

SENATE BILL REPORT

SB 6672

As Reported by Senate Committee On:
Environment, Water & Energy, February 5, 2010

Title: An act relating to modifying the energy independence act.

Brief Description: Modifying the energy independence act.

Sponsors: Senator Rockefeller.

Brief History:

Committee Activity: Environment, Water & Energy: 1/26/10, 2/05/10 [DPS, DNP].

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: That Substitute Senate Bill No. 6672 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser, Marr, Oemig, Ranker and Sheldon.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin and Morton.

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.

Energy Conservation Assessments and Targets. Each qualifying electric utility must pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019, and update the assessments every two years for the next ten-year period. Beginning January 2010, each qualifying utility must meet biennial conservation targets that are consistent with its conservation assessments.

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:

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.

- 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.

For investor-owned utilities, the Washington Utilities and Transportation Commission (WUTC) is responsible for determining and enforcing compliance with the Initiative. For consumer-owned utilities, the State Auditor is responsible for auditing compliance with the Initiative and the Attorney General is responsible for enforcing compliance.

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.

Renewable Energy Credit (REC). A REC is a tradable certificate of proof of at least 1 megawatt hour of an eligible renewable resource where the generation facility is not powered by fresh water. Under Initiative 937, a REC represents all the nonpower attributes associated with the power. RECs can be bought and sold and they may be used during the year they are acquired, the previous year, or the subsequent year.

Carbon Credits. Reductions in greenhouse gas (GHG) emissions can be traded in the marketplace. When doing so, GHGs are traded according to their carbon dioxide equivalent, which is a measure of a gas's global warming potential compared to carbon dioxide. Carbon benefits that come from displacing other potential fossil fuel resources through electricity generation are included in a REC; however, carbon credits related to the removal of methane from the atmosphere can be sold separately from a REC.

Western Electricity Coordinating Council (WECC). WECC is a regional electric reliability council that coordinates and ensures the reliability of the Western Interconnection Bulk Power System. Its membership includes: transmission operators, utilities, utility customers, and state and provincial regulators. The WECC territory covers the provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of the 14 western states.

Summary of Bill (Recommended Substitute): Expanding the Geographic Boundaries for Eligible Renewable Resources and RECs. The geographic limitation for an eligible renewable resource, other than fresh water, is expanded from the Pacific Northwest to the WECC. The same expansion applies to RECs.

Expanding the Definition of Eligible Renewable Resource. The definition of eligible renewable resource is expanded to include the following: (1) incremental hydroelectric generation from equipment efficiency and operational improvements completed after March

31, 1999, to facilities in the Pacific Northwest whose power is marketed by the Bonneville Power Administration and where the improvements do not result in new diversions or increased water storage; however, the apportioning of operational efficiency claims are subject to Commerce rulemaking; (2) electricity from a biomass energy facility that started operating before March 31, 1999, and has been significantly modified after the effective date of this bill.

Increasing the Eligible Renewable Acquisition Targets. Each qualifying utility may use a combination of eligible renewable resources and RECs to meet the following renewable energy targets:

- at least 3 percent of a qualifying utility's load for the year 2012, and each year thereafter through December 31, 2015;
- at least 10.25 percent of a qualifying utility's load for the year 2016, and each year thereafter through December 31, 2019; and
- at least 16.25 percent of a qualifying utility's load for the year 2020, and each year thereafter.

Extending the Period a REC May be Banked. Qualifying utilities may use RECs generated during the target year, the preceding two years, or those that may be generated during the first three months of the subsequent year.

Clarifying the Definition of Cogeneration. In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer, if the cogeneration facility is designed to have a projected overall thermal conversion efficiency of at least 70 percent.

Creating an Apprenticeship Labor Multiplier. A qualifying utility that acquires an eligible renewable resource or REC may apply a multiplier up to 1.6 times its base value if the resource is acquired during the effective date of this act through December 31, 2013, from a facility that commenced operation during that same time period, and where the developer of the facility used approved apprenticeship labor programs.

Clarifying Self-Governance Provisions for Consumer-Owned Utilities. Applying the rules adopted by Commerce, the governing board of a consumer-owned utility is responsible for making determinations of compliance in meeting the conservation and renewable energy targets, including any determinations of alternative compliance. By June 1, 2013, and annually thereafter, a board must make available to the State Auditor its determination.

Modifying Reporting Requirements for Meeting Renewable Energy and Conservation Targets. By January 1, 2012, and annually thereafter, each qualifying utility must develop an implementation plan for meeting the renewable energy targets and must submit the plans to the appropriate state agency. By June 1, 2012, and annually thereafter, each qualifying utility must report to the appropriate state agency its progress in meeting the conservation targets. By June 1, 2013, each qualifying utility must report to the appropriate state agency its progress in meeting the renewable energy targets, and any alternative compliance determination made by the governing board of a consumer-owned utility must be included in the report.

Requiring Studies. By June 30, 2014, the Joint Legislative Audit and Review Committee must study the costs and benefits of the renewable and conservation targets under Initiative 937, including an examination of how the targets affect the following: (1) the cost of electricity for commercial, industrial, and residential customers of each qualifying utility; and (2) the development of renewable energy.

By December 1, 2013, Commerce must hire a mutually acceptable person or entity to study the feasibility of measuring hydroelectric power that is used to integrate an eligible renewable resource and whether classifying such hydroelectric power as an eligible renewable resource will further the purposes of Initiative 937. Before selecting the contractor, Commerce must consult specified interests, including qualifying utilities; large industrial customers; and organizations representing environmental interests.

EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute): Adds incremental operational hydroelectric generation. Changes the definition of significantly modified for pre-1999 biomass facilities. Removes reference to the Power Council Plan in existence on the effective date of this act. Removes the 20 percent renewable energy goal by 2024. Removes the solar multiplier. Removes allowance for blended conservation. Adds an apprenticeship labor multiplier up to 1.6 times. Modifies reporting requirements. Clarifies that implementation plans and progress reports must be submitted to either the WUTC or Commerce by specified dates. Clarifies self-governance provisions for consumer-owned utilities. Requires the WUTC and Commerce to implement rules by December 31, 2011.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: CON: For utilities, conservation is the cheapest and cleanest resource, and they do not understand why it is not favored in I-937; indeed, the initiative favors the purchase of RECs, which are a subsidy for the wind industry, over conservation. Qualifying utilities that are not BPA customers can already claim operational improvements from their dams, so why can't BPA customers claim operational improvements from the federal hydro system? Targets in the initiative should not be raised. In this economic downturn, the initiative requires some utilities to purchase power they do not need. Conservation should be allowed to compete head-to-head with renewables. Changing to the sixth power plan now would create problems for utilities and could subject them to penalties. Public governing boards should be able to determine their compliance with the initiative just like they can under the current emissions performance standard. The period of REC banking should be extended. The date for the studies is too far out. All the utilities, co-ops, industrial customers, and the Association of Washington Businesses are united this session. The provisions they are proposing are slimmed down from the conference report and do not justify an increase in the targets. Current blended conservation makes conservation four times more expensive than an equivalent unit of renewable power.

Because California's increased standards will require them to acquire Washington renewables, renewable prices will rise, and make it even more difficult to reach any increased target. Target dates need to be changed to accommodate REC banking provision.

OTHER: Last session ended in an ugly and contentious debate. Over the interim there has been a constructive and civil dialogue. The environmental community agrees with WECC-wide, vintage biomass, pulping liquors, and the 2024 goal - if the targets are raised as in the bill. The REC banking concept in the bill is agreeable but details need to be worked out. The sixth power plan provision is needed. Cannot agree to any blending of conservation other than the provision that is in the bill. The bill seems too modest to require an increase in the targets. The solar multiplier should not result in an increased standard for anyone else. The initiative should not be diluted. The state will need new resources to accommodate the growing population, changing climate, and the state's greenhouse gas goals. It is premature to change the initiative that will begin in 2012. There is no evidence that RPS has increased rates in other states. RPS promotes green jobs. The bill should actually require an increase in the targets by 1.7 percent instead of the 1.25 percent, so the current bill represents a concession by the environmental community. The apprenticeship labor multiplier should be increased to 1.6 percent to encourage renewable construction before federal incentives expire.

Persons Testifying: CON: Scott Bolton, PacifiCorp; Tim Boyd, Industrial Customers of NW Utilities; Kent Lopez, Washington Rural Electric Cooperatives; Kevin Lynch, Iberdrola Renewables; Chris McCabe, AWB; Noah Reandeau, NW Energy Efficiency Council; Randy Smith, Erik Poulsen, WPUDA; Dean Sutherland, Clark PUD and coalition spokesperson; Bryce Yadon, Tacoma Power.

OTHER: Blair Anundson, WashPIRG; Lee Anne Beres, Earth Ministry; Jessica Finn Coven, Climate Solutions; Cara Dolan, Environment Washington; Denny Eliason, PSE; Tim Gugerty, City of Seattle; Nancy Hirsh, NW Energy Coalition; Anne Marie Jehle, Arvia Morris, citizens; Kristen Sawin, Weyerhaeuser; Clifford Traisman, WA Conservation Voters, WA Environmental Council, and Renewable NW Project.