

# SENATE BILL REPORT

## SB 5648

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As Reported by Senate Committee On:  
Energy, Environment & Telecommunications, February 20, 2013

**Title:** An act relating to making energy conservation a top priority by adding new incentives and aligning the timing of the acquisitions of eligible renewable resources, electricity, or equivalent renewable energy credits, with the need for additional electric generating resources to serve consumers' loads, without changing the eligible renewable targets.

**Brief Description:** Making energy conservation a top priority by adding new incentives and aligning the timing of the acquisitions of eligible renewable resources, electricity, or equivalent renewable energy credits, with the need for additional electric generating resources to serve consumers' loads, without changing the eligible renewable targets.

**Sponsors:** Senators Brown, Hatfield, Rivers, Hobbs, Sheldon, Smith, Honeyford, Schoesler and Hewitt.

**Brief History:**

**Committee Activity:** Energy, Environment & Telecommunications: 2/12/13, 2/20/13 [DPS, DNP].

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### SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 5648 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Brown, Chase and Honeyford.

**Minority Report:** Do not pass.

Signed by Senators Ranker, Ranking Member; Billig and Cleveland.

**Staff:** William Bridges (786-7416)

**Background:** Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937 (I-937), requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources. Utilities that must comply with I-937 are called qualifying utilities.

Energy Conservation Assessments and Targets (Conservation Targets). Each qualifying electric utility must pursue all available conservation that is cost-effective, reliable, and

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feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019, and update the assessments every two years for the next ten-year period. Beginning January 2010, each qualifying utility must meet biennial conservation targets that are consistent with its conservation assessments.

Eligible Renewable Resource Targets and Compliance Dates (Renewable Acquisition Targets). Each qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits, 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.

Load means the amount of kilowatt-hours of electricity a qualifying utility delivered to its Washington retail customers in the most recently completed year.

Eligible Renewable Resource. The term eligible renewable resource means electricity generated from a resource such as wind, solar, geothermal energy, landfill and sewage gas, wave and tidal power, and certain biodiesel fuels. In addition, an eligible renewable resource must be generated in a facility that started operating after March 31, 1999, and the facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Under certain conditions, incremental electricity produced as a result of efficiency improvements to hydroelectric generation facilities may also count as an eligible renewable resource.

Renewable Energy Credit (REC). An REC is a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water. Under I-937, an REC represents all the nonpower attributes associated with the power. RECs can be bought and sold in the marketplace, and they may be used during the year they are acquired, the previous year, or the subsequent year.

Alternative Compliance Methods. In general, a qualifying utility that fails to meet an annual target to acquire eligible renewable resources will still be considered in compliance with I-937 if any of the following exceptions apply:

- the failure was due to events beyond the reasonable control and anticipation of a qualified utility;
- the utility spent 4 percent of its total annual revenue needs to meet the eligible renewable resource targets; or
- the utility spent 1 percent of its total annual revenue requirement to meet the eligible renewable resource targets, had no increases in the demand for electricity for the previous three years, and did not sign any contracts for nonrenewable resources after December 7, 2006, the date I-937 became law.

**Summary of Bill (Recommended Substitute):** Using Excess Conservation to Meet Conservation and Renewable Acquisition Targets. A qualifying utility may count conservation acquired in excess of a conservation target toward a subsequent conservation target or as an equivalent REC to meet a current or future renewable acquisition target. Any

excess conservation used to meet a subsequent conservation target or a current or future renewable acquisition target may not be used to affect the calculation of subsequent conservation targets.

Creating a New Alternative Compliance Method. A qualifying utility must be considered in compliance with a renewable acquisition target if the utility meets or exceeds its load with a combination of: non-eligible renewable resources, either owned or under contract by January 1, 2010, or as of January 1 of the target year; and any eligible renewable resources or RECs, either owned or under contract for the target year. A qualifying utility using this alternative compliance method may still sell or dispose any excess electricity or credits that it may own or is under contract.

Findings and Legislative Intent. Various findings are made and the intent of the Legislature is declared. Among other things, the Legislature affirms the value of conservation and declares the legislative intent to remove unintended economic hardships caused by I-937. Further findings are made concerning the adverse effects of I-937 on renewable energy markets.

**EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (Recommended Substitute):** Findings are added concerning market conditions that may increase the price of electricity and RECs.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: It is a sound business principle to not buy something before you need it. Under I-937, utilities have to purchase renewable energy credits they cannot use, which ultimately raises rates that hurt small businesses and low-income families. High electric rates hurt schools, students, and teachers. Columbia Basin College faces 15 to 20 percent electric rate increases. The off-ramps and cost caps in I-937 do not work because they do not take into account how utilities are actually operated. High electric rates are affecting irrigation operations. Every dollar spent on electricity means there is less money to employ someone. Forcing utilities to purchase electricity they do not need is mostly affecting people who are low-income minorities. Conservation is spent locally while money spent on RECs tends to stimulate development somewhere else.

CON: This bill would substantially reduce new renewable energy development and construction. It would also create inequities among utilities and punish early adopters. I-937 has options for slow-growing utilities. There is no causal relationship between high electric rates and I-937.

**Persons Testifying:** PRO: Senator Brown, prime sponsor; Jared Balcom, Balcom & Moe, Inc.; Tim Boyd, Industrial Customers of NW Utilities; George Caan, WA Public Utility District Assn.; Tim Gibbs, Greater Grays Harbor, Inc.; Randy Ray, Tri-City Chamber of Commerce; Steven Simmons, Citizens for POWER; Doug Smith, Grays Harbor Public Utility District; Martin Valadez, Tri-Cities Hispanic Chamber of Commerce.

CON: Nancy Atwood, Puget Sound Energy; Nancy Hirsh, NW Energy Coalition; John Rothlin, Avista; Cliff Traisman, WA Environmental Council.