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SENATE BILL 5563

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Delvin, Schoesler, Hewitt, Stevens, and Honeyford

Read first time 01/31/11. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to temporarily suspending provisions of the energy  
2 independence act during periods of economic downturn; amending RCW  
3 19.285.040; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** In 2006, the voters approved a sweeping  
6 environmental law, the energy independence act. While protecting the  
7 environment is of utmost importance, we must balance such regulation  
8 with the ability to maintain jobs and protect our economy. At the time  
9 the initiative was passed, the unemployment rate in Washington was 4.9  
10 percent. Washington's unemployment rate has since skyrocketed to more  
11 than 9.3 percent. It is the legislature's intent to provide utilities  
12 with more time during the continuing economic downturn to meet certain  
13 mandates of the energy independence act and thereby delay the rate  
14 impacts that would be caused by the capital investments to meet such  
15 mandates. This will benefit electricity consumers who cannot currently  
16 afford the increased prices that will be passed onto them as a result  
17 of this legislation. Fortunately, the delay in implementing certain  
18 provisions of this law will be minimal due to Washington's existing

1 clean energy portfolio, which is recognized as the third cleanest state  
2 in the nation.

3 **Sec. 2.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read  
4 as follows:

5 (1) Each qualifying utility shall pursue all available conservation  
6 that is cost-effective, reliable, and feasible.

7 (a) By January 1, 2010, using methodologies consistent with those  
8 used by the Pacific Northwest electric power and conservation planning  
9 council in its most recently published regional power plan, each  
10 qualifying utility shall identify its achievable cost-effective  
11 conservation potential through 2019. At least every two years  
12 thereafter, the qualifying utility shall review and update this  
13 assessment for the subsequent ten-year period.

14 (b) Beginning January 2010, each qualifying utility shall establish  
15 and make publicly available a biennial acquisition target for cost-  
16 effective conservation consistent with its identification of achievable  
17 opportunities in (a) of this subsection, and meet that target during  
18 the subsequent two-year period. At a minimum, each biennial target  
19 must be no lower than the qualifying utility's pro rata share for that  
20 two-year period of its cost-effective conservation potential for the  
21 subsequent ten-year period.

22 (c) In meeting its conservation targets, a qualifying utility may  
23 count high-efficiency cogeneration owned and used by a retail electric  
24 customer to meet its own needs. High-efficiency cogeneration is the  
25 sequential production of electricity and useful thermal energy from a  
26 common fuel source, where, under normal operating conditions, the  
27 facility has a useful thermal energy output of no less than thirty-  
28 three percent of the total energy output. The reduction in load due to  
29 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
30 the fuel chargeable to power heat rate of the cogeneration facility  
31 compared to the heat rate on a new and clean basis of a  
32 best-commercially available technology combined-cycle natural gas-fired  
33 combustion turbine; and (ii) counted towards meeting the biennial  
34 conservation target in the same manner as other conservation savings.

35 (d) The commission may determine if a conservation program  
36 implemented by an investor-owned utility is cost-effective based on the  
37 commission's policies and practice.

1 (e) The commission may rely on its standard practice for review and  
2 approval of investor-owned utility conservation targets.

3 (2)(a) Each qualifying utility shall use eligible renewable  
4 resources or acquire equivalent renewable energy credits, or a  
5 combination of both, to meet the following annual targets:

6 (i) At least three percent of its load by January 1, 2012, and each  
7 year thereafter through December 31, 2015;

8 (ii) At least nine percent of its load by January 1, 2016, and each  
9 year thereafter through December 31, 2019; and

10 (iii) At least fifteen percent of its load by January 1, 2020, and  
11 each year thereafter.

12 (b) A qualifying utility may count distributed generation at double  
13 the facility's electrical output if the utility: (i) Owns or has  
14 contracted for the distributed generation and the associated renewable  
15 energy credits; or (ii) has contracted to purchase the associated  
16 renewable energy credits.

17 (c) In meeting the annual targets in (a) of this subsection, a  
18 qualifying utility shall calculate its annual load based on the average  
19 of the utility's load for the previous two years.

20 (d) A qualifying utility shall be considered in compliance with an  
21 annual target in (a) of this subsection if: (i) The utility's weather-  
22 adjusted load for the previous three years on average did not increase  
23 over that time period; (ii) after December 7, 2006, the utility did not  
24 commence or renew ownership or incremental purchases of electricity  
25 from resources other than renewable resources other than on a daily  
26 spot price basis and the electricity is not offset by equivalent  
27 renewable energy credits; and (iii) the utility invested at least one  
28 percent of its total annual retail revenue requirement that year on  
29 eligible renewable resources, renewable energy credits, or a  
30 combination of both.

31 (e) The requirements of this section may be met for any given year  
32 with renewable energy credits produced during that year, the preceding  
33 year, or the subsequent year. Each renewable energy credit may be used  
34 only once to meet the requirements of this section.

35 (f) In complying with the targets established in (a) of this  
36 subsection, a qualifying utility may not count:

37 (i) Eligible renewable resources or distributed generation where

1 the associated renewable energy credits are owned by a separate entity;  
2 or

3 (ii) Eligible renewable resources or renewable energy credits  
4 obtained for and used in an optional pricing program such as the  
5 program established in RCW 19.29A.090.

6 (g) Where fossil and combustible renewable resources are cofired in  
7 one generating unit located in the Pacific Northwest where the cofiring  
8 commenced after March 31, 1999, the unit shall be considered to produce  
9 eligible renewable resources in direct proportion to the percentage of  
10 the total heat value represented by the heat value of the renewable  
11 resources.

12 (h)(i) A qualifying utility that acquires an eligible renewable  
13 resource or renewable energy credit may count that acquisition at one  
14 and two-tenths times its base value:

15 (A) Where the eligible renewable resource comes from a facility  
16 that commenced operation after December 31, 2005; and

17 (B) Where the developer of the facility used apprenticeship  
18 programs approved by the council during facility construction.

19 (ii) The council shall establish minimum levels of labor hours to  
20 be met through apprenticeship programs to qualify for this extra  
21 credit.

22 (i) A qualifying utility shall be considered in compliance with an  
23 annual target in (a) of this subsection if events beyond the reasonable  
24 control of the utility that could not have been reasonably anticipated  
25 or ameliorated prevented it from meeting the renewable energy target.  
26 Such events include weather-related damage, mechanical failure,  
27 strikes, lockouts, and actions of a governmental authority that  
28 adversely affect the generation, transmission, or distribution of an  
29 eligible renewable resource under contract to a qualifying utility.

30 (j)(i) On the effective date of this section, a qualifying utility  
31 is deemed in compliance with the annual target in (a)(i) of this  
32 subsection regardless of whether or not it has acquired an amount of  
33 eligible renewable resources or renewable energy credits equal to three  
34 percent of its load.

35 (ii) A qualifying utility is considered in compliance with the  
36 applicable annual target in (a)(ii) and (iii) of this subsection for  
37 the given year and the succeeding four years if at any time during the  
38 given year, the state unemployment rate is above six percent.

1        (iii) Any investment made by an investor-owned utility in eligible  
2 renewable resources or renewable energy credits to comply with an  
3 annual target in (a) of this subsection, made prior to the given year,  
4 must be considered for recovery in rates by the commission as if the  
5 annual target dates in (a) of this subsection had not been delayed  
6 pursuant to this subsection (2)(j). Nothing in this subsection (2)(j)  
7 may be construed as preventing a qualifying utility from acquiring  
8 generation resources, including eligible renewable resources, in order  
9 to meet its load growth projections.

10        (3) Utilities that become qualifying utilities after December 31,  
11 2006, shall meet the requirements in this section on a time frame  
12 comparable in length to that provided for qualifying utilities as of  
13 December 7, 2006.

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