
SENATE BILL 6154

State of Washington

63rd Legislature

2014 Regular Session

By Senators Chase and Kline

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1 AN ACT Relating to measures that will provide energy assistance for
2 low-income families within the framework of the energy independence
3 act; amending RCW 19.285.040 and 19.285.050; reenacting and amending
4 RCW 19.285.030; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the energy
7 independence act was enacted in 2006 with the objectives of
8 diversifying the state's renewable energy resource mix, to build upon
9 the state's strong foundation of clean energy through its hydropower
10 resources, to avoid the air pollution and climate changing impacts from
11 fossil-fueled power plants, and to create jobs and boost local
12 economies by encouraging investments in new renewable resources.

13 The legislature further finds that these objectives are already
14 beginning to be achieved. For example, after just one year tracking
15 energy efficiency under the energy independence act in 2010, the
16 state's conservation achievements are at an all-time high. The energy
17 independence act's renewable energy standards have generated over seven
18 billion dollars of new investment in renewable energy resources,
19 creating five thousand construction and two thousand two hundred

1 permanent jobs across Washington and the Pacific Northwest. All of the
2 electrical utilities subject to the energy independence act have met
3 the first benchmark under the energy independence act, resulting in six
4 hundred fifty average megawatts of new renewables, which is enough to
5 power more than one-half million homes.

6 The legislature further finds that the energy independence act can
7 achieve even greater levels of renewable resource generation and energy
8 conservation with modifications that recognize additional types of new
9 renewable generation and that provide greater incentives to maximize
10 utility investments in energy conservation, and therefore this act
11 contains such modifications.

12 The legislature further finds that, because lower income families
13 expend a far greater proportion of their income to provide electricity
14 and heat to their homes, it is a fundamental responsibility in all
15 state energy policies to ensure that this lifeline service is preserved
16 for the most vulnerable among us. Therefore, this act includes
17 provisions that provide utilities several incentives to increase energy
18 assistance to low-income families through mechanisms that recognize
19 these investments within the framework of the energy independence act.

20 **Sec. 2.** RCW 19.285.030 and 2013 c 158 s 1, 2013 c 99 s 1, and 2013
21 c 61 s 1 are each reenacted and amended to 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)(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.

1 (b) "Biomass energy" does not include: (i) Wood pieces that have
2 been treated with chemical preservatives such as creosote,
3 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth
4 forests; or (iii) municipal solid waste.

5 (4) "Coal transition power" has the same meaning as defined in RCW
6 80.80.010.

7 (5) "Commission" means the Washington state utilities and
8 transportation commission.

9 (6) "Conservation" means any reduction in electric power
10 consumption resulting from increases in the efficiency of energy use,
11 production, or distribution.

12 (7) "Cost-effective" has the same meaning as defined in RCW
13 80.52.030.

14 (8) "Council" means the Washington state apprenticeship and
15 training council within the department of labor and industries.

16 (9) "Customer" means a person or entity that purchases electricity
17 for ultimate consumption and not for resale.

18 (10) "Department" means the department of commerce or its
19 successor.

20 (11) "Distributed generation" means an eligible renewable resource
21 where the generation facility or any integrated cluster of such
22 facilities has a generating capacity of not more than five megawatts.

23 (12) "Eligible renewable resource" means:

24 (a) Electricity from a generation facility powered by a renewable
25 resource other than freshwater that commences operation after March 31,
26 1999, where: (i) The facility is located in the Pacific Northwest; or
27 (ii) the electricity from the facility is delivered into Washington
28 state on a real-time basis without shaping, storage, or integration
29 services;

30 (b) Incremental electricity produced as a result of efficiency
31 improvements completed after March 31, 1999, to hydroelectric
32 generation projects owned by a qualifying utility and located in the
33 Pacific Northwest (~~(or to hydroelectric generation in irrigation pipes~~
34 ~~and canals located in the Pacific Northwest,)) where the additional
35 generation (~~(in either case)~~) does not result in new water diversions
36 or impoundments;~~

37 (c) That portion of incremental electricity produced as a result of
38 efficiency improvements completed after March 31, 1999, attributable to

1 a qualifying utility's share of the electricity output to hydroelectric
2 generation projects whose energy output is marketed by the Bonneville
3 power administration where the additional generation does not result in
4 new water diversions or impoundments;

5 (d) Hydroelectric generation from a project completed after March
6 31, 1999, where the generation facility is located in irrigation pipes,
7 irrigation canals, water pipes whose primary purpose is for conveyance
8 of water for domestic use, and wastewater pipes located in Washington
9 where the generation does not result in new water diversions or
10 impoundments;

11 (e) Qualified biomass energy; or

12 ~~((d))~~ (f) For a qualifying utility that serves customers in other
13 states, electricity from a generation facility powered by a renewable
14 resource other than freshwater that commences operation after March 31,
15 1999, where: (i) The facility is located within a state in which the
16 qualifying utility serves retail electrical customers; and (ii) the
17 qualifying utility owns the facility in whole or in part or has a long-
18 term contract with the facility of at least twelve months or more.

19 (13) "Investor-owned utility" has the same meaning as defined in
20 RCW 19.29A.010.

21 (14) "Load" means the amount of kilowatt-hours of electricity
22 delivered in the most recently completed year by a qualifying utility
23 to its Washington retail customers.

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

32 (b) "Nonpower attributes" does not include any aspects, claims,
33 characteristics, and benefits associated with the on-site capture and
34 destruction of methane or other greenhouse gases at a facility through
35 a digester system, landfill gas collection system, or other mechanism,
36 which may be separately marketable as greenhouse gas emission reduction
37 credits, offsets, or similar tradable commodities. However, these

1 separate avoided emissions may not result in or otherwise have the
2 effect of attributing greenhouse gas emissions to the electricity.

3 (16) "Pacific Northwest" has the same meaning as defined for the
4 Bonneville power administration in section 3 of the Pacific Northwest
5 electric power planning and conservation act (94 Stat. 2698; 16 U.S.C.
6 Sec. 839a).

7 (17) "Public facility" has the same meaning as defined in RCW
8 39.35C.010.

9 (18) "Qualified biomass energy" means electricity produced from a
10 biomass energy facility that: (a) Commenced operation before March 31,
11 1999; (b) contributes to the qualifying utility's load; and (c) is
12 owned either by: (i) A qualifying utility; or (ii) an industrial
13 facility that is directly interconnected with electricity facilities
14 that are owned by a qualifying utility and capable of carrying
15 electricity at transmission voltage.

16 (19) "Qualifying utility" means an electric utility, as the term
17 "electric utility" is defined in RCW 19.29A.010, that serves more than
18 twenty-five thousand customers in the state of Washington. The number
19 of customers served may be based on data reported by a utility in form
20 861, "annual electric utility report," filed with the energy
21 information administration, United States department of energy.

22 (20) "Renewable energy credit" means a tradable certificate of
23 proof of at least one megawatt-hour of an eligible renewable resource
24 where the generation facility is not powered by freshwater. The
25 certificate includes all of the nonpower attributes associated with
26 that one megawatt-hour of electricity, and the certificate is verified
27 by a renewable energy credit tracking system selected by the
28 department.

29 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
30 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
31 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
32 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
33 on land cleared from old growth or first-growth forests where the
34 clearing occurred after December 7, 2006; or (i) biomass energy.

35 (22) "Rule" means rules adopted by an agency or other entity of
36 Washington state government to carry out the intent and purposes of
37 this chapter.

1 (23) "Year" means the twelve-month period commencing January 1st
2 and ending December 31st.

3 **Sec. 3.** RCW 19.285.040 and 2013 c 158 s 2 are each amended to read
4 as follows:

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

7 (a) By January 1, 2010, (~~(using methodologies consistent with those~~
8 ~~used by the Pacific Northwest electric power and conservation planning~~
9 ~~council in its most recently published regional power plan,)) each
10 qualifying utility shall identify its achievable cost-effective
11 conservation potential through 2019 using methodologies developed by
12 the department under subsection (4) of this section. At least every
13 two years thereafter, the qualifying utility shall review and update
14 this assessment for the subsequent ten-year period.~~

15 (b) Beginning January 2010, each qualifying utility shall establish
16 and make publicly available a biennial acquisition target for cost-
17 effective conservation consistent with its identification of achievable
18 opportunities in (a) of this subsection, and meet that target during
19 the subsequent two-year period. At a minimum, each biennial target
20 must be no lower than the qualifying utility's pro rata share for that
21 two-year period of its cost-effective conservation potential for the
22 subsequent ten-year period.

23 (c) In meeting its conservation targets, a qualifying utility may
24 count high-efficiency cogeneration owned and used by a retail electric
25 customer to meet its own needs. High-efficiency cogeneration is the
26 sequential production of electricity and useful thermal energy from a
27 common fuel source, where, under normal operating conditions, the
28 facility has a useful thermal energy output of no less than thirty-
29 three percent of the total energy output. The reduction in load due to
30 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
31 the fuel chargeable to power heat rate of the cogeneration facility
32 compared to the heat rate on a new and clean basis of a
33 best-commercially available technology combined-cycle natural gas-fired
34 combustion turbine; and (ii) counted towards meeting the biennial
35 conservation target in the same manner as other conservation savings.

36 (d) Any conservation achieved by a qualifying utility in excess of
37 its biennial target may be applied as a direct credit toward any of the

1 next three subsequent biennial targets, such that no more than fifty
2 percent of any biennial target may be met with excess conservation
3 savings.

4 (e) In meeting its conservation targets, a qualifying utility may
5 count investments in conservation in residential living units occupied
6 by low-income families or individuals at one and two-tenths times that
7 of other conservation investments.

8 (f) The commission may determine if a conservation program
9 implemented by an investor-owned utility is cost-effective based on the
10 commission's policies and practice.

11 ~~((e))~~ (g) The commission may rely on its standard practice for
12 review and approval of investor-owned utility conservation targets.

13 (2)(a) Except as provided in ~~((j))~~ (k) of this subsection, each
14 qualifying utility shall use: Eligible renewable resources ~~((or~~
15 ~~acquire equivalent))~~; renewable energy credits ~~((r))~~; up to fifty
16 percent of conservation achieved in excess of a biennial target as
17 identified under subsection (1) of this section; low-income energy
18 assistance as provided under (m) of this subsection; or any combination
19 of ~~(them))~~ these, 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) Except as provided in (a) and (m) of this subsection, any
27 excess conservation applied to a future biennium under subsection (1)
28 of this section may not be used to meet an annual acquisition target
29 under this subsection (2).

30 (c) A qualifying utility may count distributed generation at double
31 the facility's electrical output if the utility: (i) Owns or has
32 contracted for the distributed generation and the associated renewable
33 energy credits; or (ii) has contracted to purchase the associated
34 renewable energy credits.

35 ~~((e))~~ (d) In meeting the annual targets in (a) of this
36 subsection, a qualifying utility shall calculate its annual load based
37 on the average of the utility's load for the previous two years.

1 ~~((d))~~ (e) A qualifying utility shall be considered in compliance
2 with an annual target in (a) of this subsection if: (i) The utility's
3 weather-adjusted load for the previous three years on average did not
4 increase over that time period; (ii) after December 7, 2006, the
5 utility did not commence or renew ownership or incremental purchases of
6 electricity from resources other than coal transition power or
7 renewable resources other than on a daily spot price basis and the
8 electricity is not offset by equivalent renewable energy credits; and
9 (iii) the utility invested at least one percent of its total annual
10 retail revenue requirement that year on eligible renewable resources,
11 renewable energy credits, or a combination of both.

12 ~~((e))~~ (f) The requirements of this section may be met for any
13 given year with renewable energy credits produced during that year, the
14 preceding year, or the subsequent year. Each renewable energy credit
15 may be used only once to meet the requirements of this section.

16 ~~((f))~~ (g) In complying with the targets established in (a) of
17 this subsection, a qualifying utility may not count:

18 (i) Eligible renewable resources or distributed generation where
19 the associated renewable energy credits are owned by a separate entity;
20 or

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

24 ~~((g))~~ (h) Where fossil and combustible renewable resources are
25 cofired in one generating unit located in the Pacific Northwest where
26 the cofiring commenced after March 31, 1999, the unit shall be
27 considered to produce eligible renewable resources in direct proportion
28 to the percentage of the total heat value represented by the heat value
29 of the renewable resources.

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

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

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

37 (ii) The council shall establish minimum levels of labor hours to

1 be met through apprenticeship programs to qualify for this extra
2 credit.

3 ~~((+i))~~ (j) A qualifying utility shall be considered in compliance
4 with an annual target in (a) of this subsection if events beyond the
5 reasonable control of the utility that could not have been reasonably
6 anticipated or ameliorated prevented it from meeting the renewable
7 energy target. Such events include weather-related damage, mechanical
8 failure, strikes, lockouts, and actions of a governmental authority
9 that adversely affect the generation, transmission, or distribution of
10 an eligible renewable resource under contract to a qualifying utility.

11 ~~((+j))~~ (k)(i) Beginning January 1, 2016, only a qualifying utility
12 that owns or is directly interconnected to a qualified biomass energy
13 facility may use qualified biomass energy to meet its compliance
14 obligation under ~~((RCW 19.285.040(2)))~~ this subsection.

15 (ii) A qualifying utility may no longer use electricity and
16 associated renewable energy credits from a qualified biomass energy
17 facility if the associated industrial pulping or wood manufacturing
18 facility ceases operation other than for purposes of maintenance or
19 upgrade.

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

33 (m) A qualifying utility may choose to make investments in low-
34 income energy assistance instead of investing in renewable energy
35 credits to comply with a target in this subsection (2), provided that
36 the amount of the investment replacing investments in renewable energy
37 credits may not exceed the amount equal to:

1 (i) One percent of the cost of meeting its load in any target year
2 through December 31, 2015;

3 (ii) Three percent of the cost of meeting its load in any target
4 year from January 1, 2016, through December 31, 2019; and

5 (iii) Five percent of the cost of meeting its load in any target
6 year beginning January 1, 2020, and thereafter.

7 (3) Utilities that become qualifying utilities after December 31,
8 2006, shall meet the requirements in this section on a time frame
9 comparable in length to that provided for qualifying utilities as of
10 December 7, 2006.

11 (4) Pursuant to the procedures in chapter 34.05 RCW, the department
12 shall develop and periodically update the methodologies used to
13 identify cost-effective conservation potential required under
14 subsection (1) of this section. In its deliberations, the department
15 may consider the methodologies used in the most recently published
16 regional power plan developed by the Pacific Northwest electric power
17 and conservation planning council.

18 **Sec. 4.** RCW 19.285.050 and 2007 c 1 s 5 are each amended to read
19 as follows:

20 (1)(a) A qualifying utility shall be considered in compliance with
21 an annual target created in RCW 19.285.040(2) for a given year if the
22 utility invested four percent of its total annual retail revenue
23 requirement on the incremental costs of eligible renewable resources,
24 the cost of renewable energy credits, increased low-income energy
25 assistance as provided under subsection (3) of this section, or (~~a~~
26 ~~combination of both~~) any combination of such investments, but a
27 utility may elect to invest more than this amount.

28 (b) The incremental cost of an eligible renewable resource is
29 calculated as the difference between the levelized delivered cost of
30 the eligible renewable resource, regardless of ownership, compared to
31 the levelized delivered cost of an equivalent amount of reasonably
32 available substitute resources that do not qualify as eligible
33 renewable resources, where the resources being compared have the same
34 contract length or facility life.

35 (2) An investor-owned utility is entitled to recover all prudently
36 incurred costs associated with compliance with this chapter. The

1 commission shall address cost recovery issues of qualifying utilities
2 that are investor-owned utilities that serve both in Washington and in
3 other states in complying with this chapter.

4 (3) A utility may count the amount of annual investments in low-
5 income energy assistance under subsection (1) of this section that
6 exceed the average annual amount of these investments by the utility in
7 calendar years 2009 through 2013. The utility may not count any low-
8 income investments that are counted under RCW 19.285.040 (1) or (2).

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