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**Technology & Economic Development  
Committee**

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**HB 2402**

**Brief Description:** Concerning the energy independence act.

**Sponsors:** Representatives Tarleton, Slatter, Macri, Pollet and Doglio.

**Brief Summary of Bill**

- Extends the requirement to pursue all available conservation that is cost-effective, reliable, and feasible under the Energy Independence Act (EIA) to small utilities and natural gas utilities.
- Adds an additional annual renewable resource target under the EIA for consumer-owned qualifying utilities of at least 15 percent of the average of their 2019 and 2020 loads beginning January 1, 2021, and each year thereafter.
- Adds additional renewable resources targets under the EIA for investor-owned qualifying utilities of: At least 20 percent of their load by January 1, 2025; at least 30 percent by January 1, 2030; at least 40 percent by 2035; and at least 50 percent by 2040.
- Eliminates an alternative compliance pathway under the EIA.
- Prohibits each consumer-owned qualifying utility, small utility, and market customer from meeting any new energy or capacity needs with certain generation resources.

**Hearing Date:** 1/23/18

**Staff:** Nikkole Hughes (786-7156).

**Background:**

The Energy Independence Act.

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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.*

The Energy Independence Act (EIA) was approved by voters in 2006. The EIA requires an electric utility with more than 25,000 customers to meet targets for energy conservation and to meet a certain percent of its annual load with eligible renewable resources. Utilities that must comply with the EIA are called "qualifying utilities."

#### Energy Conservation Targets.

A qualifying utility must pursue all available conservation that is cost-effective, reliable, and feasible. Every two years, the qualifying utility must review and update an assessment of its achievable cost-effective conservation potential for the subsequent 10-year period. The qualifying utility must establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its 10-year assessment. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent 10-year period.

#### Eligible Renewable Resource Targets.

A qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits (RECs), 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 Resources.

For a renewable resource to be considered an eligible renewable resource under the EIA, the electricity must be produced from:

- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located in the Pacific Northwest or the electricity is delivered into the state on a real-time basis;
- certain incremental hydroelectricity due to efficiency improvements;
- hydroelectricity from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, municipal water pipes, and wastewater pipes;
- qualified biomass energy; or
- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: the facility is located within a state in which the qualifying utility serves retail electrical customers, and the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months.

"Pacific Northwest" has the same meaning as defined for the Bonneville Power Administration (BPA) in the Pacific Northwest Electric Power Planning and Conservation Act, and includes the states of Washington, Oregon, and Idaho, as well as certain parts of California, Montana, Nevada, Utah, and Wyoming.

### Renewable Energy Credits.

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 generated by a facility that is not powered by freshwater. Under the EIA, a REC represents all the nonpower attributes associated with the power. A REC can be bought and sold in the marketplace to comply with annual renewable energy targets, and may be used during the year it is acquired, the previous year, or the subsequent year.

### Alternative Compliance Pathways.

A qualifying utility may alternatively be considered in compliance with an annual target if:

- the utility's weather-adjusted load for the previous three years on average did not increase over that time period;
- the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis after December 2006; and
- the utility invested at least 1 percent of its total annual retail revenue requirement that year in eligible renewable resources, RECs, or a combination of both.

A qualifying utility may also be considered in compliance with an annual target if events beyond the reasonable control of the utility prevented it from meeting the renewable energy target, or if it invested 4 percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, the cost of RECs, or a combination of both.

### Accountability and Enforcement.

The Utilities and Transportation Commission (UTC) determines compliance with the requirements of the EIA for investor-owned utilities. The State Auditor's Office is responsible for auditing compliance with the EIA for consumer-owned utilities and the Office of the Attorney General is responsible for enforcing that compliance.

### **Summary of Bill:**

#### Energy Conservation Targets.

Each small utility and natural gas utility must pursue all available conservation that is cost-effective, reliable, and feasible.

Beginning January 1, 2020, each small utility must establish a biennial acquisition target for cost-effective conservation. Each biennial target must be no lower than 2 percent of the small utility's retail load, as calculated for the biennium.

Beginning January 1, 2020, each natural gas utility must establish a biennial acquisition target for cost-effective conservation. Each biennial target must be no lower than 1.5 percent of the natural gas utility's retail load, as calculated for the biennium. Conversions from electricity to natural gas do not count toward compliance with a natural gas utility's conservation target.

Each qualifying utility, natural gas utility, and small utility must leverage state and federal dollars so that conservation measures and associated costs are fully funded for low-income customers. Low-income customers must be served by conservation programs proportionate to the percentage of low-income customers in the utility service territory.

"Small utility" means an electric utility that serves 25,000 or fewer customers in Washington.

#### Market Customers.

A market customer must pay a per-kilowatt-hour charge to the utility with which it is directly interconnected to help fund utility conservation programs. "Market customer" means a nonresidential customer of a qualifying utility or a small utility that:

- purchases electricity from an entity or entities other than the utility; or
- generates electricity to meet its own needs.

The UTC must determine the appropriate per-kilowatt-hour charge for a market customer of an investor-owned utility, while the governing board must determine the appropriate per-kilowatt-hour charge for a market customer of a consumer-owned utility. The UTC or governing board must approve a methodology for allocating conservation costs to market customers that is equitable with regard to other utility customers.

#### Eligible Renewable Resource Targets.

A consumer-owned qualifying utility must, beginning January 1, 2021, and each year thereafter, use eligible renewable resources and/or acquire equivalent RECs to meet at least 15 percent of the average of its 2019 and 2020 loads.

An investor-owned qualifying utility must use eligible renewable resources and/or acquire equivalent RECs to meet:

- At least 15 percent of its load by January 1, 2020, and each year thereafter through December 31, 2024;
- At least 20 percent of its load by January 1, 2025, and each year thereafter through December 31, 2029;
- At least 30 percent of its load by January 1, 2030, and each year thereafter through December 31, 2034;
- At least 40 percent of its load by January 1, 2035, and each year thereafter through December 31, 2039; and
- At least 50 percent of its load by January 1, 2040, and each year thereafter.

#### Eligible Renewable Resources.

The definition of "eligible renewable resource" is expanded to include:

- electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located anywhere within the boundary of a state whose territories are partially included in the Pacific Northwest; and
- beginning January 1, 2018, the portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying

utility's Washington share of electricity output from hydroelectric generation projects marketed by the BPA.

#### Alternative Compliance Pathways.

A qualifying utility is no longer considered in compliance with an annual renewable resource target if:

- the utility's weather-adjusted load for the previous three years on average did not increase over that time period;
- the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis after December 2006; and
- the utility invested at least 1 percent of its total annual retail revenue requirement that year in eligible renewable resources, renewable energy credits (REC), or a combination of both.

#### Requirements for Meeting New Energy or Capacity Needs.

A consumer-owned qualifying utility, small utility, or market customer may not use electricity from any of the following resources to meet any new energy or capacity need, except under certain circumstances:

- coal-fired generation;
- certain new hydroelectric generation;
- nuclear generation;
- natural gas-fired generation;
- oil or diesel generation; or
- waste incineration.

A consumer-owned qualifying utility, small utility, or market customer may not enter into a contract for electricity generation to meet new energy or capacity needs if the contract does not specify the sources or origins of the electricity generation.

A consumer-owned qualifying utility, small utility, or market customer may not meet new energy or capacity needs with a resource or resources, including RECs, used to meet compliance with energy conservation or eligible renewable resource targets.

#### Exemptions.

A consumer-owned qualifying utility, small utility, or market customer may use electricity generation from any natural gas-fired generation facility that is currently in operation where the total amount of natural gas generation acquired from all additions does not exceed 5 percent of the utility or market customer's retail load for each year.

#### Accountability and Enforcement.

A qualifying utility, small utility, or market customer that fails to comply with the requirements for meeting new energy or capacity needs must pay an administrative penalty of \$50 for each

megawatt-hour of energy or megawatt of capacity it uses from a prohibited generation or capacity resource.

A small utility that fails to comply with its energy conservation targets must pay an administrative penalty of \$50 for each megawatt-hour of shortfall. A natural gas utility that fails to comply with its energy conservation target must pay an administrative penalty of \$50 per dekatherm of shortfall.

The Office of the Attorney General is responsible for enforcing the compliance of a market customer with the requirements for meeting new energy or capacity needs. For a market customer of an investor-owned utility, the UTC is responsible for enforcing compliance with the requirement to pay a per-kilowatt-hour charge to help fund utility conservation programs. For a market customer of a consumer-owned utility, the Office of the Attorney General is responsible for enforcing compliance with the per-kilowatt-hour charge requirement.

#### Reporting.

On or before June 1, 2019, and annually thereafter, each consumer-owned qualifying utility, small utility, and market customer must report to the Department of Commerce (Department) on the electricity resources used to meet any new energy or capacity needs.

On or before June 1, 2022, and annually thereafter, each small utility must report to the Department on its progress in the preceding year in meeting its energy conservation targets.

On or before June 1, 2022, and annually thereafter, each natural gas utility must report to the UTC on its progress in the preceding year in meeting its energy conservation targets.

#### Rulemaking.

The Department of Commerce is authorized to adopt certain rules, including rules concerning:

- a small utility's development of energy conservation targets; and
- a market customer's acquisition of resources to meet new energy or capacity need.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.