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## Environment & Energy Committee

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### HB 1211

**Brief Description:** Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

**Sponsors:** Representatives Tarleton, Doglio, Pollet, Stanford, Chapman, Peterson, Jinkins, Hudgins, Orwall, Wylie, Fitzgibbon, Valdez, Dolan, Sells, Ryu, Senn, Callan, Ortiz-Self, Fey, Morris, Slatter, Walen, Macri, Tharinger, Goodman, Kloba, Riccelli and Robinson; by request of Governor Inslee.

#### Brief Summary of Bill

- Requires all electric utilities to eliminate all costs associated with delivering electricity to Washington customers that is generated from a coal-fired resource from electric rates by December 31, 2025.
- Establishes that it is the policy of the state that all retail sales of electricity to Washington customers be greenhouse-gas neutral by January 1, 2030.
- Establishes that it is the policy of the state that nonemitting and renewable resources supply 100 percent of all retail sales of electricity to Washington customers by January 1, 2045.
- Establishes an administrative penalty of \$100 per megawatt-hour of electric generation from an emitting resource used to meet an electric utility's retail electric load.
- Extends the expiration date for a sales and use tax exemption for certain alternative energy machinery and equipment from January 1, 2020, to January 1, 2030.
- Amends the Utilities and Transportation Commission's ratemaking authorities over investor-owned utilities.

**Hearing Date:** 1/22/19

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

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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.*

## **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."

### Greenhouse Gas Emissions Performance Standard.

A state greenhouse gas emissions performance standard exists for all baseload electric generation for which electric utilities enter into long-term financial commitments. "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. To meet the standard, electric generation must meet the lower of:

- 1,100 pounds of greenhouse gases per megawatt-hour (MWh); or
- the average available greenhouse gas emissions output as determined by the Department of Commerce, which was recently lowered to 925 lbs per MWh from 970 lbs per MWh (WAC 194-26-020).

This standard does not apply to long-term financial commitments with the Bonneville Power Administration (BPA), electric generation facilities powered exclusively by renewable resources, or electric generation facilities powered by nuclear energy.

In order to update the standard, the Department of Commerce must conduct a survey every five years of new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers in the United States.

### Carbon Dioxide Mitigation.

Fossil-fueled thermal power plants with a generating capacity of 25 megawatts (MW) or greater must provide mitigation for 20 percent of the carbon dioxide emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification with the Energy Facility Site Evaluation Council or an order of approval after July 1, 2004, and to existing plants that increase the production of carbon dioxide emissions by 15 percent or more.

An applicant for a natural-gas fired power plant to be constructed in a county with a coal-fired power plant subject to the greenhouse gas emissions performance standard is exempt from the carbon dioxide mitigation requirement if the application is filed before December 31, 2025.

### In-State Coal-Fired Electric Generation Facility.

The only coal-fired electric generation facility located in the state is the TransAlta coal plant in Centralia, Washington. In 2011 the state entered into a memorandum of agreement with TransAlta to transition the coal-fired units away from coal, with one unit shutting down in 2020 and the second unit by December 31, 2025.

### Transition of Eligible Coal Units.

The Utilities and Transportation Commission (UTC) is authorized to, after conducting an adjudicative proceeding, allow an investor-owned utility (IOU) to place regulatory liabilities into a retirement account to cover decommissioning and remediation costs of eligible coal units that

commenced operation before January 1, 1980. An "eligible coal plant" means a coal-fired electric generation facility that:

- had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016;
- has multiple owners; and
- serves retail customers in Washington with a portion of its load.

An "eligible coal unit" is any generating unit of an eligible coal plant.

Regulatory liabilities in a retirement account must:

- not be used for any purpose other than to fund and recover prudently incurred decommissioning and remediation costs for eligible coal units;
- not be reduced, altered, impaired, or limited from the date of UTC approval until all costs are recovered or paid in full; and
- provide that remaining funds in the retirement account be returned to the IOU's customers.

Washington's Electric Utility Fuel Mix.

Each electric utility must disclose to its retail electric customers its actual or imputed annual fuel mix used to generate electricity. The disclosure must provide the percentage attributable to each of the following generation resources: coal, hydroelectricity, natural gas, nuclear, and other. Any specifically identified source of electricity is considered a declared resource. Utilities that do not declare their resources must report the fuel mix of the Northwest power pool, called the net system power mix. A renewable resource where the renewable attributes are separated and transferred to another entity must also be reported as the net system power mix. Utilities that purchase electricity from the BPA may disclose the source as the BPA system mix.

According to the Department of Commerce's fuel mix report for calendar year 2017, the aggregate fuel mix for Washington electric utilities was as follows:

<b>Fuel Type</b>	<b>Unspecified (Market) MWh</b>	<b>Specified (Plant Claim) MWh</b>	<b>Total Electric Power MWh</b>	<b>Share of Total</b>
Hydroelectricity	6,682,801	56,962,090	63,644,891	67.68%
Coal	2,015,966	10,577,471	12,593,438	13.39%
Natural Gas	2,617,845	7,564,036	10,181,880	10.83%
Nuclear	296,311	3,645,434	3,941,745	4.19%
Wind	0	2,674,081	2,674,081	2.84%
Biomass	254,786	307,525	562,311	0.60%
Biogas	0	121,566	121,566	0.13%
Other Biogenic	0	36,678	36,678	0.04%
Waste	0	35,234	35,234	0.04%
Petroleum	87,138	16,106	103,244	0.11%
Solar	0	3,071	3,071	0.00%
Geothermal	0	0	0	0.00%
Other Non-Biogenic	137,519	0	137,519	0.15%

<b>TOTAL</b>	<b>12,092,366</b>	<b>81,943,292</b>	<b>94,035,658</b>	<b>100.00%</b>
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Energy Resource Plans.

Each electric utility must develop a resource plan. Utilities with 25,000 or more customers that are not fully served by the BPA must develop Integrated Resource Plans (IRPs). An IRP must, at a minimum, include:

- a range of forecasts, for at least the next 10 years, of projected customer demand;
- an assessment of commercially available conservation and efficiency resources;
- an assessment of commercially available, utility-scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;
- a comparative evaluation of renewable and nonrenewable generating resources;
- an assessment of methods, commercially available technologies, or facilities for integrating renewable resources and addressing overgeneration events;
- the integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events, at the lowest reasonable cost and risk to the utility and its ratepayers; and
- a short-term plan identifying the specific actions to be taken by the utility consistent with the long-range IRP.

Utilities with fewer than 25,000 customers or that are fully-served BPA customers must complete a Resource Plan. This Resource Plan must estimate loads for the next five to 10 years, enumerate the resources that will be maintained or acquired to serve those loads, and explain why those resources were chosen.

**Summary of Bill:**

Coal Elimination Standard.

On or before December 31, 2025, all electric utilities must eliminate from electric rates all costs associated with delivering electricity to Washington customers that is generated from a coal-fired resource. This does not include costs associated with decommissioning and remediation of these facilities.

The Utilities and Transportation Commission (UTC) must accelerate depreciation schedules for any coal-fired resource owned by investor-owned utilities by December 31, 2025. The UTC may not extend the depreciation schedule for any generating resource that generates electricity through the combustion or oxidation of a fossil fuel.

Greenhouse Gas Neutral Standard.

All retail sales of electricity to Washington customers must be greenhouse gas neutral by January 1, 2030, and each year thereafter through December 31, 2044. An electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and renewable resources and other technologies that reduce greenhouse gas emissions. To achieve compliance, an electric utility must:

- use all cost-effective, reliable, and feasible conservation and efficiency resources and demand response resources to reduce or manage retail electric load; and

- use renewable resources in an amount equal to 100 percent of the utility's average annual retail electric load minus any nonemitting electric generation currently in operation.

Through December 31, 2039, an electric utility may satisfy up to 20 percent of its compliance obligation with an alternative compliance option. Beginning January 1, 2040, and through December 31, 2044, a utility may only satisfy up to 10 percent of its compliance obligation with an alternative compliance option. An alternative compliance option may include any combination of the following:

- making an alternative compliance payment;
- using unbundled renewable energy credits; or
- investing in energy transformation projects.

Investments in energy transformation projects used to satisfy an alternative compliance option must use criteria to be developed by the Department of Ecology and must demonstrate certain quality standards. Energy transformation projects must be associated with the consumption of energy in Washington and must not create a new use of fossil fuels in Washington that results in a net increase of fossil fuel usage.

In meeting annual targets established under the greenhouse gas neutral standard, an electric utility must demonstrate that it has achieved all cost-effective, reliable, and feasible conservation and efficiency resources, reductions in demand, and demand management prior to making new investments to meet projected demand, and to the maximum extent feasible must:

- achieve targets at the lowest reasonable cost; and
- in the acquisition of newly constructed resources, maximize the creation of family wage jobs and rely on renewable resources and energy storage.

#### Clean Energy Standard.

By January 1, 2045, and each year thereafter, an electric utility must supply 100 percent of its retail electric sales using nonemitting electric generation and renewable resources. In complying with this standard, an electric utility must:

- maintain and protect the safety, reliable operation, and balancing of the electric system;
- plan to meet the standard at the lowest reasonable cost; and
- ensure that all customers are benefiting from the transition to clean energy.

In meeting annual targets established under the clean energy standard, an electric utility must demonstrate that it has achieved all cost-effective, reliable, and feasible conservation and efficiency resources, reductions in demand, and demand management prior to making new investments to meet projected demand, and to the maximum extent feasible must:

- achieve targets at the lowest reasonable cost; and
- in the acquisition of newly constructed resources, maximize the creation of family wage jobs and rely on renewable resources and energy storage.

#### Administrative Penalty and Alternative Compliance Payment.

An electric utility that fails to comply with the coal elimination standard, greenhouse gas neutral standard, or clean energy standard must pay an administrative penalty in the amount of \$100 for each megawatt-hour of emitting or unspecified electric generation used to meet the utility's retail electric load. Beginning in 2027, the penalty must be adjusted on a biennial basis according to the rate of change of inflation. Beginning in 2040, the UTC may be rule increase the penalty for

investor-owned utilities if the UTC determines that doing so will accelerate utilities' compliance with the standards and that doing so is in the public interest.

An electric utility may opt to make a payment in the amount of the administrative penalty as an alternative compliance payment for the purpose of the clean energy standard.

An electric utility may be relieved of its administrative penalty obligation if the UTC, in the case of an investor-owned utility, or the Attorney General, in the case of a consumer-owned utility, finds that the utility had no choice but to use emitting electric generation to maintain the reliability and safety of the grid.

#### Reporting Requirements.

By January 1, 2021, and at least every two years thereafter, the UTC and the Department of Commerce must submit a joint report to the Legislature that includes the following:

- a review of the greenhouse gas neutral standard and the clean energy standard focused on technologies, forecasts, and existing transmission, and an evaluation of safety, environmental protection, affordability, and system reliability;
- an evaluation identifying the potential benefits and impacts on system reliability associated with achieving the greenhouse gas neutral standard and the clean energy standard;
- an evaluation identifying the nature of any anticipated financial costs and benefits to electric, gas, and water utilities, including customer rate impacts and benefits; and
- an assessment of the impacts of the greenhouse gas neutral standard and clean energy standard on low-income customers and vulnerable communities.

On or before December 31, 2026, and annually thereafter, each electric utility must report to the Department of Commerce on its progress in the preceding year in meeting the coal elimination standard, greenhouse gas neutral standard, and clean energy standard.

#### Rulemaking Authority.

The UTC may adopt rules to ensure the proper implementation and enforcement of the coal elimination standard, greenhouse gas neutral standard, and clean energy standard as applied to investor-owned utilities.

The Department of Commerce may adopt rules to ensure the proper implementation and enforcement of the coal elimination standard, greenhouse gas neutral standard, and clean energy standard are applied to consumer-owned utilities. Nothing in this authority may be construed to restrict the ratemaking authority of the governing body of a consumer-owned utility.

Rules must be adopted by January 1, 2021, and may be revised as needed.

#### Energy Resource Plans.

By December 31, 2020, and in each subsequent plan, a 10-year clean energy action plan must be included in each electric utility's Integrated Resource Plan or Resource Plan. By December 31, 2025, and in each subsequent plan, a 20-year clean energy action plan must be included in each electric utility's Integrated Resource Plan or Resource Plan.

#### Sales and Use Tax Exemption for Alternative Energy Machinery and Equipment.

The expiration date for a sales and use tax exemption for certain alternative energy machinery and equipment is extended from January 1, 2020, to January 1, 2030.

#### Investor-Owned Utility Ratemaking.

The UTC has the power upon complaint or upon its own motion to determine the fair value, for ratemaking purposes, of the property of an investor-owned utility that is used and useful for service in the state by or during the rate effective period. The valuation may include consideration of any property of the investor-owned utility acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent the UTC finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

The UTC may provide changes to rates for up to 48 months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The UTC must establish an appropriate process to identify, review, and approve investor-owned utility property that becomes used and useful for service in the state after the rate effective date.

Investor-owned utilities must use a carbon adder for planning, evaluating, and acquiring all resources.

#### State Energy Strategy.

By December 31, 2020, and at least once every eight years thereafter, the Department of Commerce must review the State Energy Strategy to align it with the requirements of the coal elimination standard, greenhouse gas neutral standard, and clean energy standard. The Department must establish an Energy Strategy Advisory Committee to provide guidance for each review.

#### Studies and Analyses.

By December 31, 2019, the Department of Health must conduct a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington.

By January 1, 2020, the Department of Commerce must convene an Energy and Climate Policy Advisory Committee to develop recommendations to the Legislature for the coordination of existing resources, or the establishment of new ones, for the purposes of:

- examining the costs and benefits of energy-related policies, programs, functions, activities, and incentives; and
- conducting other energy-related studies and analyses as may be directed by the Legislature.

The Energy and Climate Policy Advisory Committee must consist of, at minimum, representatives of each of the state's public four-year institutions of higher education, the Pacific Northwest National Laboratory, and the Washington State Institute for Public Policy.

#### Definitions.

"Energy transformation project" means a project or program that provides energy-related goods or services other than the generation of electricity and that results in a reduction in fossil fuel

consumption by the customers of an electric utility and in the emission of greenhouse gases attributable to that consumption.

"Nonemitting electric generation" means electricity from a generating facility or resource, including a distributed energy resource, that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation. "Nonemitting electric generation" does not include new large hydroelectric generation.

"New large hydroelectric generation" means hydroelectric generation that requires new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs, unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility. "New large hydroelectric generation" does not include hydroelectric generation resulting from efficiency or other improvements made to existing hydroelectric generating facilities.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2019.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.