

# HOUSE BILL REPORT

## ESB 5128

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**As Reported by House Committee On:**  
Technology & Economic Development

**Title:** An act relating to allowing incremental electricity produced as a result of certain capital investment projects to qualify as an eligible renewable resource under the energy independence act.

**Brief Description:** Allowing incremental electricity produced as a result of certain capital investment projects to qualify as an eligible renewable resource under the energy independence act.

**Sponsors:** Senators Takko, Rivers and Chase.

**Brief History:**

**Committee Activity:**

Technology & Economic Development: 3/14/17, 3/23/17 [DP].

**Brief Summary of Engrossed Bill**

- Amends the definition of an "eligible renewable resource" under the Energy Independence Act to include certain incremental electricity produced as a result of a capital investment project completed after January 1, 2010, at a qualified biomass energy facility owned by an industrial facility that is directly interconnected with a qualifying utility.
- Authorizes the Department of Commerce to develop a methodology for calculating baseline levels of generation for a qualified biomass energy facility that is owned by an industrial facility.

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### HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

**Majority Report:** Do pass. Signed by 15 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Harmsworth, Manweller, McDonald, Nealey, Santos, Slatter, Steele and Wylie.

**Minority Report:** Do not pass. Signed by 1 member: Representative Hudgins.

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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.*

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

## **Background:**

### Energy Independence Act.

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.

### Eligible Renewable Resource Targets and Compliance Dates.

Each 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.

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 commenced 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 facility is located in irrigation pipes, irrigation canals, municipal water pipes, and wastewater pipes;
- qualified biomass energy; or
- a generation facility owned or under contract by a qualifying utility, where the facility is located outside the Pacific Northwest.

"Qualified biomass energy" means electricity produced from a biomass energy facility that, in addition to having commenced operation before March 31, 1999:

- contributes to a qualifying utility's load; and
- is owned by either the qualifying utility or an industrial facility that is directly interconnected with electricity facilities that are owned by the qualifying utility.

### Renewable Energy Credits.

A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System, of at least 1 megawatt-hour of an eligible renewable resource, where the generation facility is not powered by freshwater. Under the EIA, a REC represents all the nonpower attributes associated with the power. Renewable energy credits can be bought and sold in the marketplace to comply with annual renewable energy targets, and they may be used during the year they are acquired, the previous year, or the subsequent year.

An industrial facility that hosts a qualified biomass energy facility may only transfer or sell RECs associated with its facility to the qualifying utility with which it is directly interconnected.

Department of Commerce.

The Department of Commerce is required to adopt rules only in regards to process, timelines, and documentation to ensure the implementation of the EIA as it applies to consumer-owned utilities.

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**Summary of Bill:**

Eligible Renewable Resources.

A qualifying utility may use as an eligible renewable resource that portion of incremental electricity produced as a result of a capital investment project completed after January 1, 2010, at a qualified biomass energy facility owned by an industrial facility that is directly interconnected with a qualifying utility. The increase in the amount of electricity generated must be relative to a baseline level of generation prior to the capital investment in the qualified biomass energy facility.

Beginning January 1, 2007, the industrial facility must demonstrate the baseline level of generation at the qualified biomass energy facility over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

The industrial facility must demonstrate, through direct or calculated measurement, that the incremental electricity resulted from the capital investment in the qualified biomass energy facility, which does not include expenditures on operation and maintenance in the normal course of business.

An industrial facility that hosts a qualified biomass energy facility may only transfer or sell RECs associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected.

Department of Commerce.

The Department of Commerce may adopt rules to develop a methodology for calculating baseline levels of generation for a qualified biomass energy facility that is owned by an industrial facility.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Last year, the Legislature passed a similar bill that was vetoed by the Governor. That bill was much broader than Engrossed Senate Bill 5128. Compared to the previous bill, this bill narrows the type of incremental electricity resulting from capital investment projects that would qualify as an eligible renewable resource. It also increases the period of time during which an industrial facility must demonstrate the baseline level of generation prior to the capital investment in order to calculate the amount of incremental electricity produced.

(Opposed) None.

**Persons Testifying:** Senator Takko, prime sponsor; and Steve Gano and Michael Roberts, Kapstone Paper.

**Persons Signed In To Testify But Not Testifying:** None.