

HOUSE BILL REPORT

HB 2995

As Reported by House Committee On:
Finance

Title: An act relating to Washington's clean, affordable, and reliable energy future.

Brief Description: Concerning Washington's clean, affordable, and reliable energy future.

Sponsors: Representatives Tarleton, Doglio and Pollet.

Brief History:

Committee Activity:

Finance: 2/24/18, 2/26/18 [DPS].

Brief Summary of Substitute Bill

- Requires all electric utilities to, by January 1, 2030, eliminate from electric rates all costs associated with delivering electricity to Washington customers that is generated from a coal-fired resource.
- Requires electric utilities and market customers to demonstrate that they have reduced the total number of megawatt-hours from fossil fuel generating resources delivered to Washington customers compared to a 2017 baseline in accordance with certain annual fossil fuel reduction targets.
- Establishes a sales and use tax exemption in the form of a remittance for certain expenditures relating to an eligible renewable energy investment project.
- Establishes a public utility tax credit for certain clean energy investment expenditures.
- Establishes the Clean Energy Transition Work Group.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lytton, Chair; Frame, Vice Chair; Nealey, Ranking Minority Member; Dolan, Pollet, Springer and Wylie.

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.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Assistant Ranking Minority Member; Condotta, Stokesbary and Wilcox.

Staff: Nikkole Hughes (786-7156) and Serena Dolly (786-7150).

Background:

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 percentage of its annual load with eligible renewable resources.

Greenhouse Gas Emissions Performance Standard.

All baseload electric generation for which electric utilities enter into long-term financial commitments must meet the greenhouse gas (GHG) emissions performance standard. "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. To meet the standard, electric generation must meet the lower of:

- 1,100 pounds of greenhouse gases per megawatt-hour; or
- the average available greenhouse gas emissions output as determined by the Department of Commerce, which is currently 970 per megawatt-hour.

This standard does not apply to long-term financial commitments with the Bonneville Power Administration (BPA), electric generation facilities powered exclusively by renewable resources, or electric generation facilities powered by nuclear energy.

In order to update the standard, the Department of Commerce must conduct a survey every five years of new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers in the United States. The survey results must be reported to the Legislature.

Carbon Dioxide Mitigation.

Fossil-fueled thermal power plants with a generating capacity of 25 megawatts or greater must provide mitigation for 20 percent of the carbon dioxide emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification or an order of approval after July 1, 2004, and existing plants that increase the production of carbon dioxide emissions by 15 percent or more.

An applicant for a natural-gas fired power plant to be constructed in a county with a coal-fired power plant subject to the GHG emissions performance standard is exempt from the carbon dioxide mitigation requirement if the application is filed before December 31, 2025.

Carbon dioxide may be mitigated by making payments to an independent qualified organization, by direct purchase of permanent carbon credits, or by direct investment in carbon dioxide mitigation projects.

Transition of Eligible Coal Units.

The Utilities and Transportation Commission (UTC) is authorized to, after conducting an adjudicative proceeding, allow an investor-owned utility to place regulatory liabilities into a retirement account to cover decommissioning and remediation costs of eligible coal units that commenced operation before January 1, 1980. An "eligible coal plant" means a coal-fired electric generation facility that:

- had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016;
- has multiple owners; and
- serves retail customers in Washington with a portion of its load.

An "eligible coal unit" is any generating unit of an eligible coal plant.

Regulatory liabilities in a retirement account must:

- not be used for any purpose other than to fund and recover prudently incurred decommissioning and remediation costs for eligible coal units;
- not be reduced, altered, impaired, or limited from the date of UTC approval until all costs are recovered or paid in full; and
- provide that remaining funds in the retirement account be returned to the investor-owned utility's customers.

Summary of Substitute Bill:

Costs Associated with Coal-Fired Resources.

On or before January 1, 2030, all electric utilities must eliminate from electric rates all costs associated with delivering electricity to Washington customers that is generated from a coal-fired resource. This does not include costs associated with decommissioning and remediation of these facilities.

The UTC may accelerate depreciation schedules for any coal-fired resource owned by investor-owned utilities to a date no later than January 1, 2030. The UTC may not extend the depreciation schedule for any fossil fuel generating resource.

Fossil Fuel Reduction Targets.

Electric utilities and market customers must demonstrate that they have reduced the total number of megawatt-hours from fossil fuel generating resources used to serve the utility's load and delivered to Washington customers, compared to a 2017 baseline, according to the following schedule:

- at least a 25-percent reduction from 2017 levels by January 1, 2030, and each year thereafter through December 31, 2034;
- at least a 50-percent reduction from 2017 levels by January 1, 2035, and each year thereafter through December 31, 2039;
- at least a 75-percent reduction from 2017 levels by January 1, 2040, and each year thereafter through December 31, 2044; and
- 100-percent reduction by January 1, 2045, and each year thereafter.

The UTC, in the case of an investor-owned utility, or the Department of Commerce (Department), in the case of a consumer-owned utility, may extend the date by which an electric utility must achieve 100-percent reduction to a date no later than January 1, 2050, if doing so is found to be beneficial for ensuring reliability or reducing long-term costs to ratepayers.

In order to achieve these targets, electric utilities and market customers must demonstrate that they have achieved all feasible conservation measures or investments, reductions in demand, and demand management prior to making new investments to meet projected demand, and, to the maximum extent feasible, must:

- achieve the targets at the lowest reasonable cost; and
- in the construction of new resources, maximize the creation of family-wage jobs and rely on renewable resources and storage.

Hydroelectric generation may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of the bill unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility.

The UTC must determine compliance with the fossil fuel reduction targets for an investor-owned utility. The Department must determine, and the Attorney General must enforce, compliance with the targets for a consumer-owned utility. The State Auditor must determine, and the Attorney General must enforce, compliance with the targets for a market customer.

By June 1, 2025, and annually thereafter, each electric utility and market customer must report to the Department on progress toward the reduction in the total number of megawatt-hours and emissions from fossil fuel generating resources.

Required Studies and Reports.

By January 1, 2019, the Department must develop and publish a study on:

- barriers for low-income customers, including those in disadvantaged communities, to energy efficiency and weatherization investments, as well as recommendations on how to increase access to energy efficiency and weatherization investments to low-income customers; and
- barriers for low-income customers, including those in disadvantaged communities, to zero-emission and near zero-emission transportation options, as well as recommendations on how to increase access to zero-emission and near zero-emission transportation options to low-income customers, including those in disadvantaged communities.

By January 1, 2025, the Department must develop and publish a study on:

- the impact of the fossil fuel reduction targets on utility rates as they affect individuals of varying income levels, ethnic backgrounds, and racial backgrounds; and
- projected and current worker hours in construction, manufacturing, operations, and maintenance created as a result of compliance with the fossil fuel reduction targets.

The study must also include estimates of direct, indirect, and induced job creation. The study must be repeated every five years.

By January 1, 2038, the UTC and the Department must jointly evaluate whether the fossil fuel reduction targets are expected to be met by each electric utility and what technology and other changes are necessary to meet the 100-percent reduction target by 2045.

Rulemaking Authority.

The UTC, in the case of an investor-owned utility, and the Department, in the case of a consumer-owned utility, must adopt rules by 2025 to implement the fossil fuel reduction targets. In adopting the rules, the UTC and the Department must include, but not be limited to, provisions sufficient to achieve successful implementation of the targets, penalties that ensure compliance with the targets, temporary flexibility mechanisms to ensure reliable electric service, and appropriate mechanisms for monitoring fossil fuel use.

Sales and Use Tax Exemption.

Beginning January 1, 2021, and until December 31, 2029, a state sales and use tax exemption is available in the form of a remittance for charges made for labor and services rendered by any person in respect to the constructing, expanding, upgrading, or improving of an eligible renewable energy investment project, or for sales of tangible personal property that becomes an ingredient or component of an eligible renewable energy investment project.

The total amount of remittance a person may receive is limited to \$1 million per person per fiscal biennium. The total amount of remittance statewide that may be taken in any fiscal biennium may not exceed \$10 million.

Application for an exemption as a remittance must be made before initiation of an eligible renewable energy investment project.

"Eligible renewable energy investment project" means an investment project that either initiates a new renewable energy generation facility or expands, upgrades, or improves a current renewable energy generation facility by increasing its energy efficiency or energy capacity, and includes new or upgraded transmission and distribution infrastructure necessary to connect the project to the electrical grid.

"Renewable energy generation facility" means an electric generation facility powered by a renewable resource, as defined under the EIA.

Public Utility Tax Credit.

Beginning July 1, 2019, and until December 31, 2029, an electric or gas utility is allowed a credit against its public utility tax obligations in an amount equal to the total amount of clean energy investment expenditures, not to exceed \$1 million per person per fiscal biennium. The total amount of credit statewide that may be taken in any fiscal biennium may not exceed \$10 million.

Application for a public utility tax credit must be made before making clean energy investment expenditures.

"Clean energy investment expenditure" means expenditures for the purpose of receiving tax credits which as consistent with the priorities and limitations of the requirements to meet the fossil fuel reduction targets.

Clean Energy Transition Work Group.

The Department and the UTC must jointly convene the Clean Energy Transition Work Group (Work Group). The Work Group must have no more than 19 members. Nonlegislative members of the Work Group must be appointed by the Governor. The Work Group must provide a report to the Governor and the appropriate committees of the Legislature by December 15, 2018. The report must include recommendations on:

- enforcement mechanisms to achieve the fossil fuel reduction targets;
- flexibility mechanisms to ensure reliable service and minimize the cost of the clean energy transition to utility customers, including, if necessary, temporary alternative compliance mechanisms;
- analysis of the feasibility of achieving the fossil fuel reduction targets with currently available technologies, as well as technologies under development;
- policies or programs to accelerate development and deployment of new technologies to facilitate the clean energy transition; and
- potential legislation.

Substitute Bill Compared to Original Bill:

The substitute bill:

- removes the requirement for small utilities to pursue all cost-effective, reliable, and feasible energy conservation under the EIA;
- removes the additional annual renewable resources targets under the EIA for investor-owned and consumer-owned qualifying utilities;
- removes the prohibition on each consumer-owned qualifying utility, small utility, and market customer from meeting any new energy or capacity needs with certain generation resources;
- requires all electric utilities to, by January 1, 2030, eliminate from electric rates all costs associated with delivering electricity to Washington customers that is generated from a coal-fired resource;
- requires electric utilities and market customers to demonstrate that they have reduced the total number of megawatt-hours from fossil fuel generating resources delivered to Washington customers compared to a 2017 baseline in accordance with certain annual fossil fuel reduction targets;
- prohibits hydroelectric generation from including new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of the act, unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility;
- establishes certain reporting requirements;
- grants rulemaking authority to the UTC and to the Department;
- amends the sales and use tax exemption for eligible renewable energy investment projects;
- amends the public utility tax credit for certain clean energy investment expenditures; and
- establishes the Work Group.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on February 27, 2018.

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) The impacts of sea level rise and climate change are already occurring. This bill significantly supports a transition to clean energy and represents progress. The bill will get ratepayers off of coal energy and send a strong market signal. Labor groups support the job creation, energy efficiency, and new investments in capacity resources.

(Opposed) There is insufficient time to have a robust conversation before session ends. This is a complex issue and engineering requirements and reliability must be considered. The time to analyze this bill and its impacts on rates and reliability has been inadequate. The bill has not had enough stakeholder engagement, and a stakeholder process is needed to vet the issues. A study needs to be conducted before mandates are imposed.

The bill does not acknowledge the progress that has been made on carbon reduction. A price on carbon is the best way to reduce carbon emissions. Most pollution comes from vehicle emissions, and this bill does not address that. Stakeholders are committed to working on carbon reduction and have been engaged in carbon tax discussions.

There is concern about the impact to ratepayers. For rural cooperatives, owners and customers are one and the same. Rural cooperatives have the highest per-mile transmission costs, and all costs are passed on to consumers. The bill should not regulate market customers as utilities.

A zero-carbon future is not technically possible right now. Any proposal needs to be sector-neutral with more incentives toward innovation. Hydropower needs to be recognized as a renewable resource. The bill needs to include a definition of "nuclear energy." The fastest way to carbon-free energy production is through nuclear energy.

Nuclear and new hydroelectric generation should not be included in the transition to clean energy.

The tax incentives are not sufficient to cover costs. Most expenses will come after the tax incentives expire.

(Other) The bill significantly furthers the transition to renewable energy. If climate change is going to be tackled, carbon emissions need to be reduced. There are concerns about establishing a 100-percent clean energy requirement before giving engineers and constituents an opportunity to model, analyze, and vet the results. The state should convene a public process to analyze the operations and reliability of the electricity grid under low-carbon and zero-carbon futures. There is support for clean energy, but reliability has to be a priority.

Nuclear energy facilities and new hydroelectric dams should not be included or incentivized in the transition to clean energy. Threatened and endangered salmon runs need to be protected. A definition of "hydroelectric power" needs to be included in any final legislation.

Persons Testifying: (In support) Representative Tarleton, prime sponsor; Barak Gale, The Climate Reality Project; Matthew Hepner, International Brotherhood of Electrical Workers; Eric Gonzalez, Washington State Labor Council and American Federation of Labor and Congress of Industrial Organizations; Helen Wheatley; Gail Gatton, Audubon Washington; and Vlad Gutman-Britten, Climate Solutions.

(Opposed) Grant Nelson, Washington Rural Electric Cooperative Association; Chris Roden, Cowlitz Public Utility District and Public Generating Pool; Dave Arbaugh, Snohomish County Public Utility District; Kathleen Collins, PacifiCorp; Brandon Houskeeper, Puget Sound Energy; John Rothlin, Avista; Isaac Kastama, Benton Public Utility District and Franklin Public Utility District; Clay Norris, Tacoma Power and Tacoma Public Utilities; Nicolas Garcia, Washington Public Utility District Association; Jim Rowland, Energy Northwest; Mary Catherine McAleer, Association of Washington Business; Tim Boyd, Industrial Customers of Northwest Utilities; and Steve Gano, Kapstone Paper.

(Other) Liz Klumpp, Bonneville Power Administration; Glenn Blackmon, Department of Commerce; Bruce Wishart, Sierra Club; Elyette Weinstein, Washington League of Women Voters; and Scott Richards, Invenergy.

Persons Signed In To Testify But Not Testifying: None.