

# SENATE BILL REPORT

## ESSB 5735

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As Passed Senate, March 9, 2015

**Title:** An act relating to providing incentives for carbon reduction investments.

**Brief Description:** Providing incentives for carbon reduction investments.

**Sponsors:** Senate Committee on Energy, Environment & Telecommunications (originally sponsored by Senators Ericksen, Rivers, Angel, Baumgartner, Brown, Hewitt, Bailey, Schoesler, Parlette, Honeyford, Braun, Padden, Becker, Hatfield and Sheldon).

**Brief History:**

**Committee Activity:** Energy, Environment & Telecommunications: 2/05/15, 2/12/15, 2/17/15 [DPS, DNP].

Passed Senate: 3/09/15, 26-23.

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### SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 5735 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Braun, Brown and Honeyford.

**Minority Report:** Do not pass.

Signed by Senators McCoy, Ranking Minority Member; Cleveland, Habib and Ranker.

**Staff:** William Bridges (786-7416)

**Background:** Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937 (I-937), requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources. Utilities that must comply with I-937 are called qualifying utilities.

Renewable Energy Credit (REC). A REC is a tradable certificate of proof of at least one megawatt hour (MWh) of an eligible renewable resource where the generation facility is not powered by fresh water. Under I-937 a REC represents all the nonpower attributes associated with the generated power, including avoided emissions. RECs can be bought and sold in the marketplace, and they may be used to comply with I-937 during the year they are acquired, the previous year, or the subsequent year.

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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.*

Eligible Renewable Resource Targets (Acquisition Targets) and Compliance Dates. Under I-937 each qualifying utility must use eligible renewable resources or acquire equivalent 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.

A utility that becomes a qualifying utility after December 31, 2006, must meet the acquisition targets on a timeframe comparable in length to that provided for qualifying utilities that existed on December 7, 2006.

Eligible Renewable Resource. The term eligible renewable resource means electricity generated from a resource such as wind, solar, geothermal energy, landfill and sewage gas, wave and tidal power, and certain biodiesel fuels. In addition an eligible renewable resource must be generated in a facility that started operating after March 31, 1999, and the facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Limited amounts of specified hydroelectricity are also considered eligible renewable resources.

Alternative Compliance Methods Under I-937. In general a qualifying utility that fails to meet an acquisition target will still be considered in compliance with I-937 if any of the following exceptions apply: the failure was due to events beyond the reasonable control and anticipation of a qualified utility; the utility spent 4 percent of its total annual revenue needs to meet the eligible renewable resource targets; or the utility spent 1 percent of its total annual revenue requirement to meet the eligible renewable resource targets, had no increases in the demand for electricity for the previous three years, and did not sign any contracts for nonrenewable resources after December 7, 2006, the date I-937 became law.

Accountability Under I-937. For investor-owned utilities, the Utilities and Transportation Commission determines compliance with I-937. For all other utilities, the auditor is responsible for auditing compliance with I-937.

Greenhouse Gas (GHG). Gases such as carbon dioxide (CO<sub>2</sub>), methane, nitrous oxide, and perfluorocarbons are called GHGs, and they are typically expressed in metric tons (MT). Carbon dioxide equivalent (CO<sub>2</sub>e) is the unit for comparing emissions of different GHGs expressed in terms of the global warming potential of one unit of CO<sub>2</sub>.

Calculating the Default Emissions Value of GHGs. Under the state emissions performance standard (EPS), an electric utility may not enter into a contract five or more years in length with a baseload generating facility, nor may it invest in a facility, when the GHG emissions of the facility exceed .439 MT per MWh. Under the EPS, the default GHG emissions assigned to combined-cycle natural gas generating turbines that begin operation before July 1, 2008, is .498 MT per MWh.

**Summary of Engrossed Substitute Bill:** Adding Carbon Reduction Investments (CRI) as an Eligible Renewable Resource Under I-937. The term CRI means an investment in support

of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of GHGs in the state. Examples of eligible projects or actions include certain conservation measures, installation of electric vehicle chargers, the fuel conversion of state ferries to liquefied natural gas, and energy storage technologies. CRIs are added to I-937 as an eligible renewable resource.

Creating an Alternative Compliance Method in I-937 for Utilities Using CRIs Calculated at the Equivalent of One REC per .5 MT of CO<sub>2</sub>e Reduction. Beginning January 1, 2016, a qualifying utility may use CRIs to comply with an acquisition target. For every CRI that results in .5 MT CO<sub>2</sub>e emissions reduced, prevented, or removed from the atmosphere, the utility receives the compliance equivalent of one REC. The determination and certification of emissions reductions must be measured, verified, and documented by a third-party expert retained by the qualifying utility, subject to the accountability provisions in I-937. Emissions reductions that are certified to persist for longer than one year may be carried forward.

Creating an Alternative Compliance Method in I-937 for Utilities Investing 1 Percent of Their Annual Retail Revenue in Carbon Reduction Investments. Beginning January 1, 2016, a qualifying utility may comply with an acquisition target if it invests at least 1 percent of its total annual retail revenue requirement for that year in CRIs. The determination and certification of emissions reductions must be measured, verified, and documented by a third-party expert retained by the qualifying utility and subject to the accountability provisions in I-937. Emissions reductions that are certified to persist for longer than one year may be carried forward. A qualifying utility that stops using this alternative compliance path may return to the same time frame and acquisition target it would have used before it chose the alternative path.

Adding a Definition of GHGs to I-937. The term GHG means CO<sub>2</sub>, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated GHGs.

Expressing Legislative Intent. A number of findings are made concerning climate change, statewide emission goals, and incentives for clean energy.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: I-937 has forced investment in wind, with much of that investment going out of state. Of the jobs created in Washington, it has cost ratepayers \$2.1 million for each job created. The bill is a sensible effort to reduce energy costs and create jobs in the state with a net benefit of reducing statewide GHGs. This bill is a good starting point for a discussion on updating and expanding the list of qualifying renewable expenditures under I-937. Utilities are interested in any proposal that will harmonize state law, give utilities the freedom to take actions according to their own

situations and customer demands, and encourage investments to reduce GHG emissions. This bill looks beyond the electricity grid to help Washington achieve a cleaner GHG profile. CRIs will encourage utilities to invest in smart grid technologies and cleaner transportation fleets. Sunset date may need to be changed. This bill promotes a broader discussion in incentivizing new technologies to reduce GHG. Shifting transportation to electricity makes better use of the state's eligible renewable resources. Because of wind's 30 percent capacity factor, it generates more carbon than it replaces. This bill encourages investments to stay in the state and fund conservation to help low-income families.

CON: CRIs are outside the scope of I-937, which is exclusively focused on electric utilities. This bill will reduce the expected GHG reductions from I-937. The timelines seem arbitrary. Third-party verification should not supplant the Utilities and Transportation Commission (UTC) and Auditor oversight. CRIs might be suitable for utilities that are not experiencing growth. This bill undermines I-937.

OTHER: UTC supports intent to reduce GHGs and promote jobs. There is a concern that CRIs would redirect investment from the electricity sector to the transportation sector, thereby affecting calculations on how much GHGs will be attributed to the state's electricity sector under future federal rules. If ratepayer funds are going to be used for public benefit, there should be strict protocols in place on how to evaluate projects. It is not clear that .5 MT should equal one REC. Some utilities have already made investments to meet I-937 targets and these investments could be stranded if the bill is passed. This is an interesting concept, but there is no convincing evidence that CRIs will reduce GHGs. Internationally recognized groups and protocols should be used when evaluating GHG reductions.

**Persons Testifying:** PRO: Senator Ericksen, prime sponsor; Bob Mack, Tacoma Public Utilities; Randy Ray, Tri-Cities Regional Chamber; Isaac Kastama, WA Business Alliance; John Rothlin, Avista; Brandon Houskeeper, Assn. of WA Business.

CON: Joni Bosh, NW Energy Coalition; Kelly Hall, Renewable NW; Rebecca Johnson, Climate Solutions.

OTHER: Tony Usibelli, WA Dept. of Commerce Energy Office; Lauren McCloy, UTC.

**Persons Signed in to Testify But Not Testifying:** No one.