-2262.2/07)), Laws of 2007. No more
28 than fifty percent of the moneys in the subaccount shall be used for a
29 single program or technology.

30 NEW SECTION. **Sec. 6.** If specific funding for the purposes of this
31 act, referencing this act by bill or chapter number, is not provided by
32 June 30, 2007, in the omnibus appropriations act, this act is null and
33 void.

1 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
2 a new chapter in Title 43 RCW.

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