
ENGROSSED SUBSTITUTE SENATE BILL 5575

State of Washington

62nd Legislature

2012 Regular Session

By Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Hatfield, Delvin, Eide, Schoesler, Haugen, Shin, Kilmer, Hobbs, Becker, Honeyford, Conway, and Sheldon)

READ FIRST TIME 01/23/12.

1 AN ACT Relating to promoting and sustaining investment and
2 employment in economically distressed communities dependent on
3 agricultural or natural resource industries by recognizing certain
4 biomass energy facilities constructed before March 31, 1999, as an
5 eligible renewable resource; amending RCW 19.285.030 and 19.285.040;
6 and creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that: (a) Pulping
9 liquors can be used to reduce harmful pollution and produce electricity
10 and thermal energy that enables pulp and paper facilities to be highly
11 energy efficient; (b) biomass facilities and pulp and paper mills are
12 typically located in communities that are disproportionately affected
13 by economic downturns; (c) mill closures have occurred throughout the
14 state for more than a decade and the remaining ones have become all the
15 more dependent on selling wood residuals, which are used for
16 electricity generation, in order to sustain their economic viability;
17 (d) employment at pulp and paper mills in the state has also declined
18 significantly, most recently in Grays Harbor and Snohomish counties;
19 (e) wood derived biomass is a renewable fuel for generating electricity

1 and considered carbon-neutral under the laws of the state of
2 Washington; and (f) using food processing residues, food waste, and
3 yard waste to generate renewable electricity can benefit rural
4 economies, decrease the amount of solid waste that requires disposal,
5 and reduce greenhouse gas emissions that result from organic decay.

6 (2) The legislature declares that, by promoting the generation of
7 renewable energy from biomass, particularly in economically distressed
8 communities, it intends to ensure greater economic stability for the
9 communities that have suffered heavy job losses and chronic
10 unemployment.

11 (3) The legislature further declares that: (a) The owners of
12 qualified biomass energy facilities that must comply with the renewable
13 energy standards under the energy independence act of 2006, either as
14 a matter of law or contractual obligation, should be permitted to use
15 qualified biomass energy credits to meet their obligations; and (b)
16 electricity that is generated by a biomass energy facility that entered
17 commercial operation after March 31, 1999, from the combustion of
18 organic by-products of pulping and the wood manufacturing process
19 should be treated as an eligible renewable resource.

20 **Sec. 2.** RCW 19.285.030 and 2009 c 565 s 20 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Attorney general" means the Washington state office of the
25 attorney general.

26 (2) "Auditor" means: (a) The Washington state auditor's office or
27 its designee for qualifying utilities under its jurisdiction that are
28 not investor-owned utilities; or (b) an independent auditor selected by
29 a qualifying utility that is not under the jurisdiction of the state
30 auditor and is not an investor-owned utility.

31 (3) "Commission" means the Washington state utilities and
32 transportation commission.

33 (4) "Conservation" means any reduction in electric power
34 consumption resulting from increases in the efficiency of energy use,
35 production, or distribution.

36 (5) "Cost-effective" has the same meaning as defined in RCW
37 80.52.030.

1 (6) "Council" means the Washington state apprenticeship and
2 training council within the department of labor and industries.

3 (7) "Customer" means a person or entity that purchases electricity
4 for ultimate consumption and not for resale.

5 (8) "Department" means the department of commerce or its successor.

6 (9) "Distributed generation" means an eligible renewable resource
7 where the generation facility or any integrated cluster of such
8 facilities has a generating capacity of not more than five megawatts.

9 (10) "Eligible renewable resource" means:

10 (a) Electricity from a generation facility powered by a renewable
11 resource other than freshwater that commences operation after March 31,
12 1999, where: (i) The facility is located in the Pacific Northwest; or
13 (ii) the electricity from the facility is delivered into Washington
14 state on a real-time basis without shaping, storage, or integration
15 services; ((or))

16 (b) Incremental electricity produced as a result of efficiency
17 improvements completed after March 31, 1999, to hydroelectric
18 generation projects owned by a qualifying utility and located in the
19 Pacific Northwest or to hydroelectric generation in irrigation pipes
20 and canals located in the Pacific Northwest, where the additional
21 generation in either case does not result in new water diversions or
22 impoundments; and

23 (c) Qualified biomass energy.

24 (11) "Investor-owned utility" has the same meaning as defined in
25 RCW 19.29A.010.

26 (12) "Load" means the amount of kilowatt-hours of electricity
27 delivered in the most recently completed year by a qualifying utility
28 to its Washington retail customers.

29 (13) "Nonpower attributes" means all environmentally related
30 characteristics, exclusive of energy, capacity reliability, and other
31 electrical power service attributes, that are associated with the
32 generation of electricity from a renewable resource, including but not
33 limited to the facility's fuel type, geographic location, vintage,
34 qualification as an eligible renewable resource, and avoided emissions
35 of pollutants to the air, soil, or water, and avoided emissions of
36 carbon dioxide and other greenhouse gases.

37 (14) "Pacific Northwest" has the same meaning as defined for the

1 Bonneville power administration in section 3 of the Pacific Northwest
2 electric power planning and conservation act (94 Stat. 2698; 16 U.S.C.
3 Sec. 839a).

4 (15) "Public facility" has the same meaning as defined in RCW
5 39.35C.010.

6 (16) "Qualifying utility" means an electric utility, as the term
7 "electric utility" is defined in RCW 19.29A.010, that serves more than
8 twenty-five thousand customers in the state of Washington. The number
9 of customers served may be based on data reported by a utility in form
10 861, "annual electric utility report," filed with the energy
11 information administration, United States department of energy.

12 (17) "Renewable energy credit" means a tradable certificate of
13 proof of at least one megawatt-hour of an eligible renewable resource
14 where the generation facility is not powered by freshwater((τ)). The
15 certificate includes all of the nonpower attributes associated with
16 that one megawatt-hour of electricity, and the certificate is verified
17 by a renewable energy credit tracking system selected by the
18 department.

19 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
20 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
21 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
22 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
23 on land cleared from old growth or first-growth forests where the
24 clearing occurred after December 7, 2006; ((and)) or (i) biomass energy
25 ((based on animal waste or solid organic fuels from wood, forest, or
26 field residues, or dedicated energy crops that do not include (i) wood
27 pieces that have been treated with chemical preservatives such as
28 creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black
29 liquor by-product from paper production; (iii) wood from old-growth
30 forests; or (iv) municipal solid waste)).

31 (19)(a) "Biomass energy" includes: (i) Organic by-products of
32 pulping and the wood manufacturing process; (ii) animal manure; (iii)
33 solid organic fuels from wood; (iv) forest or field residues; (v)
34 untreated wooden demolition or construction debris; (vi) food waste and
35 food processing residuals; (vii) liquors derived from algae; (viii)
36 dedicated energy crops; and (ix) yard waste.

37 (b) "Biomass energy" does not include: (i) Wood pieces that have

1 been treated with chemical preservatives such as creosote,
2 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth
3 forests; or (iii) municipal solid waste.

4 (20) "Qualified biomass energy" means electricity produced from a
5 biomass energy facility that: (a) Commenced operation before March 31,
6 1999; (b) contributes to the qualifying utility's load; and (c) is
7 owned either by: (i) A qualifying utility; or (ii) an industrial
8 facility that is directly interconnected with electricity facilities
9 that are owned by a qualifying utility and capable of carrying
10 electricity at transmission voltage.

11 (21) "Rule" means rules adopted by an agency or other entity of
12 Washington state government to carry out the intent and purposes of
13 this chapter.

14 ~~((+20))~~ (22) "Year" means the twelve-month period commencing
15 January 1st and ending December 31st.

16 **Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
17 as follows:

18 (1) Each qualifying utility shall pursue all available conservation
19 that is cost-effective, reliable, and feasible.

20 (a) By January 1, 2010, using methodologies consistent with those
21 used by the Pacific Northwest electric power and conservation planning
22 council in its most recently published regional power plan, each
23 qualifying utility shall identify its achievable cost-effective
24 conservation potential through 2019. At least every two years
25 thereafter, the qualifying utility shall review and update this
26 assessment for the subsequent ten-year period.

27 (b) Beginning January 2010, each qualifying utility shall establish
28 and make publicly available a biennial acquisition target for cost-
29 effective conservation consistent with its identification of achievable
30 opportunities in (a) of this subsection, and meet that target during
31 the subsequent two-year period. At a minimum, each biennial target
32 must be no lower than the qualifying utility's pro rata share for that
33 two-year period of its cost-effective conservation potential for the
34 subsequent ten-year period.

35 (c) In meeting its conservation targets, a qualifying utility may
36 count high-efficiency cogeneration owned and used by a retail electric
37 customer to meet its own needs. High-efficiency cogeneration is the

1 sequential production of electricity and useful thermal energy from a
2 common fuel source, where, under normal operating conditions, the
3 facility has a useful thermal energy output of no less than thirty-
4 three percent of the total energy output. The reduction in load due to
5 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
6 the fuel chargeable to power heat rate of the cogeneration facility
7 compared to the heat rate on a new and clean basis of a
8 best-commercially available technology combined-cycle natural gas-fired
9 combustion turbine; and (ii) counted towards meeting the biennial
10 conservation target in the same manner as other conservation savings.

11 (d) The commission may determine if a conservation program
12 implemented by an investor-owned utility is cost-effective based on the
13 commission's policies and practice.

14 (e) The commission may rely on its standard practice for review and
15 approval of investor-owned utility conservation targets.

16 (2)(a) Except as provided in (j) of this subsection, each
17 qualifying utility shall use eligible renewable resources or acquire
18 equivalent renewable energy credits, or ((a)) any combination of
19 ((~~both~~)) them, to meet the following annual targets:

20 (i) At least three percent of its load by January 1, 2012, and each
21 year thereafter through December 31, 2015;

22 (ii) At least nine percent of its load by January 1, 2016, and each
23 year thereafter through December 31, 2019; and

24 (iii) At least fifteen percent of its load by January 1, 2020, and
25 each year thereafter.

26 (b) A qualifying utility may count distributed generation at double
27 the facility's electrical output if the utility: (i) Owns or has
28 contracted for the distributed generation and the associated renewable
29 energy credits; or (ii) has contracted to purchase the associated
30 renewable energy credits.

31 (c) In meeting the annual targets in (a) of this subsection, a
32 qualifying utility shall calculate its annual load based on the average
33 of the utility's load for the previous two years.

34 (d) A qualifying utility shall be considered in compliance with an
35 annual target in (a) of this subsection if: (i) The utility's weather-
36 adjusted load for the previous three years on average did not increase
37 over that time period; (ii) after December 7, 2006, the utility did not
38 commence or renew ownership or incremental purchases of electricity

1 from resources other than renewable resources other than on a daily
2 spot price basis and the electricity is not offset by equivalent
3 renewable energy credits; and (iii) the utility invested at least one
4 percent of its total annual retail revenue requirement that year on
5 eligible renewable resources, renewable energy credits, or a
6 combination of both.

7 (e) The requirements of this section may be met for any given year
8 with renewable energy credits produced during that year, the preceding
9 year, or the subsequent year. Each renewable energy credit may be used
10 only once to meet the requirements of this section.

11 (f) In complying with the targets established in (a) of this
12 subsection, a qualifying utility may not count:

13 (i) Eligible renewable resources or distributed generation where
14 the associated renewable energy credits are owned by a separate entity;
15 or

16 (ii) Eligible renewable resources or renewable energy credits
17 obtained for and used in an optional pricing program such as the
18 program established in RCW 19.29A.090.

19 (g) Where fossil and combustible renewable resources are cofired in
20 one generating unit located in the Pacific Northwest where the cofiring
21 commenced after March 31, 1999, the unit shall be considered to produce
22 eligible renewable resources in direct proportion to the percentage of
23 the total heat value represented by the heat value of the renewable
24 resources.

25 (h)(i) A qualifying utility that acquires an eligible renewable
26 resource or renewable energy credit may count that acquisition at one
27 and two-tenths times its base value:

28 (A) Where the eligible renewable resource comes from a facility
29 that commenced operation after December 31, 2005; and

30 (B) Where the developer of the facility used apprenticeship
31 programs approved by the council during facility construction.

32 (ii) The council shall establish minimum levels of labor hours to
33 be met through apprenticeship programs to qualify for this extra
34 credit.

35 (i) A qualifying utility shall be considered in compliance with an
36 annual target in (a) of this subsection if events beyond the reasonable
37 control of the utility that could not have been reasonably anticipated
38 or ameliorated prevented it from meeting the renewable energy target.

1 Such events include weather-related damage, mechanical failure,
2 strikes, lockouts, and actions of a governmental authority that
3 adversely affect the generation, transmission, or distribution of an
4 eligible renewable resource under contract to a qualifying utility.

5 (j)(i) Beginning January 1, 2016, only a qualifying utility that
6 owns or is directly interconnected to a qualified biomass energy
7 facility may use qualified biomass energy to meet its compliance
8 obligation under RCW 19.285.040(2).

9 (ii) A qualifying utility may no longer use electricity and
10 associated renewable energy credits from a qualified biomass energy
11 facility if the associated industrial pulping or wood manufacturing
12 facility ceases operation other than for purposes of maintenance or
13 upgrade.

14 (k) An industrial facility that hosts a qualified biomass energy
15 facility may only transfer or sell renewable energy credits associated
16 with its facility to the qualifying utility with which it is directly
17 interconnected with facilities owned by such a qualifying utility and
18 that are capable of carrying electricity at transmission voltage. The
19 qualifying utility may only use an amount of renewable energy credits
20 associated with qualified biomass energy that are equivalent to the
21 proportionate amount of its annual targets under (a)(ii) and (iii) of
22 this subsection that was created by the load of the industrial
23 facility. A qualifying utility that owns a qualified biomass energy
24 facility may not transfer or sell renewable energy credits associated
25 with qualified biomass energy to another person, entity, or qualifying
26 utility.

27 (3) Utilities that become qualifying utilities after December 31,
28 2006, shall meet the requirements in this section on a time frame
29 comparable in length to that provided for qualifying utilities as of
30 December 7, 2006.

31 NEW SECTION. Sec. 4. If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

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