

SSB 5575 - S AMD 99

By Senators Hatfield, Delvin, Ranker

ADOPTED 02/11/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that: (a)
4 Pulping liquors can be used to reduce harmful pollution and produce
5 electricity and thermal energy that enables pulp and paper facilities
6 to be highly energy efficient; (b) biomass facilities and pulp and
7 paper mills are typically located in communities that are
8 disproportionately affected by economic downturns; (c) mill closures
9 have occurred throughout the state for more than a decade and the
10 remaining ones have become all the more dependent on selling wood
11 residuals, which are used for electricity generation, in order to
12 sustain their economic viability; (d) employment at pulp and paper
13 mills in the state has also declined significantly, most recently in
14 Grays Harbor and Snohomish counties; (e) wood derived biomass is a
15 renewable fuel for generating electricity and considered carbon-neutral
16 under the laws of the state of Washington; and (f) using food
17 processing residues, food waste, and yard waste to generate renewable
18 electricity can benefit rural economies, decrease the amount of solid
19 waste that requires disposal, and reduce greenhouse gas emissions that
20 result from organic decay.

21 (2) The legislature declares that, by promoting the generation of
22 renewable energy from biomass, particularly in economically distressed
23 communities, it intends to ensure greater economic stability for the
24 communities that have suffered heavy job losses and chronic
25 unemployment.

26 (3) The legislature further declares that: (a) The owners of
27 qualified biomass energy facilities that must comply with the renewable
28 energy standards under the energy independence act of 2006, either as
29 a matter of law or contractual obligation, should be permitted to use
30 qualified biomass energy credits to meet their obligations; and (b)

1 electricity that is generated by a biomass energy facility that entered
2 commercial operation after March 31, 1999, from the combustion of
3 organic by-products of pulping and the wood manufacturing process
4 should be treated as an eligible renewable resource.

5 **Sec. 2.** RCW 19.285.030 and 2009 c 565 s 20 are each amended to
6 read as follows:

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

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

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

16 (3) "Commission" means the Washington state utilities and
17 transportation commission.

18 (4) "Conservation" means any reduction in electric power
19 consumption resulting from increases in the efficiency of energy use,
20 production, or distribution.

21 (5) "Cost-effective" has the same meaning as defined in RCW
22 80.52.030.

23 (6) "Council" means the Washington state apprenticeship and
24 training council within the department of labor and industries.

25 (7) "Customer" means a person or entity that purchases electricity
26 for ultimate consumption and not for resale.

27 (8) "Department" means the department of commerce or its successor.

28 (9) "Distributed generation" means an eligible renewable resource
29 where the generation facility or any integrated cluster of such
30 facilities has a generating capacity of not more than five megawatts.

31 (10) "Eligible renewable resource" means:

32 (a) Electricity from a generation facility powered by a renewable
33 resource other than freshwater that commences operation after March 31,
34 1999, where: (i) The facility is located in the Pacific Northwest; or
35 (ii) the electricity from the facility is delivered into Washington
36 state on a real-time basis without shaping, storage, or integration
37 services; ((or))

1 (b) Incremental electricity produced as a result of efficiency
2 improvements completed after March 31, 1999, to hydroelectric
3 generation projects owned by a qualifying utility and located in the
4 Pacific Northwest or to hydroelectric generation in irrigation pipes
5 and canals located in the Pacific Northwest, where the additional
6 generation in either case does not result in new water diversions or
7 impoundments; and

8 (c) Qualified biomass energy.

9 (11) "Investor-owned utility" has the same meaning as defined in
10 RCW 19.29A.010.

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

14 (13) "Nonpower attributes" means all environmentally related
15 characteristics, exclusive of energy, capacity reliability, and other
16 electrical power service attributes, that are associated with the
17 generation of electricity from a renewable resource, including but not
18 limited to the facility's fuel type, geographic location, vintage,
19 qualification as an eligible renewable resource, and avoided emissions
20 of pollutants to the air, soil, or water, and avoided emissions of
21 carbon dioxide and other greenhouse gases.

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

26 (15) "Public facility" has the same meaning as defined in RCW
27 39.35C.010.

28 (16) "Qualifying utility" means an electric utility, as the term
29 "electric utility" is defined in RCW 19.29A.010, that serves more than
30 twenty-five thousand customers in the state of Washington. The number
31 of customers served may be based on data reported by a utility in form
32 861, "annual electric utility report," filed with the energy
33 information administration, United States department of energy.

34 (17) "Renewable energy credit" means a tradable certificate of
35 proof of at least one megawatt-hour of an eligible renewable resource
36 where the generation facility is not powered by freshwater((τ)). The
37 certificate includes all of the nonpower attributes associated with

1 that one megawatt-hour of electricity, and the certificate is verified
2 by a renewable energy credit tracking system selected by the
3 department.

4 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
5 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
6 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
7 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
8 on land cleared from old growth or first-growth forests where the
9 clearing occurred after December 7, 2006; ~~((and))~~ or (i) biomass energy
10 ~~((based on animal waste or solid organic fuels from wood, forest, or
11 field residues, or dedicated energy crops that do not include (i) wood
12 pieces that have been treated with chemical preservatives such as
13 creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black
14 liquor by product from paper production; (iii) wood from old growth
15 forests; or (iv) municipal solid waste))~~.

16 (19)(a) "Biomass energy" includes: (i) Organic by-products of
17 pulping and the wood manufacturing process; (ii) animal manure; (iii)
18 solid organic fuels from wood; (iv) forest or field residues; (v)
19 untreated wooden demolition or construction debris; (vi) food waste and
20 food processing residuals; (vii) liquors derived from algae; (viii)
21 dedicated energy crops; and (ix) yard waste.

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

26 (20) "Qualified biomass energy" means electricity produced from a
27 biomass energy facility that: (a) Commenced operation before March 31,
28 1999; (b) contributes to the qualifying utility's load; and (c) is
29 owned either by: (i) A qualifying utility; or (ii) an industrial
30 facility that is directly interconnected with electricity facilities
31 that are owned by a qualifying utility and capable of carrying
32 electricity at transmission voltage.

33 (21) "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 ~~((+20))~~ (22) "Year" means the twelve-month period commencing
37 January 1st and ending December 31st.

1 **Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
2 as follows:

3 (1) Each qualifying utility shall pursue all available conservation
4 that is cost-effective, reliable, and feasible.

5 (a) By January 1, 2010, using methodologies consistent with those
6 used by the Pacific Northwest electric power and conservation planning
7 council in its most recently published regional power plan, each
8 qualifying utility shall identify its achievable cost-effective
9 conservation potential through 2019. At least every two years
10 thereafter, the qualifying utility shall review and update this
11 assessment for the subsequent ten-year period.

12 (b) Beginning January 2010, each qualifying utility shall establish
13 and make publicly available a biennial acquisition target for cost-
14 effective conservation consistent with its identification of achievable
15 opportunities in (a) of this subsection, and meet that target during
16 the subsequent two-year period. At a minimum, each biennial target
17 must be no lower than the qualifying utility's pro rata share for that
18 two-year period of its cost-effective conservation potential for the
19 subsequent ten-year period.

20 (c) In meeting its conservation targets, a qualifying utility may
21 count high-efficiency cogeneration owned and used by a retail electric
22 customer to meet its own needs. High-efficiency cogeneration is the
23 sequential production of electricity and useful thermal energy from a
24 common fuel source, where, under normal operating conditions, the
25 facility has a useful thermal energy output of no less than thirty-
26 three percent of the total energy output. The reduction in load due to
27 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
28 the fuel chargeable to power heat rate of the cogeneration facility
29 compared to the heat rate on a new and clean basis of a
30 best-commercially available technology combined-cycle natural gas-fired
31 combustion turbine; and (ii) counted towards meeting the biennial
32 conservation target in the same manner as other conservation savings.

33 (d) The commission may determine if a conservation program
34 implemented by an investor-owned utility is cost-effective based on the
35 commission's policies and practice.

36 (e) The commission may rely on its standard practice for review and
37 approval of investor-owned utility conservation targets.

1 (2)(a) Except as provided in (j) of this subsection, each
2 qualifying utility shall use eligible renewable resources or acquire
3 equivalent renewable energy credits, or ~~((a))~~ any combination of
4 ~~((both))~~ them, to meet the following annual targets:

5 (i) At least three percent of its load by January 1, 2012, and each
6 year thereafter through December 31, 2015;

7 (ii) At least nine percent of its load by January 1, 2016, and each
8 year thereafter through December 31, 2019; and

9 (iii) At least fifteen percent of its load by January 1, 2020, and
10 each year thereafter.

11 (b) A qualifying utility may count distributed generation at double
12 the facility's electrical output if the utility: (i) Owns or has
13 contracted for the distributed generation and the associated renewable
14 energy credits; or (ii) has contracted to purchase the associated
15 renewable energy credits.

16 (c) In meeting the annual targets in (a) of this subsection, a
17 qualifying utility shall calculate its annual load based on the average
18 of the utility's load for the previous two years.

19 (d) A qualifying utility shall be considered in compliance with an
20 annual target in (a) of this subsection if: (i) The utility's weather-
21 adjusted load for the previous three years on average did not increase
22 over that time period; (ii) after December 7, 2006, the utility did not
23 commence or renew ownership or incremental purchases of electricity
24 from resources other than renewable resources other than on a daily
25 spot price basis and the electricity is not offset by equivalent
26 renewable energy credits; and (iii) the utility invested at least one
27 percent of its total annual retail revenue requirement that year on
28 eligible renewable resources, renewable energy credits, or a
29 combination of both.

30 (e) The requirements of this section may be met for any given year
31 with renewable energy credits produced during that year, the preceding
32 year, or the subsequent year. Each renewable energy credit may be used
33 only once to meet the requirements of this section.

34 (f) In complying with the targets established in (a) of this
35 subsection, a qualifying utility may not count:

36 (i) Eligible renewable resources or distributed generation where
37 the associated renewable energy credits are owned by a separate entity;
38 or

1 (ii) Eligible renewable resources or renewable energy credits
2 obtained for and used in an optional pricing program such as the
3 program established in RCW 19.29A.090.

4 (g) Where fossil and combustible renewable resources are cofired in
5 one generating unit located in the Pacific Northwest where the cofiring
6 commenced after March 31, 1999, the unit shall be considered to produce
7 eligible renewable resources in direct proportion to the percentage of
8 the total heat value represented by the heat value of the renewable
9 resources.

10 (h)(i) A qualifying utility that acquires an eligible renewable
11 resource or renewable energy credit may count that acquisition at one
12 and two-tenths times its base value:

13 (A) Where the eligible renewable resource comes from a facility
14 that commenced operation after December 31, 2005; and

15 (B) Where the developer of the facility used apprenticeship
16 programs approved by the council during facility construction.

17 (ii) The council shall establish minimum levels of labor hours to
18 be met through apprenticeship programs to qualify for this extra
19 credit.

20 (i) A qualifying utility shall be considered in compliance with an
21 annual target in (a) of this subsection if events beyond the reasonable
22 control of the utility that could not have been reasonably anticipated
23 or ameliorated prevented it from meeting the renewable energy target.
24 Such events include weather-related damage, mechanical failure,
25 strikes, lockouts, and actions of a governmental authority that
26 adversely affect the generation, transmission, or distribution of an
27 eligible renewable resource under contract to a qualifying utility.

28 (j)(i) Beginning January 1, 2016, only a qualifying utility that
29 owns or is directly interconnected to a qualified biomass energy
30 facility may use qualified biomass energy to meet its compliance
31 obligation under RCW 19.285.040(2).

32 (ii) A qualifying utility may no longer use electricity and
33 associated renewable energy credits from a qualified biomass energy
34 facility if the associated industrial pulping or wood manufacturing
35 facility ceases operation other than for purposes of maintenance or
36 upgrade.

37 (k) An industrial facility that hosts a qualified biomass energy
38 facility may only transfer or sell renewable energy credits associated

1 with its facility to the qualifying utility with which it is directly
2 interconnected with facilities owned by such a qualifying utility and
3 that are capable of carrying electricity at transmission voltage. The
4 qualifying utility may only use an amount of renewable energy credits
5 associated with qualified biomass energy that are equivalent to the
6 proportionate amount of its annual targets under (a)(ii) and (iii) of
7 this subsection that was created by the load of the industrial
8 facility. A qualifying utility that owns a qualified biomass energy
9 facility may not transfer or sell renewable energy credits associated
10 with qualified biomass energy to another person, entity, or qualifying
11 utility.

12 (3) Utilities that become qualifying utilities after December 31,
13 2006, shall meet the requirements in this section on a time frame
14 comparable in length to that provided for qualifying utilities as of
15 December 7, 2006.

16 NEW SECTION. Sec. 4. If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected."

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20 On page 1, line 5 of the title, after "resource;" strike the
21 remainder of the title and insert "amending RCW 19.285.030 and
22 19.285.040; and creating a new section."

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