

# SENATE BILL REPORT

## SSB 6414

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As Amended by House, February 29, 2012

**Title:** An act relating to creating a review process to determine whether a proposed electric generation project or conservation resource qualifies to meet a target under RCW 19.285.040

**Brief Description:** Creating a review process to determine whether a proposed electric generation project or conservation resource qualifies to meet a target under RCW 19.285.040.

**Sponsors:** Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senator Ranker).

**Brief History:**

**Committee Activity:** Energy, Natural Resources & Marine Waters: 2/02/12 [DPS].

Passed Senate: 2/14/12, 47-0.

Passed House: 2/29/12, 98-0.

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### SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

**Majority Report:** That Substitute Senate Bill No. 6414 be substituted therefor, and the substitute bill do pass.

Signed by Senators Regala, Vice Chair; Delvin, Ranking Minority Member; Morton, Ranking Minority Member; Hargrove, Murray, Stevens and Swecker.

**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.

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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.*

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 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.

Compliance Under I-937. Under I-937, the State Auditor is responsible for auditing the compliance of public utility districts and municipal utilities that are qualifying utilities. For cooperatives and mutual corporations that are qualifying utilities, an independent auditor selected by the qualifying utility is responsible for auditing compliance. In both cases, the Attorney General is responsible for enforcing compliance. For investor-owned utilities (IOUs), the Utilities and Transportation Commission (UTC) determines and enforces compliance.

Pre-Determinations of an Eligible Renewable or Conservation Resource. Before making an investment in an electric generation project or a conservation resource, an IOU may seek a predetermination of eligibility from the UTC by filing a petition for a declaratory order. Consumer-owned utilities do not have this option. However, any utility or project developer can seek an advisory opinion from the I-937 Technical Working Group staffed by the Department of Commerce (Commerce) and the UTC. The advisory opinions are not binding on the State Auditor or an independent auditor, nor do they supersede the declaratory order process available to IOUs.

**Summary of Substitute Bill:** Providing a Pre-Approval Process for Eligible Projects or Resources. Project proponents or consumer-owned qualifying utilities may seek advisory opinions from the Washington State University (WSU) Energy Extension Program on whether a proposed electric generation project or conservation resource would qualify under I-937. When forming its advisory opinion, WSU must: (1) consider, and may rely on, previous opinions issued by the I-937 Technical Working Group; (2) consult with the technical and legal staff of Commerce; and (3) solicit and consider comments from interested parties, including staff of the requesting utility. WSU must give priority to any application that previously received an affirmative advisory opinion from the I-937 Technical Working Group.

An advisory opinion adopted by the governing body of a consumer-owned qualifying utility that will use the project or resource is binding on the auditors responsible for determining compliance with I-937, but only if: (1) the advisory opinion affirmatively qualifies the project or resource; (2) the governing board of the consumer-owned utility that will use the project or resource adopts the advisory opinion after public notice and hearing; and (3) the project or resource is built or acquired as proposed. Furthermore, an electric generation project reviewed and adopted under this process may produce renewable energy credits as defined in I-937.

Authorizing Fees and Rules. WSU may charge application fees and may adopt rules to implement the pre-approval process.

Preserving the Independence of Consumer-Owned Utilities. The authority of any governing board of a consumer-owned utility to make an independent determination on whether a proposed electric generation project or conservation resource may qualify I-937 is preserved.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony:** None.

**Persons Testifying:** No one.

**House Amendment(s):** Specifies that Commerce, rather than WSU, is the entity that may issue an advisory opinion as to whether a proposed project or resource qualifies to meet a target under I-937.