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**SENATE BILL 5168**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senator Short

AN ACT Relating to renewable and nonemitting resources analysis and advisory opinions; and adding a new section to chapter 19.405 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 19.405 RCW to read as follows:

(1) When requested by an electric utility or by a person proposing an electric generation project or energy transformation project, the department is authorized to and shall provide an analysis and an advisory opinion as to whether a proposed electric generation project or energy transformation project qualifies to meet the requirements under RCW 19.405.040 and 19.405.050.

(2) An electric utility or a person proposing an electric generation project or energy transformation project to be used by an electric utility may apply for an advisory opinion from the department. The application must be in writing and must include information that accurately describes the proposed project. When forming an advisory opinion, the department must solicit and consider comments from interested parties, including staff of a requesting utility.

(3) Within 90 days of receiving an application, the director of the department must issue a signed advisory opinion on whether the proposed project qualifies to meet the requirements under RCW 19.405.040 and 19.405.050.

(4) When forming an advisory opinion, the department or the commission must solicit and consider comments from interested parties, including staff of a requesting utility. An advisory opinion issued by the director of the department or the commission must include a legal analysis.

(5) Any project reviewed under the process in this section must be deemed a compliant resource under RCW 19.405.040 and 19.405.050 by any agency, including the commission, authorized to enforce those sections, but only if the advisory opinion affirmatively qualifies the project and the project or resource is built or acquired as proposed in the advisory opinion application.

(6) A project is considered to be used by a utility if the utility takes ownership in whole or in part of an electric generation project or energy transformation project or enters into a contract to purchase the energy and nonenergy attributes of an electric generation project or the nonenergy attributes of an energy transformation project.

(7) The department may require an applicant to pay an application fee. The amount of the fee must be set by the department to solely cover the cost of reviewing the project and preparing an advisory opinion, including a legal analysis.

(8) The department may adopt rules to implement this section.

(9) Nothing in this section preempts the authority of any governing board of a consumer-owned utility, the commission, or any agency authorized to enforce the provisions of RCW 19.405.040 and 19.405.050 from making a determination, independent of the process in this section, on whether a proposed electric generation project or energy transformation project qualifies to meet the requirements under RCW 19.405.040 and 19.405.050.

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