

SENATE BILL REPORT

ESB 5575

As Passed Senate, March 3, 2011

Title: An act relating to promoting and sustaining investment and employment in economically distressed communities dependent on agricultural or natural resource industries by recognizing certain biomass energy facilities constructed before March 31, 1999, as an eligible renewable resource.

Brief Description: Recognizing certain biomass energy facilities as an eligible renewable resource.

Sponsors: Senators Hatfield, Delvin, Eide, Schoesler, Haugen, Shin, Kilmer, Hobbs, Becker, Honeyford, Conway and Sheldon.

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 2/07/11 [DP].
Passed Senate: 3/03/11, 28-19.

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin, Ranking Minority Member; Becker, Haugen, Hobbs, Honeyford and Schoesler.

Staff: William Bridges (786-7416)

Background: Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937 (I-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.

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.

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. The term eligible renewable resource includes wind; solar; geothermal energy; landfill and sewage gas; wave and tidal power; and certain biodiesel fuels. The following biomass is also classified as an eligible renewable resource: animal waste and solid organic fuels from wood, forest, or field residues and dedicated energy crops. The following biomass is not an eligible renewable resource: wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; black liquor by-product from paper production; wood from old growth forests; and municipal solid waste.

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 one megawatt hour of an eligible renewable resource where the generation facility is not powered by fresh water. Under I-937, a REC represents all the nonpower attributes associated with the power. RECs can be bought and sold in the marketplace, and they may be used during the year they are acquired, the previous year, or the subsequent year.

Carbon Credits. In addition to RECs, reductions in greenhouse gas emissions can be traded in the marketplace. When doing so, greenhouse gases 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.

Washington Utilities and Transportation Commission (WUTC). The WUTC is a three-member commission that has broad authority to regulate the rates, services, and practices of investor-owned utilities. The commission regulates these utilities under a rate of return system, where a utility is generally allowed to charge rates that cover its costs, plus an opportunity to make a fair profit. The WUTC is charged with enforcing I-937 for investor-owned utilities.

Summary of Engrossed Bill: Supplementing the Definition of Biomass Energy. In addition to forms of biomass energy currently recognized in I-937, the following fuels are defined as biomass energy:

- organic by-products of pulping and the wood manufacturing process;
- wooden demolition or construction debris (not including treated wood);
- yard waste;
- food waste;
- biosolids; and
- liquors derived from algae and other sources.

Qualifying Certain Pre-1999 Biomass Facilities. Qualified biomass energy may be used to meet renewable resource targets under I-937. Qualified biomass energy means electricity produced from a biomass energy facility that meets the following criteria:

1. commenced operation before March 31, 1999; and
2. is located in an economically distressed community on January 1, 2011.

Defining Economically Distressed Community. An economically distressed community is a county in Washington with a three-year average unemployment rate equal to or greater than 120 percent of the state's unemployment rate, or a county adjacent to such a county.

Creating a REC Exception for Anaerobic Digesters. Anaerobic digesters are allowed to separate their nonpower attributes into RECs and carbon credits.

Limiting Actions by the WUTC. The WUTC is prohibited from considering this act in any proceeding concerning a company's decision to acquire or construct an eligible renewable resource during the period of January 1, 2011, through December 21, 2013. The term eligible renewable resource is defined in I-937.

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: PRO: The bill only applies to pre-1999 biomass facilities; it has nothing to do with garbage incineration or the proposed biomass facility near Shelton, Washington. The bill will cover Avista Utility's Kettle Falls biomass plant, which employs 29 people, 25 of which are union members. The Kettle Falls plant has an annual payroll of \$2.3 million and provides wages that are three times higher than the average wages in Stevens County. The following factors are affecting the economics of the Kettle Falls facility: fuel costs have risen over 500 percent in the last ten years; the radius of available fuel now exceeds 250 miles; and new EPA rules on boilers will be expensive to implement. This bill will provide the financial incentives to keep the plant open because Avista Utilities will be able to save \$50 million over three years by avoiding purchases of more expensive renewable power. Longview Fibre employs over 1000 persons in Longview, and pulping liquors currently fuel 20 percent of the plant's generated electricity. Because pulping liquors are not qualified renewable resource under I-937, the plant cannot bid on request for proposals seeking renewable energy. Many states consider pulping liquors as renewable, why not Washington? Two wood products plants in Cowlitz County employ around 2600

people and this bill will help preserve their jobs. The promoters of I-937 say the initiative promotes new green jobs, but there is nothing being done to preserve current jobs. When I-937 was adopted, the state was not in a recession and the March 1999 threshold was an arbitrary date. That date should not stand in the way of retaining existing jobs. Industrial customers need inexpensive and reliable electricity, which most renewable energy cannot provide. Electricity from pulping liquors is an exception. There are no comprehensive stakeholder negotiations this session on I-937.

CON: If the proposed Adage plant near Shelton runs out of hog fuel, it would not be capable of burning garbage without significant changes. It is incomprehensible that anyone would want to promote biomass or municipal solid waste as a fuel because it is unhealthy. The public should not suffer from the dangers of garbage incineration for the 24 jobs that Adage promises. The purpose of I-937 is to promote the development of new resources and thereby create jobs. The more pre-1999 renewable resources are allowed, the fewer jobs are created. This bill amounts to a setback of the I-937 targets and should not be done outside of a comprehensive framework. Biomass is a caveman technology that releases many contaminants when burned. The same goes for biosolids. Economically distressed communities are also entitled to clear air and water.

Persons Testifying: PRO: Dave Andrew, Cowlitz PUD; Tim Boyd, Industrial Customers of NW Utilities; Anthony Chavez, Weyerhaeuser; Chris McCabe, Assn. of WA Business; Pat Ortiz, Longview Fibre Paper & Packaging; Collins Sprague, Avista Corp.; Bill Stauffacher, NW Pulp & Paper Association.

CON: Nancy Hirsh, NW Energy Coalition; Constance Simpson, Patricia Vandehey, Conley Watson, citizens.