

---

SENATE BILL 5441

---

State of Washington                      61st Legislature                      2009 Regular Session

By Senators Eide, Zarelli, Marr, Honeyford, Hargrove, Morton, Hatfield, Holmquist, Schoesler, Sheldon, Delvin, Shin, Hewitt, Kline, and Benton

Read first time 01/22/09. Referred to Committee on Environment, Water & Energy.

1            AN ACT Relating to creating incentives for the use of biomass in  
2 renewable energy production; amending RCW 19.285.030; adding a new  
3 section to chapter 82.04 RCW; adding a new section to chapter 82.08  
4 RCW; adding a new section to chapter 82.12 RCW; creating a new section;  
5 and providing an effective date.

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

7            NEW SECTION.    **Sec. 1.** (1) The legislature finds that:

8            (a) Communities across the state, including Everett, Longview,  
9 Grays Harbor, and Colville, have natural resource-based economies and  
10 rely on the use of biomass fuels to generate electricity for use in  
11 manufacturing and to serve local residents;

12            (b) In 2007, by approving Initiative Measure No. 937, codified as  
13 chapter 19.285 RCW, citizens of the state authorized a law requiring  
14 electric utilities that serve more than twenty-five thousand customers  
15 in Washington to obtain fifteen percent of their electricity from new  
16 renewable resources by 2020 and to meet energy conservation goals;

17            (c) Eight other western states have renewable energy standards, but  
18 most of those other laws, unlike chapter 19.285 RCW, allow existing  
19 biomass resources to count as renewable energy resources; and

1 (d) By discriminating against our state's natural assets for  
2 producing renewable energy, chapter 19.285 RCW obligates local electric  
3 utilities to acquire more expensive renewable resource technologies.

4 (2) The legislature declares that chapter 19.285 RCW should be  
5 amended to preserve our low electricity costs and its economic benefits  
6 to urban and rural communities alike, and to promote further  
7 development of the low cost, climate-friendly biomass resources that  
8 form the foundation of our present and future clean energy economy.

9 **Sec. 2.** RCW 19.285.030 and 2007 c 1 s 3 are each amended to read  
10 as follows:

11 The definitions in this section apply throughout this chapter  
12 unless the context clearly requires otherwise.

13 (1) "Attorney general" means the Washington state office of the  
14 attorney general.

15 (2) "Auditor" means: (a) The Washington state auditor's office or  
16 its designee for qualifying utilities under its jurisdiction that are  
17 not investor-owned utilities; or (b) an independent auditor selected by  
18 a qualifying utility that is not under the jurisdiction of the state  
19 auditor and is not an investor-owned utility.

20 (3) "Biomass energy" means energy produced from the combustion of  
21 (a) organic byproducts of the pulping process or algae; (b) animal  
22 waste; (c) solid organic fuels from wood; (d) forest or field residues;  
23 (e) wooden demolition or construction debris; (f) landfill gas or  
24 biogas produced from organic matter, wastewater, or anaerobic  
25 digesters; or (g) dedicated energy crops. "Biomass energy" does not  
26 include energy produced from the combustion of wood pieces that have  
27 been treated with chemical preservatives such as: Creosote,  
28 pentachlorophenol, or copper-chrome-arsenic; wood from old growth  
29 forests; or municipal solid waste.

30 (4) "Commission" means the Washington state utilities and  
31 transportation commission.

32 ((+4)) (5) "Conservation" means any reduction in electric power  
33 consumption resulting from increases in the efficiency of energy use,  
34 production, or distribution.

35 ((+5)) (6) "Cost-effective" has the same meaning as defined in RCW  
36 80.52.030.

1           ~~((+6+))~~ (7) "Council" means the Washington state apprenticeship and  
2 training council within the department of labor and industries.

3           ~~((+7+))~~ (8) "Customer" means a person or entity that purchases  
4 electricity for ultimate consumption and not for resale.

5           ~~((+8+))~~ (9) "Department" means the department of community, trade,  
6 and economic development or its successor.

7           ~~((+9+))~~ (10) "Distributed generation" means an eligible renewable  
8 resource where the generation facility or any integrated cluster of  
9 such facilities has a generating capacity of not more than five  
10 megawatts.

11           ~~((+10+))~~ (11) "Eligible renewable resource" means:

12           (a) Electricity from a generation facility powered by a renewable  
13 resource other than fresh water that commences operation after March  
14 31, 1999, where: (i) The facility is located in the Pacific Northwest;  
15 or (ii) the electricity from the facility is delivered into Washington  
16 state on a real-time basis without shaping, storage, or integration  
17 services; ~~((or))~~

18           (b) Incremental electricity produced as a result of efficiency  
19 improvements completed after March 31, 1999, to hydroelectric  
20 generation projects owned by a qualifying utility and located in the  
21 Pacific Northwest or to hydroelectric generation in irrigation pipes  
22 and canals located in the Pacific Northwest, where the additional  
23 generation in either case does not result in new water diversions or  
24 impoundments; or

25           (c) Electricity from a biomass energy powered generation facility  
26 located in Washington that commenced operation before March 31, 1999.

27           ~~((+11+))~~ (12) "Investor-owned utility" has the same meaning as  
28 defined in RCW 19.29A.010.

29           ~~((+12+))~~ (13) "Load" means the amount of kilowatt-hours of  
30 electricity delivered in the most recently completed year by a  
31 qualifying utility to its Washington retail customers.

32           ~~((+13+))~~ (14) "Nonpower attributes" means all environmentally  
33 related characteristics, exclusive of energy, capacity reliability, and  
34 other electrical power service attributes, that are associated with the  
35 generation of electricity from a renewable resource, including but not  
36 limited to the facility's fuel type, geographic location, vintage,  
37 qualification as an eligible renewable resource, and avoided emissions

1 of pollutants to the air, soil, or water, and avoided emissions of  
2 carbon dioxide and other greenhouse gases.

3 ~~((+14))~~ (15) "Pacific Northwest" has the same meaning as defined  
4 for the Bonneville power administration in section 3 of the Pacific  
5 Northwest electric power planning and conservation act (94 Stat. 2698;  
6 16 U.S.C. Sec. 839a).

7 ~~((+15))~~ (16) "Public facility" has the same meaning as defined in  
8 RCW 39.35C.010.

9 ~~((+16))~~ (17) "Qualifying utility" means an electric utility, as  
10 the term "electric utility" is defined in RCW 19.29A.010, that serves  
11 more than twenty-five thousand customers in the state of Washington.  
12 The number of customers served may be based on data reported by a  
13 utility in form 861, "annual electric utility report," filed with the  
14 energy information administration, United States department of energy.

15 ~~((+17))~~ (18) "Renewable energy credit" means a tradable  
16 certificate of proof of at least one megawatt-hour of an eligible  
17 renewable resource where the generation facility is not powered by  
18 fresh water, the certificate includes all of the nonpower attributes  
19 associated with that one megawatt-hour of electricity, and the  
20 certificate is verified by a renewable energy credit tracking system  
21 selected by the department.

22 ~~((+18))~~ (19) "Renewable resource" means: (a) Water; (b) wind; (c)  
23 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,  
24 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel  
25 fuel as defined in RCW 82.29A.135 that is not derived from crops raised  
26 on land cleared from old growth or first-growth forests where the  
27 clearing occurred after December 7, 2006; and (i) biomass energy  
28 ~~((based on animal waste or solid organic fuels from wood, forest, or  
29 field residues, or dedicated energy crops that do not include (i) wood  
30 pieces that have been treated with chemical preservatives such as  
31 creosote, pentachlorophenol, or copper chrome arsenic; (ii) black  
32 liquor byproduct from paper production; (iii) wood from old growth  
33 forests; or (iv) municipal solid waste))~~.

34 ~~((+19))~~ (20) "Rule" means rules adopted by an agency or other  
35 entity of Washington state government to carry out the intent and  
36 purposes of this chapter.

37 ~~((+20))~~ (21) "Year" means the twelve-month period commencing  
38 January 1st and ending December 31st.



1 application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 7.** Sections 3, 4, and 5 of this act take effect  
5 October 1, 2009.

--- END ---