

SENATE BILL REPORT

ESHB 1428

As Passed Senate - Amended, April 10, 2019

Title: An act relating to the disclosure of attributes of electricity products.

Brief Description: Concerning the disclosure of attributes of electricity products.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Shewmake, Tarleton, Lekanoff and Fitzgibbon; by request of Department of Commerce).

Brief History: Passed House: 2/14/19, 96-0.

Committee Activity: Environment, Energy & Technology: 3/14/19, 3/26/19 [DPA].

Floor Activity:

Passed Senate - Amended: 4/10/19, 46-0.

Brief Summary of Bill (As Amended by Senate)

- Revises the fuel mix disclosure and creates an electricity product content label for retail customers.
- Establishes a source and disposition report to provide information on sources and uses of electricity in Washington.
- Requires the Department of Commerce to develop and publish information about unspecified sources.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass as amended.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Billig, Brown, Das, Hobbs, Liias, McCoy, Nguyen, Rivers, Short and Wellman.

Staff: Kimberly Cushing (786-7421)

Background: Fuel Mix Disclosure. Each retail electric utility in the state must disclose its actual or imputed annual fuel mix used to generate electricity. The disclosure must generally

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provide the percentage attributable to each of the following generation sources: coal, hydroelectric, natural gas, nuclear, or other. If a source categorized as other totals more than 2 percent of a utility's total mix, it must identify the component sources, which may include biomass, geothermal, landfill gas, oil, solar, waste incineration, or wind.

Any specifically identified source of electricity is considered a declared resource. Utilities that do not declare their actual sources must report the fuel mix of the Northwest power pool, called the net system power mix. Utilities that purchase electricity from the Bonneville Power Administration (BPA) may disclose the source as the BPA system mix.

The Department of Commerce (Commerce) compiles fuel mix data from all retail electric utilities in the state, calculates the net system power mix, and publishes an annual fuel mix report.

Summary of Amended Bill: Electricity Product Content Label. Each electric utility must provide its fuel mix disclosure annually through an electricity product content label (label) presented in a uniform format. The label discloses information about the characteristics of an electricity product.

The label must be delivered with the customers billing statement or as a separately mailed publication at least annually, be available on the website, and be part of any marketing material. Small utilities and mutual light and power companies must also provide the label annually through a publication, display in the main business office, and on the website.

Each electric utility must disclose the fuel characteristics for each electricity product offered to retail electric customers. The disclosures must identify the percentage of the total electricity product sold by an electric utility during the previous year from each of the following categories: coal, hydroelectric, natural gas, nuclear, petroleum, solar, wind, other generation, and unspecified sources.

If the amount of unspecified sources exceeds 2 percent for an electricity product, the electric utility must include on the label a general description of unspecified sources and an explanation of why some power sources are unknown to the utility.

An electric utility may include with the electricity product content label additional information concerning the quantity of renewable energy certificates (RECs), if not otherwise included in the utility's declared resources, that are retired for compliance with the Energy Independence Act in the reporting year.

Source and Disposition Report. Each electric utility must report to Commerce annually, based on actual and verified activity in the prior year, the following information on its sources and uses of electricity in Washington:

- electricity delivered to retail electric customers;
- purchases or receipts of electricity from declared resources used to serve retail electric customers, by generating facility and fuel types; and
- purchases or receipts of electricity from unspecified sources used to serve retail electric customers.

An electric utility must report an electricity purchase or receipt as a declared resource if the utility was the direct or indirect owner of the generating facility or acquired the electricity in a transaction in which the buyer and seller specified the source or set of sources of the electricity. An electric utility may assign declared resources and unspecified sources to its retail service using reasonable methods consistent with its business practices. An electric utility must identify any change in method from the prior year in its report to Commerce.

An electric utility may not report a declared resource as a renewable resource if the utility does not own the REC or other instrument representing nonpower attributes associated with the resource. Any REC included in the source and disposition report must be created and retired within a certificate tracking system approved by Commerce and must represent renewable generation of a generating facility located in the region of the tracking system. An electric utility must retire any REC included in its source and disposition report within one year after submitting its report.

A REC retired for any of the following purposes may not be included in the source and disposition report:

- voluntary renewable energy programs, except where the electricity product is an optional product;
- compliance obligations not related to the provision of electricity service to retail customers in Washington; and
- any other purpose established by rule by Commerce.

Individual retail customer rate schedules do not constitute separate electricity products unless electricity sources are different.

Unspecified Fuel Mix. Commerce must develop and publish an estimate of the fuel characteristics of the generation sources reasonably available to serve Washington customers and not included as a declared resource of any electric utility. Commerce may include or exclude any electricity source it deems reasonable to accurately represent the characteristics of residual electricity supplies used by electric utilities in Washington. Commerce must make available documentation of the inputs and calculations used in making the estimate.

Rulemaking Authority. Commerce may adopt administrative rules to implement the fuel mix disclosure requirements.

Definitions. The bill defines new terms including "electricity product content label" and "unspecified source." The terms "net system power mix" and "electricity information coordinator" are removed from statute.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: You already get a fuel mix disclosure when you receive your electricity bill, which explains what fuels were used to produce the electricity that you are using. This sounds straightforward, but when you produce electricity and put it on the grid the electrons follow the path of least resistance. So as a consumer it is actually pretty close to impossible to say which individual plant the electricity is really coming from. The fuel mix disclosure is an attempt to do that. This is an important program that no longer works very well due to how electricity markets work. The bill allows electricity to be categorized as unspecified when it is not known whose electron it is, which is more accurate to the consumer than giving some average of all the electricity produced on the grid. The changes will allow consumers to get more accurate and timely information with less effort on Commerce's part. Reporting will be more consistent with new clean energy laws and the state's renewable portfolio standard. There are lots of new electricity products, resources, and technologies. The bill creates a simple format that is more transparent and guards against double counting RECs. The report was never designed to be suitable for tracking. It is just for informational purposes for consumers. Electricity is becoming the anchor for ending global warming. We need accountability for reporting electricity. This bill empowers Commerce to do a better job.

Persons Testifying: PRO: Representative Sharon Shewmake, Prime Sponsor; Glenn Blackmon, Washington Department of Commerce—State Energy Office; Doug Howell, Sierra Club; Joni Bosh, NW Energy Coalition.

Persons Signed In To Testify But Not Testifying: No one.