

# SENATE BILL REPORT

## SB 5441

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As of February 10, 2009

**Title:** An act relating to creating incentives for the use of biomass in renewable energy production.

**Brief Description:** Creating incentives for the use of biomass in renewable energy production.

**Sponsors:** Senators Eide, Zarelli, Marr, Honeyford, Hargrove, Morton, Hatfield, Holmquist, Schoesler, Sheldon, Delvin, Shin, Hewitt, Kline and Benton.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 2/06/09.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Staff:** William Bridges (786-7416)

**Background:** Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937, requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources.

Eligible Renewable Resource Targets. Each qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

Eligible Renewable Resource. "Eligible renewable resource" includes wind; solar; geothermal energy; landfill and sewage gas; wave and tidal power; and certain biomass and biodiesel fuels. Electricity produced from an eligible renewable resource must be generated in a facility that started operating after March 31, 1999. The facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Incremental electricity produced from efficiency improvements at hydropower facilities owned by qualifying utilities is also an eligible renewable resource, if the improvements were completed after March 31, 1999.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Business and Occupation Tax (B&O). The B&O tax is imposed on the gross receipts, income, or sales of a business operating in Washington. The tax rate varies depending on the classification of the business activity.

Sales and Use Taxes. Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. The use tax is paid directly to the Department of Revenue.

**Summary of Bill:** Expanding the Definition of Biomass Energy. The following are added to the definition of "biomass energy" in Initiative 937: (1) organic by-products of the pulping process or algae; (2) wooden demolition or construction debris; and (3) biogas produced from organic matter, wastewater, or anaerobic digesters.

Expanding the Definition of Eligible Renewable Resource. Biomass-generated electricity from a facility located in Washington that started operations before March 31, 1999, is an "eligible renewable resource" under Initiative 937.

Creating a B&O Tax Credit. A \$30 B&O credit is provided for each harvested green ton of forest-derived biomass that is sold, transferred, or used for the production of electricity, steam, heat, or biofuel. The exemption cannot be used for actions taken before October 1, 2009.

The terms "harvested" and "harvesters" are defined in the state laws governing property taxes on timber and forest lands. "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

Creating Tax Exemptions. Sales and use tax exemptions are created for forest-derived biomass used to produce electricity, steam, heat, or biofuel.

"Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

Compliance requirements are specified.

**Appropriation:** None.

**Fiscal Note:** Requested on February 4, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed. The tax incentives take effect on October 1, 2009.

**Staff Summary of Public Testimony:** PRO: The forestry industry is facing an economic crisis and this bill will help preserve jobs, promote healthy forests, and ensure CO2-neutral energy by encouraging the use of woody biomass. The forestry industry in eastern and western Washington is distressed, which is stressing rural local governments and social programs. This bill will help preserve the forestry industry and thereby help rural economies.

Because pulping liquor is not recognized as green power under Initiative 937, but is recognized as such in other states, the power being produced in many Washington biomass facilities is being exported out of state. Exported pulping-liquor power is being replaced in the state with more expensive power from wind and natural gas. The fiscal note is incorrect and should show zero impact because "forest derived biomass," unlike hog fuel, has no value and is not currently being sold.

**Persons Testifying:** PRO: Senator Eide, prime sponsor; Dave Andrew, Cowlitz PUD; Jack Baker, Energy NW; Tim Boyd, Boise Cascade, Vaagen Brothers Lumber; John Ehrenreich, Washington Forest Protection Association; Kevin Godbout, Weyerhaeuser; Dave McEntee, Simpson Investments; Robert Meier, Rayonier; Tom Nelson, Sierra Pacific Industries; Jerry Smedes, Cedar Grove Composting; Collins Sprague, Avista; Bill Stauffacher, NW Pulp & Paper Association, American Forest & Paper Association; Sean O' Sullivan, Association of Western Pulp and Paper Workers Union.