

# HOUSE BILL REPORT

## SSB 5678

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**As Reported by House Committee On:**  
Environment & Energy

**Title:** An act relating to energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders.

**Brief Description:** Concerning energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders.

**Sponsors:** Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Short, Carlyle, Frockt and Mullet).

**Brief History:**

**Committee Activity:**

Environment & Energy: 2/22/22, 2/24/22 [DP].

**Brief Summary of Substitute Bill**

- Allows an investor-owned utility to petition the Utilities and Transportation Commission for a declaratory order to determine whether an energy transformation project, nonemitting electric generation project, or renewable resource project meets the requirements of the Clean Energy Transformation Act standards.

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### HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** Do pass. Signed by 13 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Berry, Boehnke, Fey, Goehner, Harris-Talley, Ramel, Shewmake and Slatter.

**Staff:** Megan McPhaden (786-7114).

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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 part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Clean Energy Transformation Act.

Under the Clean Energy Transformation Act (CETA), enacted in 2019, Washington's electric utilities must comply with the following standards:

- eliminate coal-fired resources from their allocation of electricity by December 31, 2025 (coal elimination standard);
- ensure that all retail sales of electricity to Washington customers are greenhouse gas neutral by January 1, 2030 (GHG neutral standard); and
- supply 100 percent of all retail sales of electricity to Washington customers with nonemitting and renewable resources by January 1, 2045 (100 percent clean electricity standard).

### *Nonemitting Electric Generation, Renewable Resources, and Energy Transformation Projects.*

From 2030 through 2044, an electric utility must demonstrate its compliance with the GHG neutral standard by using a combination of nonemitting electric generation, electricity from renewable resources, or alternative compliance options. Alternative compliance options may be used only through 2044, to satisfy up to 20 percent of the GHG neutral standard, and include alternative compliance payments, renewable energy credits under certain conditions, electricity from certain energy recovery facilities using municipal solid waste, and energy transformation projects.

Nonemitting electric generation is electricity from a facility or resource that provides electricity, capacity, or ancillary services to a utility and that does not emit GHG gasses, including distributed energy resources.

Renewable resources include water, wind, solar energy, landfill gas, biomass energy, and others.

An energy transformation project must provide energy-related goods or services other than the generation of electricity; result in a reduction of fossil fuel consumption and reduction in GHG emissions attributable to that consumption; and provide benefits to electric utility customers, among other requirements.

An energy transformation project may include: home weatherization or other energy efficiency measures; support for electrification of the transportation sector such as electric vehicle connection equipment on an electric utility's transmission and distribution system; investment in distributed energy resources and grid modernization; investments in equipment for renewable natural gas processing and production; investments in conservation to serve the sites of large industrial gas and electrical customers; and projects and programs that achieve energy efficiency and emission reductions in the agricultural sector.

*Clean Energy Action and Implementation Plans.*

A clean energy action plan must be adopted by each electric utility for implementing the coal elimination standard, GHG neutral standard, and 100 percent clean electricity standard at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility.

A clean energy implementation plan (CEIP) must be adopted and submitted by each investor-owned utility (IOU) to the Utilities and Transportation Commission (UTC) every four years, beginning January 1, 2022. Among other requirements, the CEIP must be informed by the clean energy action plan, propose interim targets for meeting the GHG neutral standards, and identify specific actions that the IOU will take to demonstrate progress towards the GHG neutral standard and the 100 percent clean electricity standard. The UTC, after a hearing, must approve, reject, or approve with conditions an IOU's CEIP and interim targets.

Declaratory Orders Under the Administrative Procedure Act.

The Administrative Procedure Act (APA) establishes the general procedures for agency rulemaking and adjudicatory proceedings. Under the APA, any person may petition an agency for a declaratory order on how a rule, order, or enforceable statute applies in specific circumstances.

The petitioner for a declaratory order must provide facts and reasons that:

- uncertainty necessitating resolution exists;
- there is controversy from the uncertainty such that the declaratory order will not just be an advisory opinion;
- the uncertainty adversely affects the petitioner and this adverse effect outweighs any adverse effects on others or the public that may likely arise from the requested order; and
- the petition complies with any additional requirements set by the agency in rule.

Among other requirements, within 30 days of receiving a petition for a declaratory order, an agency must do one of the following:

- enter the order declaring the applicability of the statute, rule, or order in question to the specified circumstances;
- set the matter specified proceedings to be held no more than 90 days later;
- extend entering the order for up to 90 days; or
- decline to enter the order.

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**Summary of Bill:**

An investor-owned utility (IOU) may petition the Utilities and Transportation Commission (UTC) for a declaratory order to determine whether a proposed energy transformation project, nonemitting electric generation project, or renewable resource project (proposed

project) meets the Clean Energy Transformation Act (CETA) standards for having electricity sales be: (1) greenhouse gas neutral by 2030 (GHG neutral standard); and (2) from only nonemitting or renewable resources by 2045 (100 percent clean electricity standard).

If the UTC determines that a proposed project in the declaratory order complies with these CETA standards, an IOU may identify the project in its clean energy action plan and clean energy implementation plan (CEIP). If, after the UTC determines that a proposed project complies with CETA standards in a declaratory order, an IOU seeks approval for the proposed project in a CEIP or proceeding to set rates and the proposed project substantially deviates from the one described in the declaratory order to potentially affect its compliance with CETA standards, the UTC may reevaluate the proposed project's compliance with CETA standards.

The petition for a declaratory order must be in writing and must include an accurate description of the proposed project. The UTC may charge a fee to cover the cost of reviewing the proposed project and prepare a declaratory order. A declaratory order does not determine the prudence of the proposed project.

The UTC is still authorized to determine, independent of the declaratory order, whether a proposed project meets the planning and portfolio requirements of an IOU's CEIP. An IOU is not required to seek a declaratory order to determine whether or not a proposed project is compliant with CETA standards.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill will give utilities reasonable certainty and some direction before making large investments that will be needed to meet the clean energy standard. Both traditional and nontraditional resources will likely be evaluated. For example, hydroelectric upgrade parameters and emerging developments of hydrogen may require determinations as to whether they qualify as renewable or nonemitting. There are likely new technologies that will emerge between now and 2045 that weren't considered when the law was drafted. The bill allows utilities to present the design of a specific project or resource in detail that would not be provided in the utility's other planning processes. This is merely a technical review, it is not a prudence determination as to whether a utility can recover these investments in rates, which will still be done in general rate cases.

(Opposed) The hydroelectric form of energy works and should remain the type of energy used, especially after this COVID-19 situation. Alternative ways of doing things like solar can be more expensive for the taxpayer, who is already taxed enough. Coal and electricity are a lot more cost-effective. Climate change has been a reason to charge more taxes and fees.

**Persons Testifying:** (In support) John Rothlin, Avista.

(Opposed) Laurie Layne.

**Persons Signed In To Testify But Not Testifying:** None.