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SENATE BILL 5128

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State of Washington

65th Legislature

2017 Regular Session

By Senators Takko, Rivers, and Chase

Read first time 01/13/17. Referred to Committee on Energy,  
Environment & Telecommunications.

1 AN ACT Relating to allowing incremental electricity produced as a  
2 result of certain capital investment projects to qualify as an  
3 eligible renewable resource under the energy independence act; and  
4 amending RCW 19.285.030 and 19.285.080.

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

6 **Sec. 1.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Attorney general" means the Washington state office of the  
11 attorney general.

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

17 (3)(a) "Biomass energy" includes: (i) Organic by-products of  
18 pulping and the wood manufacturing process; (ii) animal manure; (iii)  
19 solid organic fuels from wood; (iv) forest or field residues; (v)  
20 untreated wooden demolition or construction debris; (vi) food waste

1 and food processing residuals; (vii) liquors derived from algae;  
2 (viii) dedicated energy crops; and (ix) yard waste.

3 (b) "Biomass energy" does not include: (i) Wood pieces that have  
4 been treated with chemical preservatives such as creosote,  
5 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old  
6 growth forests; or (iii) municipal solid waste.

7 (4) "Coal transition power" has the same meaning as defined in  
8 RCW 80.80.010.

9 (5) "Commission" means the Washington state utilities and  
10 transportation commission.

11 (6) "Conservation" means any reduction in electric power  
12 consumption resulting from increases in the efficiency of energy use,  
13 production, or distribution.

14 (7) "Cost-effective" has the same meaning as defined in RCW  
15 80.52.030.

16 (8) "Council" means the Washington state apprenticeship and  
17 training council within the department of labor and industries.

18 (9) "Customer" means a person or entity that purchases  
19 electricity for ultimate consumption and not for resale.

20 (10) "Department" means the department of commerce or its  
21 successor.

22 (11) "Distributed generation" means an eligible renewable  
23 resource where the generation facility or any integrated cluster of  
24 such facilities has a generating capacity of not more than five  
25 megawatts.

26 (12) "Eligible renewable resource" means:

27 (a) Electricity from a generation facility powered by a renewable  
28 resource other than freshwater that commences operation after March  
29 31, 1999, where: (i) The facility is located in the Pacific  
30 Northwest; or (ii) the electricity from the facility is delivered  
31 into Washington state on a real-time basis without shaping, storage,  
32 or integration services;

33 (b) Incremental electricity produced as a result of efficiency  
34 improvements completed after March 31, 1999, to hydroelectric  
35 generation projects owned by a qualifying utility and located in the  
36 Pacific Northwest where the additional generation does not result in  
37 new water diversions or impoundments;

38 (c) Hydroelectric generation from a project completed after March  
39 31, 1999, where the generation facility is located in irrigation  
40 pipes, irrigation canals, water pipes whose primary purpose is for

1 conveyance of water for municipal use, and wastewater pipes located  
2 in Washington where the generation does not result in new water  
3 diversions or impoundments;

4 (d) Qualified biomass energy; ((~~ex~~))

5 (e) For a qualifying utility that serves customers in other  
6 states, electricity from a generation facility powered by a renewable  
7 resource other than freshwater that commences operation after March  
8 31, 1999, where: (i) The facility is located within a state in which  
9 the qualifying utility serves retail electrical customers; and (ii)  
10 the qualifying utility owns the facility in whole or in part or has a  
11 long-term contract with the facility of at least twelve months or  
12 more; or

13 (f) Incremental electricity produced as a result of a capital  
14 investment project completed after March 31, 1999, that increases,  
15 relative to a baseline level of generation prior to the capital  
16 investment project, the amount of electricity generated by a  
17 generation facility that commenced operation before March 31, 1999,  
18 and is powered by a renewable resource other than freshwater.

19 (13) "Investor-owned utility" has the same meaning as defined in  
20 RCW 19.29A.010.

21 (14) "Load" means the amount of kilowatt-hours of electricity  
22 delivered in the most recently completed year by a qualifying utility  
23 to its Washington retail customers.

24 (15)(a) "Nonpower attributes" means all environmentally related  
25 characteristics, exclusive of energy, capacity reliability, and other  
26 electrical power service attributes, that are associated with the  
27 generation of electricity from a renewable resource, including but  
28 not limited to the facility's fuel type, geographic location,  
29 vintage, qualification as an eligible renewable resource, and avoided  
30 emissions of pollutants to the air, soil, or water, and avoided  
31 emissions of carbon dioxide and other greenhouse gases.

32 (b) "Nonpower attributes" does not include any aspects, claims,  
33 characteristics, and benefits associated with the on-site capture and  
34 destruction of methane or other greenhouse gases at a facility  
35 through a digester system, landfill gas collection system, or other  
36 mechanism, which may be separately marketable as greenhouse gas  
37 emission reduction credits, offsets, or similar tradable commodities.  
38 However, these separate avoided emissions may not result in or  
39 otherwise have the effect of attributing greenhouse gas emissions to  
40 the electricity.

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

5 (17) "Public facility" has the same meaning as defined in RCW  
6 39.35C.010.

7 (18) "Qualified biomass energy" means electricity produced from a  
8 biomass energy facility that: (a) Commenced operation before March  
9 31, 1999; (b) contributes to the qualifying utility's load; and (c)  
10 is owned either by: (i) A qualifying utility; or (ii) an industrial  
11 facility that is directly interconnected with electricity facilities  
12 that are owned by a qualifying utility and capable of carrying  
13 electricity at transmission voltage.

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

20 (20) "Renewable energy credit" means a tradable certificate of  
21 proof of at least one megawatt-hour of an eligible renewable resource  
22 where the generation facility is not powered by freshwater. The  
23 certificate includes all of the nonpower attributes associated with  
24 that one megawatt-hour of electricity, and the certificate is  
25 verified by a renewable energy credit tracking system selected by the  
26 department.

27 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
28 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or  
29 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel  
30 fuel as defined in RCW 82.29A.135 that is not derived from crops  
31 raised on land cleared from old growth or first-growth forests where  
32 the clearing occurred after December 7, 2006; or (i) biomass energy.

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

36 (23) "Year" means the twelve-month period commencing January 1st  
37 and ending December 31st.

38 **Sec. 2.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read  
39 as follows:

1           (1) The commission may adopt rules to ensure the proper  
2 implementation and enforcement of this chapter as it applies to  
3 investor-owned utilities.

4           (2) The department shall adopt rules concerning only process,  
5 timelines, and documentation to ensure the proper implementation of  
6 this chapter as it applies to qualifying utilities that are not  
7 investor-owned utilities. Those rules include, but are not limited  
8 to, rules associated with a qualifying utility's development of  
9 conservation targets under RCW 19.285.040(1); a qualifying utility's  
10 decision to pursue alternative compliance in RCW 19.285.040(2) (d) or  
11 (i) or 19.285.050(1); ~~((and))~~ the format and content of reports  
12 required in RCW 19.285.070; and the development of a methodology for  
13 calculating baseline levels of generation under RCW  
14 19.285.030(12)(f). Nothing in this subsection may be construed to  
15 restrict the rate-making authority of the commission or a qualifying  
16 utility as otherwise provided by law.

17           (3) The commission and department may coordinate in developing  
18 rules related to process, timelines, and documentation that are  
19 necessary for implementation of this chapter.

20           (4) Pursuant to the administrative procedure act, chapter 34.05  
21 RCW, rules needed for the implementation of this chapter must be  
22 adopted by December 31, 2007. These rules may be revised as needed to  
23 carry out the intent and purposes of this chapter.

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