HOUSE BILL REPORT
HB 2283

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to encouraging investment in and reducing the costs of transitioning to the clean energy future.

Brief Description: Encouraging investment in and reducing the costs of transitioning to the clean energy future.

Sponsors: Representatives DeBolt, Smith, Orcutt and Condotta.

Brief History:
Committee Activity:
Technology & Economic Development: 1/16/18, 2/1/18 [DPS].

Brief Summary of Substitute Bill

- Requires that electric utilities use electricity generated by clean energy resources to meet any new energy or capacity need beginning January 1, 2020.
- Establishes tax preferences for certain renewable energy and carbon reduction investments.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Harmsworth, Manweller, McDonald, Nealey, Steele, Wylie and Young.

Minority Report: Do not pass. Signed by 4 members: Representatives Kloba, Vice Chair; Hudgins, Santos and Slatter.

Staff: Nikkole Hughes (786-7156).

Background:

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.

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."

Energy Conservation Targets.

A qualifying utility must pursue all available conservation that is cost-effective, reliable, and feasible. Every two years, the qualifying utility must review and update an assessment of its achievable cost-effective conservation potential for the subsequent 10-year period. The qualifying utility must establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its 10-year assessment. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent 10-year period.

Eligible Renewable Resource Targets.

A qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits (RECs), 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.

Renewable Resources.

Under the EIA, "renewable resource" means:

- water, wind, and solar energy;
- geothermal energy;
- landfill gas and gas from sewage treatment facilities;
- wave, ocean, or tidal power;
- certain biodiesel fuel; or
- biomass energy.

Eligible Renewable Resources.

For a renewable resource to be considered an eligible renewable resource under the EIA, the electricity must be produced from:

- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located in the Pacific Northwest or the electricity is delivered into the state on a real-time basis;
- certain incremental hydroelectricity due to efficiency improvements;
- hydroelectricity from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, municipal water pipes, and wastewater pipes;

- qualified biomass energy;
- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located within a state in which the qualifying utility serves retail electrical customers, and the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least 12 months; or
- incremental electricity resulting from certain capital investments at a qualified biomass energy facility.

"Pacific Northwest" has the same meaning as defined for the Bonneville Power Administration (BPA) in the Pacific Northwest Electric Power Planning and Conservation Act, and includes the states of Washington, Oregon, and Idaho, as well as certain parts of California, Montana, Nevada, Utah, and Wyoming.

Renewable Energy Credits.

A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System, of at least one megawatt-hour of an eligible renewable resource generated by a facility that is not powered by freshwater. Under the EIA, a REC represents all the nonpower attributes associated with the power. A REC can be bought and sold in the marketplace to comply with annual renewable energy targets, and may be used during the year it is acquired, the previous year, or the subsequent year.

Accountability and Enforcement.

The Utilities and Transportation Commission (UTC) determines compliance with the requirements of the EIA for investor-owned utilities. The State Auditor's Office is responsible for auditing compliance with the EIA for consumer-owned utilities and the Office of the Attorney General is responsible for enforcing that compliance.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Current law authorizes multiple exemptions, deductions, and credits to reduce the B&O tax liability for specific taxpayers and business industries.

Public Utility Tax.

Income from utility operations is taxed under the Public Utility Tax (PUT) and is in lieu of the B&O tax; other income of the utility firm, e.g. retail sales of tangible personal property, is subject to the B&O tax. Unlike the B&O tax which pyramids, the PUT applies only on sales to consumers. Five different rates apply, depending upon the specific utility activity. The current rates, including permanent surtaxes, are as follows:

- distribution of water, 5.029 percent;
- generation or distribution of electrical power, 3.873 percent;
- telegraph companies, distribution of natural gas, and collection of sewerage, 3.852 percent;
- urban transportation and watercraft vessels under 65 feet in length, 0.642 percent; and
- railroads, railroad car companies, motor transportation, and all other public service businesses, 1.926 percent.

Tax Preferences.

All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. In addition, an automatic 10-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Substitute Bill:

Eligible Renewable Resource Targets.

Beginning January 1, 2020, a qualifying utility is in compliance with an annual renewable resource target if:

- the utility uses any combination of eligible renewable resources and clean energy resources that are not eligible renewable resources to serve 100 percent of its load; and
- the utility makes carbon reduction investments in a dollar amount that is at least equal to the incremental cost of complying with an annual renewable resource target.

"Clean energy resource" includes:

- a resource that emits no greenhouse gas pollution as part of its generation activity; or
- a renewable resource.

"Carbon reduction investment" means an investment in support of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of greenhouse gases in the state.

Eligible Renewable Resources.

The definition of "eligible renewable resource" is expanded to include:

- electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located anywhere within the Western Interconnection;
- beginning January 1, 2018, the portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a

qualifying utility's share of electricity output from hydroelectric generation projects marketed by the BPA; and
- the environmental attributes, including RECs, from federal incremental electricity transferred to investor-owned utilities under the BPA's Residential Exchange Program.

Requirements for Meeting New Energy or Capacity Needs.

Beginning January 1, 2020, each electric utility must use clean energy resources to meet any new energy or capacity need. This requirement applies, at a minimum, to:
- any new or increased ownership interest in a new or existing electricity generation facility or unit; and
- any new or increased contractual commitment that obligates or allows an electric utility to purchase a specified amount of megawatts or megawatt-hours from an electricity generation facility or unit, or a specified percentage of an electricity generation facility or unit.

Exceptions.

An electric utility may procure one or more natural gas-fired generation units if such natural gas-fired generation is necessary to avoid potential conflicts with or compromises to the electric utility's obligation to comply with the mandatory and enforceable reliability standards of the North American Electric Reliability Corporation (NERC).

Upon its own motion or at the request of an electric utility, the UTC or the governing board of a consumer-owned utility, as applicable, may open an investigation to determine whether a utility's compliance with the requirements for meeting new energy or capacity needs is likely to compromise the utility's electrical system or its obligation to comply with the mandatory reliability standards of the NERC. The UTC or the governing board may issue an order temporarily exempting a utility from the requirements for meeting new energy or capacity needs. The order must require the utility to file a progress report within six months after an order granting an exemption is issued, or within an amount of time determined to be reasonable by the UTC in the case of an investor-owned utility, on achieving full compliance with the requirements.

Tax Preferences.

A B&O tax credit and PUT credit are established for persons who reduce greenhouse gas emissions through carbon reduction investment projects in an amount equal to the total amount of the person's carbon reduction expenditures.

A PUT deduction is established for light and power businesses in an amount equal to the cost of production of electrical energy or gas produced from renewable resources generated by new facilities on which construction or installation is begun after January 1, 2020, and before January 1, 2028.

A sales and use tax deferral is established for eligible renewable energy investment projects in an amount up to $1 million per project per person, beginning January 1, 2020, and until January 1, 2028.

A 10-year property tax exemption is established until January 1, 2028, for all buildings, machinery, equipment, and other personal property which are used primarily for the generation of electricity by new renewable energy generation facilities or additions to existing generation facilities.

Substitute Bill Compared to Original Bill:

The substitute bill:

- amends the definition of "clean energy resource" such that it refers to a nonexclusive list of resources that includes a resource that emits no greenhouse gas pollution as part of its generation activity or a renewable resource;
- removes the January 1, 2028, suspension of the 15 percent annual renewable resource target under the EIA;
- changes the implementation date of the requirement for electric utilities to use electricity generated by clean energy resources to meet any new energy or capacity need from January 1, 2028, to January 1, 2020; and
- removes the contingent repeal of the EIA upon the enactment of any legislation imposing a tax, fee, or other monetary price on the carbon content of fossil fuels and electricity.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: 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 is about reducing carbon. Its intent is to reward innovation in the manufacturing sector of the economy.

(Opposed) This bill attempts to either eliminate or weaken the EIA, which has been successful in diversifying our state's energy resources. The EIA is complementary to any carbon pricing policy that might be enacted in the state. This bill does not require that utilities increase their use of renewable energy until 2028. The use of renewable energy systems should be encouraged, and the 2028 implementation date does not accomplish this in a timely manner. There is concern around this bill's embrace of nuclear energy as a future resource. State energy policy should limit reliance on nuclear energy and ensure human health and safety. This bill does not include any language pertaining to nuclear waste disposal. The tax preferences established in the bill do not include any carbon reduction verification or measurement requirements.

(Other) This bill attempts to truly reduce carbon in an immediate way by incentivizing carbon reduction investments. However, this bill should not layer requirements on top of a carbon tax. The Governor's deep decarbonization report concluded that the state is at a point where it cannot invest in new fossil fuel generation if it wants to meet its statutorily defined greenhouse gas emissions reduction goals. This bill acknowledges this reality, but the implementation date of the resource requirements does not result in fast enough change.

Persons Testifying: (In support) Representative DeBolt, prime sponsor.

(Opposed) Joni Bosh, NW Energy Coalition; Elyette Weinsten, League of Women Voters of Washington; Bruce Wishart, Sierra Club; and Arthur West.

(Other) Tim Boyd, Industrial Customers of Northwest Utilities; Mary Catherine McAleer, Association of Washington Business; Isaac Kastama, Benton Public Utility District; Franklin Public Utility District; Neil Beaver, Audoubon Washington; Vlad Gutman-Britten, Climate Solutions; and Jaimes Valdez, Spark Northwest.

Persons Signed In To Testify But Not Testifying: None.