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**SENATE BILL 5168**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senator Short

Read first time 01/12/21. Referred to Committee on Environment,  
Energy & Technology.

1 AN ACT Relating to renewable and nonemitting resources analysis  
2 and advisory opinions; and adding a new section to chapter 19.405  
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.405  
6 RCW to read as follows:

7 (1) When requested by an electric utility or by a person  
8 proposing an electric generation project or energy transformation  
9 project, the department is authorized to and shall provide an  
10 analysis and an advisory opinion as to whether a proposed electric  
11 generation project or energy transformation project qualifies to meet  
12 the requirements under RCW 19.405.040 and 19.405.050.

13 (2) An electric utility or a person proposing an electric  
14 generation project or energy transformation project to be used by an  
15 electric utility may apply for an advisory opinion from the  
16 department. The application must be in writing and must include  
17 information that accurately describes the proposed project. When  
18 forming an advisory opinion, the department must solicit and consider  
19 comments from interested parties, including staff of a requesting  
20 utility.

1 (3) Within 90 days of receiving an application, the director of  
2 the department must issue a signed advisory opinion on whether the  
3 proposed project qualifies to meet the requirements under RCW  
4 19.405.040 and 19.405.050.

5 (4) When forming an advisory opinion, the department or the  
6 commission must solicit and consider comments from interested  
7 parties, including staff of a requesting utility. An advisory opinion  
8 issued by the director of the department or the commission must  
9 include a legal analysis.

10 (5) Any project reviewed under the process in this section must  
11 be deemed a compliant resource under RCW 19.405.040 and 19.405.050 by  
12 any agency, including the commission, authorized to enforce those  
13 sections, but only if the advisory opinion affirmatively qualifies  
14 the project and the project or resource is built or acquired as  
15 proposed in the advisory opinion application.

16 (6) A project is considered to be used by a utility if the  
17 utility takes ownership in whole or in part of an electric generation  
18 project or energy transformation project or enters into a contract to  
19 purchase the energy and nonenergy attributes of an electric  
20 generation project or the nonenergy attributes of an energy  
21 transformation project.

22 (7) The department may require an applicant to pay an application  
23 fee. The amount of the fee must be set by the department to solely  
24 cover the cost of reviewing the project and preparing an advisory  
25 opinion, including a legal analysis.

26 (8) The department may adopt rules to implement this section.

27 (9) Nothing in this section preempts the authority of any  
28 governing board of a consumer-owned utility, the commission, or any  
29 agency authorized to enforce the provisions of RCW 19.405.040 and  
30 19.405.050 from making a determination, independent of the process in  
31 this section, on whether a proposed electric generation project or  
32 energy transformation project qualifies to meet the requirements  
33 under RCW 19.405.040 and 19.405.050.

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