

SENATE BILL REPORT

SB 6396

As of January 25, 2012

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

Brief Description: Modifying the energy independence act.

Sponsors: Senators Ranker and Delvin.

Brief History:

Committee Activity: Energy, Natural Resources & Marine Waters: 1/23/12.

SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

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. Utilities that must comply with I-937 are called qualifying utilities.

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 and Compliance Dates. 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

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fuels. The following biomass is also classified as an eligible renewable resource: animal waste; 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, verified by the Western Renewable Energy Generation Information System, 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.

Alternative Compliance Methods. A qualified utility that fails to meet an annual target will still be considered in compliance with I-937 if any of the following exceptions apply: the failure was due to events beyond the reasonable control and anticipation of a qualified utility; the utility spent 4 percent of its total annual revenue needs to meet the eligible renewable resource targets; or the utility spent 1 percent of its total annual revenue requirement to meet the eligible renewable resource targets, had no increases in the demand for electricity for the previous three years, and did not sign any contracts for nonrenewable resources.

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.

Summary of Bill: Expanding the Definition of Eligible Renewable Resource. The following sources of energy are added as eligible renewable resources under I-937:

- electricity from a facility powered by spent pulping liquors, liquors derived from algae and other sources, food waste, and yard waste;
- hydroelectricity from facilities in the Pacific Northwest that commenced operations after March 31, 1999, where the facilities are built in existing impoundments or in water supply and wastewater systems;
- biomass electricity from facilities that commenced operation before March 31, 1999, if the facilities pay fees to the Department of Commerce (Commerce); and
- the proportionate share of a qualifying utility's incremental hydroelectricity from efficiency improvements to equipment completed after March 31, 1999, to projects

located in the Pacific Northwest, where the electricity is marketed by the Bonneville Power Administration.

Establishing a Fee for Pre-1999 Biomass. Any in-state biomass electricity generating facility that commenced operation before March 31, 1999, may be designated as an eligible renewable resource if it pays a fee to Commerce. The fee must be based on the thermal efficiency of the facility using a specified formula. The fees are deposited to the Green Energy Incentive Account, which must be used for a grant program to support clean energy transportation projects. The grant program is administered by Commerce in consultation with Innovate Washington, the Washington Department of Transportation, and regional transportation planning organizations.

Creating a REC Exception for Digesters and Others. Facilities that capture and destroy methane through a digester system, landfill gas collection system, or other mechanism are allowed to separate their nonpower attributes into RECs and other types of carbon reduction credits or offsets.

Allowing Conservation Banking. Conservation achieved in excess of a qualifying utility's biennial target may be used to meet the next biennial target.

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.

Changing Compliance Dates. The dates for complying with an eligible renewable acquisition target are moved from January 1 to December 31 of each compliance year.

Creating an Annual Eligible Renewable Acquisition Target After 2020. An annual target of 20 percent is established for each qualifying utility that must be met with eligible renewable resources or RECs, or a combination of both, to satisfy any increase in its load in excess of the load to which the 15 percent target on December 31, 2020, applies.

Providing Additional Compliance Methods. Beginning in 2016, a qualifying utility is considered in compliance with the 2016 and 2020 targets for acquiring eligible renewable resources if the utility determines it does not need to acquire additional power resources through 2020, and the utility spends 1 percent of its annual retail revenue requirement within its service territory on specified measures, such as low-income weatherization or electric vehicle infrastructure. If after making its determination, the qualifying utility does in fact acquire additional power resources prior to or after 2020, then the qualifying utility must eventually satisfy the targets as specified or invest 3 percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, RECs, or a combination of both.

Providing a Pre-Approval Process for Eligible Renewable Resources or Conservation Measures. Project proponents or non-investor-owned qualifying utilities may seek advisory opinions from WSU Energy Extension on whether a proposed resource would qualify as an eligible renewable resource or conservation measure under I-937. An advisory opinion

adopted by a governing body of a non-investor-owned qualifying utility is dispositive on that issue.

Appropriation: None.

Fiscal Note: Requested on January 22, 2012.
[OFM requested 10-year cost projection pursuant to I-960.]

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 is moving in the right direction by recognizing new renewables, increasing flexibility, and offering cost relief. Clean energy can attract businesses. The biomass fee needs more work; for example, the current language sets too high a bar. Weyerhaeuser is the second largest employer in Cowlitz County, and it has a contract to supply half of Cowlitz PUD's renewable energy requirements. Recognizing black liquor and legacy biomass will help Weyerhaeuser meet its obligations to the PUD and will allow the company to successfully compete in the global economy. The 2020 increase is premature and the prequalification language needs to be strengthened.

CON: All the parties are trying to seek a balance, but every change to I-937 creates winners and losers. An increase in the 2020 standard is necessary to maintain balance among all the competing stakeholder interests. The initiative is responsible for billions of dollars of renewable investments, the creation of hundreds of jobs, and millions of dollars in increased tax revenues. Washington is one of 27 states that has a renewable portfolio standard (RPS), and it has increased conservation efforts in the state. The RPS is also an important tool in helping the state achieve its greenhouse gas targets. Utility loads have grown historically, so changes to I-937 should not be based on the current economic trough. Recognizing conservation banking and Bonneville Power Administration (BPA) incremental hydropower is good, but ratepayers should not be forced to pay for power they do not need. There should be no 2020 standards. Small hydropower projects should be recognized. The relief offered in the bill is too limited and the targets should not be increased. The 20 percent standard is confusing and the off ramps could be subject to gaming by a clever utility. PSE and industrial customers support BPA's proposal that hydropower displacing wind be recognized as an eligible renewable resource. The geography for eligible renewable should be expanded and the banking period for RECs should be increased.

OTHER: BPA is actively engaged in settlement talks with wind generators. But BPA still requests that hydropower displacing wind be recognized as an eligible renewable resource because it would reduce costs to BPA's rate payers. In the past year, the state has gone from 12 wood product mills to ten, with thousands of jobs lost. In a very competitive global marketplace, the remaining mills are burdened by purchases of expensive renewable power. Certain industrial efficiencies should be recognized as conservation measures and the pre-qualification process should be strengthened. Food processing residues is a better term than food waste. Wooden construction debris should be recognized. The RPS was passed when the economy was doing well so the targets are now unrealistic. The more successful a utility's conservation program the more likely it needs to raise rates to purchase renewable

power it does not need. Clark PUD will spend more than \$10 million this year on renewable electricity its customers will never use. Last year, Clark PUD bought wind power at \$85 a megawatt hour (MWh) plus transmission and shaping costs and sold it for \$19 MWh. Because of its I-937 obligations, Clark PUD raised its rates by 3.9 percent last year, and it is small businesses and low-income customers that are most harmed by these rate increases.

Persons Testifying: PRO: Anthony Chavez, Weyerhaeuser; Steve Gano, Longview Fibre; Keith Phillips, Governor's Office.

CON: John Audley, Renewable NW Project; Courtney Barnes, Assn. of WA Business; Tim Boyd, Industrial Customers of NW Utilities; Kathleen Collins, PacifiCorp; Nancy Hirsh, NW Energy Coalition; Susan Innis, Vestas; Ken Johnson, PSE; Kent Lopez, Washington Rural Electric Cooperatives; Kevin Lynch, Iberdrola Renewables; Miguel Perez-Gibson, Climate Solutions; Clifford Traisman, WA Conservation Voters, WA Environmental Council, Renewable NW Project; Brenda White, Snohomish PUD.

OTHER: Dave Arbaugh, Chelan PUD; Dan Coyne, NW Food Processors Assn., Simpson Paper; Rose Feliciano, Seattle City Light; Clif Finch, Benton PUD, Franklin PUD; Liz Klumpp, BPA; Robert Mack, Tacoma Public Utilities; Bill Stauffacher, American Forest & Paper Assn., NW Pulp & Paper Assn.; Dean Sutherland, Clark PUD.