

---

## Environment & Energy Committee

---

### HB 1226

**Brief Description:** Encouraging investment in and reducing the costs of transitioning to the clean energy future.

**Sponsors:** Representatives DeBolt and Stokesbary.

#### Brief Summary of Bill

- Amends the definition of "eligible renewable resource" under the Energy Independence Act (EIA).
- Provides a new compliance pathway under the EIA.
- Requires each electric utility to use clean energy resources to meet any new energy or capacity need for Washington retail electric customers beginning January 1, 2029.
- Provides certain sales and use and public utility tax preferences for carbon reduction investments and investments in renewable resource generation facilities.

**Hearing Date:** 1/21/19

**Staff:** Nikkole Hughes (786-7156).

#### **Background:**

##### The Energy Independence Act.

The Energy Independence Act (EIA) was approved by voters in 2006. The EIA requires an electric utility with more than 25,000 customers to meet targets for energy conservation and to meet a certain percent of its annual load with eligible renewable resources. Utilities that must comply with the EIA are called "qualifying utilities."

##### Energy Conservation Targets.

A qualifying utility must pursue all available conservation that is cost-effective, reliable, and feasible. Every two years, the qualifying utility must review and update an assessment of its achievable cost-effective conservation potential for the subsequent 10-year period. The

---

*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.*

qualifying utility must establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its 10-year assessment. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent 10-year period.

#### Eligible Renewable Resource Targets.

A qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits (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.

#### Renewable Resources.

Under the EIA, "renewable resource" means:

- water, wind, and solar energy;
- geothermal energy;
- landfill gas and gas from sewage treatment facilities;
- wave, ocean, or tidal power;
- certain biodiesel fuel; or
- biomass energy.

#### Eligible Renewable Resources.

For a renewable resource to be considered an eligible renewable resource under the EIA, the electricity must be produced from:

- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located in the Pacific Northwest or the electricity is delivered into the state on a real-time basis;
- certain incremental hydroelectricity due to efficiency improvements;
- hydroelectricity from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, municipal water pipes, and wastewater pipes;
- qualified biomass energy;
- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located within a state in which the qualifying utility serves retail electrical customers, and the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least 12 months; or
- incremental electricity resulting from certain capital investments at a qualified biomass energy facility.

"Pacific Northwest" has the same meaning as defined for the Bonneville Power Administration (BPA) in the Pacific Northwest Electric Power Planning and Conservation Act, and includes the states of Washington, Oregon, and Idaho, as well as certain parts of California, Montana, Nevada, Utah, and Wyoming.

#### Renewable Energy Credits.

A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System, of at least one megawatt-hour of an eligible renewable resource generated by a facility that is not powered by freshwater. Under the EIA, a REC represents all the nonpower attributes associated with the power. A REC can be bought and sold in the marketplace to comply with annual renewable energy targets and may be used during the year it is acquired, the previous year, or the subsequent year.

#### Accountability and Enforcement.

The Utilities and Transportation Commission (UTC) determines compliance with the requirements of the EIA for investor-owned utilities. The State Auditor's Office is responsible for auditing compliance with the EIA for consumer-owned utilities and the Office of the Attorney General is responsible for enforcing that compliance.

#### Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund.

There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Current law authorizes multiple exemptions, deductions, and credits to reduce the B&O tax liability for specific taxpayers and business industries.

#### Public Utility Tax.

Income from utility operations is taxed under the Public Utility Tax (PUT) and is in lieu of the B&O tax; other income of the utility firm, e.g. retail sales of tangible personal property, is subject to the B&O tax. Unlike the B&O tax which pyramids, the PUT applies only on sales to consumers.

#### **Summary of Bill:**

##### Eligible Renewable Resource Targets.

Beginning January 1, 2020, a qualifying utility is in compliance with an annual renewable resource target if:

- the utility uses any combination of eligible renewable resources and clean energy resources that are not eligible renewable resources to serve 100 percent of its load; and
- the utility makes carbon reduction investments in a dollar amount that is at least equal to the incremental cost of complying with an annual renewable resource target.

"Clean energy resource" includes:

- a resource that emits no greenhouse gas pollution as part of its generation activity; or
- a renewable resource.

"Carbon reduction investment" means an investment in support of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of greenhouse gases in the state.

### Eligible Renewable Resources.

The definition of "eligible renewable resource" is expanded to include:

- electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located anywhere within the Western Interconnection;
- beginning January 1, 2019, the portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of electricity output from hydroelectric generation projects marketed by the Bonneville Power Association (BPA); and
- the environmental attributes, including Renewable Energy Credits, from federal incremental electricity transferred to investor-owned utilities under the BPA's Residential Exchange Program.

### Requirements for Meeting New Energy or Capacity Needs.

Beginning January 1, 2029, each electric utility must use clean energy resources to meet any new energy or capacity need for Washington retail electric customers. This requirement applies, at a minimum, to:

- any new or increased ownership interest in a new or existing electricity generation facility or unit; and
- any new or increased contractual commitment that obligates or allows an electric utility to purchase a specified amount of megawatts or megawatt-hours from an electricity generation facility or unit, or a specified percentage of an electricity generation facility or unit.

### Exceptions.

An electric utility may continue the use of:

- power purchased from the BPA;
- short-term spot market purchases;
- renewal or extension of contracts in effect as of January 1, 2020, where the renewal or extension does not lead to any increase in the energy or capacity provided;
- coal transition power;
- currently-owned generation resources;
- increased generation from a currently-owned facility;
- incremental generation from a utility-scale renewable resource or distributed energy resource that results from additional generation achieved from increased efficiency; and
- electricity that is found to be required to maintain reliable service and comply with applicable standard of the North American Electric Reliability Corporation (NERC).

An electric utility may procure one or more natural gas-fired generation units if such natural gas-fired generation is necessary to avoid potential conflicts with or compromises to the electric utility's obligation to comply with the mandatory and enforceable reliability standards of the NERC.

Upon its own motion or at the request of an electric utility, the Utilities and Transportation Commission (UTC) or the governing board of a consumer-owned utility, as applicable, may open an investigation to determine whether a utility's compliance with the requirements for meeting new energy or capacity needs is likely to compromise the utility's electrical system or its obligation to comply with the mandatory reliability standards of the NERC. The UTC or the

governing board may issue an order temporarily suspending the requirements for meeting new energy or capacity needs.

Tax Preferences.

A sales and use tax exemption is available for personal property, labor, and services used for carbon reduction investments at, or to offset the greenhouse gas (GHG) emissions of, an energy-intensive trade-exposed facility.

A sales and use tax exemption is available for machinery, equipment, labor, and services used to reduce the GHG emissions associated with the transportation of gas through a gas pipeline.

A public utility tax (PUT) deduction is available for light and power businesses in an amount equal to the cost of production of electrical energy or gas produced from renewable resources generated by new facilities on which construction or installation begins after January 1, 2020, and before January 1, 2028.

A PUT credit is available for persons who reduce their GHG emissions through carbon reduction investment projects. The credit is equal to the total amount of carbon reduction project expenditures. The total statewide amount of PUT credit allowed is \$50 million.

All of the tax preferences expire January 1, 2029.

Contingent Repeal of the Energy Independence Act and New Energy and Capacity Need Requirements.

The Energy Independence Act and the new energy and capacity need requirements are all repealed upon the effective date of any act by the Legislature that imposes a tax, fee, or other monetary price on the carbon content of fossil fuels and electricity sold or used within the state, such as a carbon tax or cap-and-trade program.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.