
SUBSTITUTE HOUSE BILL 2995

State of Washington

65th Legislature

2018 Regular Session

By House Finance (originally sponsored by Representatives Tarleton, Doglio, and Pollet)

READ FIRST TIME 02/26/18.

1 AN ACT Relating to Washington's clean, affordable, and reliable
2 energy future; adding new sections to chapter 19.285 RCW; adding a
3 new section to chapter 82.08 RCW; adding a new section to chapter
4 82.12 RCW; adding new sections to chapter 82.16 RCW; creating new
5 sections; prescribing penalties; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington
8 is the nation's leading producer of electricity from hydroelectric
9 sources. The legislature finds that the residents, businesses, and
10 industries of the state have benefited from the relatively low
11 operating costs and reliability of this abundant, renewable energy
12 resource. This legacy of clean hydroelectricity is the foundation
13 upon which the state has built a diverse, vibrant clean technology
14 sector that includes research and development in breakthrough
15 technologies, as well as investment in other renewable energy
16 resources. The legislature finds that Washington should continue its
17 leadership in conservation, renewable energy, and climate change
18 mitigation by: Increasing energy efficiency across the state;
19 encouraging investment in the state's clean, nonpolluting,
20 sustainable, and renewable energy future; and achieving reductions in
21 the use of fossil fuels in the generation of electricity.

1 (2) By building on the state's foundation of renewable
2 hydroelectric generation with additional conservation and renewable
3 energy resources, the legislature declares that Washington can:
4 Promote energy independence; create high-quality jobs in the clean
5 technology sector; maintain stable and affordable electric rates for
6 all customers; and protect clean air and water in the Pacific
7 Northwest.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout sections 3 through 6 of this act unless the context
10 clearly requires otherwise.

11 (1) "Attorney general" has the same meaning as provided in RCW
12 19.285.030.

13 (2) "Auditor" has the same meaning as provided in RCW 19.285.030.

14 (3) "Coal-fired resource" means a facility that uses coal-fired
15 generating units, or that uses units fired in whole or in part by
16 coal as feedstock, to generate electricity.

17 (4) "Commission" means the Washington state utilities and
18 transportation commission.

19 (5) "Conservation" has the same meaning as provided in RCW
20 19.285.030.

21 (6) "Consumer-owned utility" has the same meaning as provided in
22 RCW 19.29A.010.

23 (7) "Customer" has the same meaning as provided in RCW
24 19.285.030.

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

27 (9) "Electric utility" has the same meaning as provided in RCW
28 19.29A.010.

29 (10) "Emission" has the same meaning as provided in RCW
30 70.94.030.

31 (11) "Fossil fuel" means petroleum products that are intended for
32 combustion, including natural gas, crude oil, petroleum, coal, or
33 coke of any kind, or any form of solid, liquid, or gaseous fuel
34 derived from these products including but not limited to motor
35 vehicle fuel, special fuel, aircraft fuel, marine fuel, still gas,
36 propane, and petroleum residuals such as bunker fuel.

37 (12) "Fossil fuel generating resource" is an electric generating
38 unit that generates electricity from the combustion or oxidation of
39 fossil fuels.

1 (13) "Investor-owned utility" has the same meaning as provided in
2 RCW 19.29A.010.

3 (14) "Low-income" means household income as defined by the
4 department or commission, provided that the definition may not exceed
5 eighty percent of area median household income, or two hundred
6 percent of the federal poverty level, whichever is greater, adjusted
7 for household size.

8 (15) "Market customer" means a nonresidential customer of an
9 electric utility that: (a) Purchases electricity from an entity or
10 entities other than the electric utility with which it is directly
11 interconnected; or (b) generates electricity to meet its own needs.

12 (16) "Natural gas" means naturally occurring mixtures of
13 hydrocarbon gases and vapors consisting principally of methane,
14 whether in gaseous or liquid form, including methane clathrate.

15 (17) "Petroleum product" has the same meaning as provided in RCW
16 82.23A.010.

17 (18) "Renewable resource" has the same meaning as provided in RCW
18 19.285.030.

19 (19) "Rule" means rules adopted by an agency or other entity of
20 Washington state government to carry out the intent and purposes of
21 this chapter.

22 NEW SECTION. **Sec. 3.** (1)(a) On or before January 1, 2030, all
23 electric utilities must eliminate from electric rates all costs
24 associated with delivering electricity to Washington customers that
25 is generated from a coal-fired resource. This does not include costs
26 associated with decommissioning and remediation of these facilities.

27 (b) The commission may accelerate depreciation schedules for any
28 coal-fired resource owned by investor-owned utilities to a date no
29 later than January 1, 2030.

30 (2) The commission may not extend the depreciation schedule for
31 any fossil fuel generating resource.

32 (3) Electric utilities and market customers must demonstrate that
33 they have reduced the total number of megawatt hours from fossil fuel
34 generating resources delivered to Washington customers compared to a
35 2017 baseline approved by the commission, for investor-owned
36 utilities and market customers of investor-owned utilities, and the
37 department, for consumer-owned utilities and market customers of
38 consumer-owned utilities, used to serve the utility's load by the
39 following annual targets:

1 (a) At least a twenty-five percent reduction from 2017 levels by
2 January 1, 2030, and each year thereafter through December 31, 2034;

3 (b) At least a fifty percent reduction from 2017 levels by
4 January 1, 2035, and each year thereafter through December 31, 2039;

5 (c) At least a seventy-five percent reduction from 2017 levels by
6 January 1, 2040, and each year thereafter through December 31, 2044;
7 and

8 (d) One hundred percent reduction by January 1, 2045, and each
9 year thereafter. The commission, in the case of an investor-owned
10 utility, or the department, in the case of a consumer-owned utility,
11 may extend this deadline to a date no later than January 1, 2050, if
12 doing so is found to be beneficial for ensuring reliability or
13 reducing long-term costs to ratepayers.

14 (4) In order to achieve the targets under subsection (3) of this
15 section, electric utilities and market customers must demonstrate
16 that they have achieved all feasible conservation measures or
17 investments, reductions in demand, and demand management prior to
18 making new investments to meet projected demand; and, to the maximum
19 extent feasible, must:

20 (a) Achieve the targets under subsection (3) of this section at
21 the lowest reasonable cost; and

22 (b) In the construction of new resources:

23 (i) Maximize the creation of family wage jobs, insofar as doing
24 so is consistent with (a) of this subsection; and

25 (ii) Rely on renewable resources and storage.

26 (5) Any resource for which the environmental attribute or
27 attributes have been sold, transferred, or used for other purposes,
28 except for an electric utility's own compliance with the annual
29 renewable energy targets under RCW 19.285.040, is considered a fossil
30 fuel generating resource for the purposes of this act.

31 (6) Hydroelectric generation may not include new diversions, new
32 impoundments, new bypass reaches, or expansion of existing reservoirs
33 constructed after the effective date of this section unless the
34 diversions, bypass reaches, or reservoir expansions are necessary for
35 the operation of a pumped storage facility that: (a) Does not
36 conflict with existing state or federal fish recovery plans; and (b)
37 complies with all local, state, and federal laws and regulations.

1 NEW SECTION. **Sec. 4.** (1)(a) For an investor-owned utility, the
2 commission must determine compliance with the provisions of this act
3 and enforce rules established under section 6 of this act.

4 (b) For a consumer-owned utility, the department must determine,
5 and the attorney general must enforce, compliance with the provisions
6 of this act consistent with the rules established under section 6 of
7 this act.

8 (c) For a market customer, the auditor must determine compliance
9 with chapter . . . , Laws of 2018 (this act) and the attorney general
10 is responsible for enforcing compliance, except that the commission
11 must determine compliance with section 3 of this act for a market
12 customer of an investor-owned utility.

13 (2)(a) By June 1, 2025, and annually thereafter, each electric
14 utility and market customer must report to the department on progress
15 towards the reduction in the total number of megawatt hours and
16 emissions from fossil fuel generating resources under section 3 of
17 this act.

18 (b) Each investor-owned utility must also report all information
19 required in (a) of this subsection to the commission.

20 (c) All electric utilities must also make reports required in
21 this section available to its customers and each market customer must
22 make all information required in this subsection available to the
23 attorney general.

24 NEW SECTION. **Sec. 5.** (1)(a) The legislature finds and declares
25 all of the following:

26 (i) There is insufficient information available to fully realize
27 the potential of solar photovoltaic energy generation to serve low-
28 income customers, including those in disadvantaged communities.

29 (ii) There is insufficient understanding of the barriers to
30 access for low-income customers to all forms of renewable energy
31 being generated in the state.

32 (iii) There is insufficient understanding of the barriers to
33 access for low-income customers to energy efficiency investments.

34 (iv) There is insufficient understanding of the barriers to
35 access for low-income customers to zero emission and near-zero
36 emission transportation options.

37 (b) By January 1, 2019, the department, with input from relevant
38 state agencies and the public, must develop and publish a study on:

1 (i) Barriers for low-income customers, including those in
2 disadvantaged communities, to energy efficiency and weatherization
3 investments, as well as recommendations on how to increase access to
4 energy efficiency and weatherization investments to low-income
5 customers; and

6 (ii) Barriers for low-income customers, including those in
7 disadvantaged communities, to zero emission and near-zero emission
8 transportation options, as well as recommendations on how to increase
9 access to zero emission and near-zero emission transportation options
10 to low-income customers, including those in disadvantaged
11 communities.

12 (2) By January 1, 2025, the department, with input from relevant
13 state agencies and the public, must develop and publish a study on:

14 (a) The impact of this act on utility rates as it affects
15 individuals of varying income levels, ethnic backgrounds, and racial
16 backgrounds; and

17 (b) Projected and current worker hours in construction,
18 manufacturing, operations, and maintenance created as a result of
19 compliance with the requirements of this act. The study must also
20 include estimates of direct, indirect, and induced job creation. The
21 study must be repeated every five years.

22 (3) By January 1, 2038, the commission and the department must
23 jointly evaluate: (a) Whether the resource requirements established
24 in section 3 of this act are expected to be met by each electric
25 utility; and (b) the technology and other changes necessary to meet
26 the requirements by 2045.

27 (4) The definitions in RCW 19.285.030 apply throughout this
28 section.

29 (5) This section expires July 1, 2038.

30 NEW SECTION. **Sec. 6.** The commission, in the case of investor-
31 owned utilities, and the department, in the case of consumer-owned
32 utilities, must adopt rules by 2025 to implement sections 3 and 4 of
33 this act. In adopting the rules, the commission and the department
34 must include, but not be limited to, provisions sufficient to achieve
35 successful implementation of this act, penalties that ensure
36 compliance with this act, temporary flexibility mechanisms to ensure
37 reliable electric service, and appropriate mechanisms for monitoring
38 fossil fuel use.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08
2 RCW to read as follows:

3 (1) Subject to the limitations in this section, a person who has
4 paid the tax imposed by RCW 82.08.020 is eligible for an exemption
5 from the full amount, but not to exceed the cap established in
6 subsection (2) of this section, of state tax in the form of a
7 remittance for charges made for labor and services rendered by any
8 person in respect to the constructing, expanding, upgrading, or
9 improving of an eligible renewable energy investment project, or to
10 sales of tangible personal property that becomes an ingredient or
11 component of an eligible renewable energy investment project.

12 (2) The exemption in this section is available in the form of a
13 remittance. The total amount of remittance a person may receive under
14 this section and section 8 of this act is limited to one million
15 dollars per person per fiscal biennium. The total amount of
16 remittance statewide that may be taken in any fiscal biennium under
17 this section and section 8 of this act may not exceed ten million
18 dollars.

19 (3) Application for an exemption as a remittance under this
20 section must be made before initiation of an eligible renewable
21 energy investment project. The application must be made to the
22 department in a form and manner prescribed by the department. The
23 application must contain information regarding the location of the
24 investment project, estimated or actual costs, time schedules for
25 completion and operation, and other information required by the
26 department. The department must rule on the application within sixty
27 days. Applications must be approved on a first-in-time basis.

28 (4) A person may claim the exemption by submitting a remittance
29 application, in a form and manner as required by the department,
30 specifying the amount of exempted tax claimed and the qualifying
31 purchases for which the exemption is claimed. A person may not apply
32 for a remittance more frequently than once per quarter. The person
33 must retain, in adequate detail to enable the department to determine
34 whether the purchases meet the criteria under this section: Invoices;
35 proof of tax paid; documents describing the location and size of new
36 structures; and construction invoices and documents.

37 (5) The department must determine eligibility under this section
38 based on information provided by the person claiming the remittance
39 and through audit and other administrative records. The department

1 must on a quarterly basis remit exempted amounts to a person
2 submitting remittance applications during the previous quarter.

3 (6) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

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

12 (b) "Renewable energy generation facility" means an electric
13 generation facility powered by a renewable resource, as that term is
14 defined in RCW 19.285.030.

15 (7) This section applies to state sales taxes paid by a person on
16 labor and services or tangible personal property received by the
17 buyer on or after January 1, 2021.

18 (8) The department may not approve any remittance claimed after
19 December 31, 2029.

20 (9) This section is exempt from the provisions of RCW 82.32.808.

21 (10) This section expires January 1, 2030.

22 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12
23 RCW to read as follows:

24 (1) Subject to the limitations in this section, a person who has
25 paid the tax imposed by RCW 82.12.020 is eligible for an exemption
26 from the full amount, but not to exceed the cap established in
27 subsection (2) of this section, of state tax in the form of a
28 remittance for the use of tangible personal property that becomes an
29 ingredient or component of an eligible renewable energy investment
30 project.

31 (2) The exemption in this section is available in the form of a
32 remittance. The total amount of remittance a person may receive under
33 this section and section 7 of this act is limited to one million
34 dollars per person per fiscal biennium. The total amount of
35 remittance statewide that may be taken in any fiscal biennium under
36 this section and section 7 of this act may not exceed ten million
37 dollars.

38 (3) Application for an exemption as a remittance under this
39 section must be made before initiation of an eligible renewable

1 energy investment project. The application must be made to the
2 department in a form and manner prescribed by the department. The
3 application must contain information regarding the location of the
4 investment project, estimated or actual costs, time schedules for
5 completion and operation, and other information required by the
6 department. The department must rule on the application within sixty
7 days. Applications must be approved on a first-in-time basis.

8 (4) A person may claim the exemption by submitting a remittance
9 application, in a form and manner as required by the department,
10 specifying the amount of exempted tax claimed and the qualifying
11 purchases for which the exemption is claimed. A person may not apply
12 for a remittance more frequently than once per quarter. The person
13 must retain, in adequate detail to enable the department to determine
14 whether the purchases meet the criteria under this section: Invoices;
15 proof of tax paid; documents describing the location and size of new
16 structures; and construction invoices and documents.

17 (5) The department must determine eligibility under this section
18 based on information provided by the person claiming the remittance
19 and through audit and other administrative records. The department
20 must on a quarterly basis remit exempted amounts to a person
21 submitting remittance applications during the previous quarter.

22 (6) The definitions in section 7 of this act apply to this
23 section.

24 (7) This section applies to tangible personal property acquired
25 on or after January 1, 2021.

26 (8) The department may not approve any remittance claimed after
27 December 31, 2029.

28 (9) This section is exempt from the provisions of RCW 82.32.808.

29 (10) This section expires January 1, 2030.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.16
31 RCW to read as follows:

32 The definitions in this section apply throughout this section and
33 section 10 of this act, unless the context clearly requires
34 otherwise.

35 (1) "Clean energy investment expenditure" means expenditures for
36 the purpose of receiving tax credits pursuant to this act which are
37 consistent with the priorities and limitations of section 3(4) of
38 this act.

1 (2) "Commission" means the utilities and transportation
2 commission.

3 (3) "Consumer-owned energy utility" means any consumer-owned gas
4 distribution business or consumer-owned light and power business.

5 (4) "Consumer-owned gas distribution business" means any gas
6 distribution business not subject to regulation by the commission of
7 the rates, tolls, rentals, contracts or charges, or service rendered,
8 or the adequacy or sufficiency of the facilities, equipment,
9 instrumentalities, or buildings, or the reasonableness of rules or
10 regulations made, furnished, used, supplied, or in force affecting
11 any gas plant owned and operated by such gas distribution business.

12 (5) "Consumer-owned light and power business" means any light and
13 power business not subject to regulation by the commission of the
14 rates, tolls, rentals, contracts or charges, or service rendered, or
15 the adequacy or sufficiency of the facilities, equipment,
16 instrumentalities, or buildings, or the reasonableness of rules or
17 regulations made, furnished, used, supplied, or in force affecting
18 any electric plant owned and operated by such light and power
19 business.

20 (6) "Gas distribution business" has the same meaning as provided
21 in RCW 82.16.010.

22 (7) "Investor-owned energy utility" means any investor-owned gas
23 distribution business or investor-owned light and power business.

24 (8) "Investor-owned gas distribution business" means any gas
25 distribution business subject to regulation by the commission of the
26 rates, tolls, rentals, contracts or charges, or service rendered, or
27 the adequacy or sufficiency of the facilities, equipment,
28 instrumentalities, or buildings, or the reasonableness of rules or
29 regulations made, furnished, used, supplied, or in force affecting
30 any gas plant owned and operated by such gas distribution business.

31 (9) "Investor-owned light and power business" means any light and
32 power business subject to regulation by the commission of the rates,
33 tolls, rentals, contracts or charges, or service rendered, or the
34 adequacy or sufficiency of the facilities, equipment,
35 instrumentalities, or buildings, or the reasonableness of rules or
36 regulations made, furnished, used, supplied, or in force affecting
37 any electric plant owned and operated by such light and power
38 business.

39 (10) "Light and power business" has the same meaning as provided
40 in RCW 82.16.010.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.16
2 RCW to read as follows:

3 (1)(a) Beginning July 1, 2019, an investor-owned energy utility
4 or a consumer-owned energy utility is allowed a credit against taxes
5 due under this chapter in an amount equal to the total amount of
6 clean energy investment expenditures, not to exceed one million
7 dollars per person per fiscal biennium.

8 (b) The department must keep a running total of all credits
9 approved under this section. The department may not approve any
10 credits that would cause the total amount of approved credits
11 statewide to exceed ten million dollars in any fiscal biennium.

12 (c) Application for tax credits under this section must be
13 submitted to the department before making clean energy investment
14 expenditures. The application must be in a form and manner prescribed
15 by the department. The application must include a description and
16 dollar amount of the proposed clean energy investment expenditures.
17 Applications must be approved on a first-in-time basis.

18 (d) Credit earned under this section may equal or exceed the tax
19 otherwise due under this chapter for the tax reporting period. No
20 refunds may be granted for unused credits.

21 (e) To claim a credit under this section, a person must
22 electronically file with the department all returns, forms, and any
23 other information required by the department, in an electronic format
24 as provided or approved by the department. Any return, form, or
25 information required to be filed in an electronic format under this
26 section is not filed until received by the department in an
27 electronic format. As used in this subsection, "returns" has the same
28 meaning as "return" in RCW 82.32.050.

29 (2) Credits may not be earned under this section after December
30 31, 2029. Credits must be claimed under this section by December 31,
31 2030.

32 (3) This section is exempt from the provisions of RCW 82.32.808.

33 (4) This section expires January 1, 2031.

34 NEW SECTION. **Sec. 11.** (1) The legislature finds that a
35 transition to one hundred percent fossil fuel free electricity is
36 necessary to protect Washingtonians from undue risk, desired by the
37 public, and technically feasible, but that the implementation of this
38 act would benefit from deeper engagement with stakeholders and

1 additional analysis to minimize costs, ensure reliability, and
2 benefit Washington state, its residents, and businesses.

3 (2) The department of commerce and the Washington utilities and
4 transportation commission must jointly convene a clean energy
5 transition work group. The work group must have no more than nineteen
6 members, named, except as otherwise provided, by the governor. At
7 minimum, the work group must include:

8 (a) One representative of an investor-owned utility;

9 (b) One representative of a consumer-owned utility;

10 (c) One representative of a statewide environmental organization
11 focused on climate change and greenhouse gas emissions reduction;

12 (d) An expert in, or developer of, clean energy technologies;

13 (e) Public counsel or an advocate for electric utility ratepayers
14 designated by public counsel;

15 (f) One representative of a statewide labor organization that
16 represents a broad cross-section of workers, or such an
17 organization's designee;

18 (g) One representative of a statewide labor organization that
19 represents workers in the electricity sector;

20 (h) The chair of the Washington utilities and transportation
21 commission, or the chair's designee;

22 (i) The director of the department of commerce, or the director's
23 designee;

24 (j) The governor, or the governor's designee;

25 (k) One member and an alternate from each major caucus of the
26 house of representatives, appointed by the speaker of the house of
27 representatives;

28 (l) One member and an alternate from each major caucus of the
29 senate, appointed by the president of the senate;

30 (m) One representative of the Pacific Northwest national
31 laboratory; and

32 (n) One representative of an institution of higher education.

33 (3) The clean energy transition work group must provide a report
34 to the governor and the appropriate committees of the legislature, in
35 compliance with RCW 43.01.036, by December 15, 2018. The report must
36 include recommendations on:

37 (a) Enforcement mechanisms to achieve the intent of this act;

38 (b) Flexibility mechanisms to ensure reliable service and
39 minimize the cost of the clean energy transition to utility

1 customers, including, if necessary, temporary alternative compliance
2 mechanisms;

3 (c) Analysis of the feasibility of achieving the intent of this
4 act with currently available technologies, as well as technologies
5 under development;

6 (d) Policies or programs to accelerate development and deployment
7 of new technologies to facilitate the transition to fossil fuel free
8 electricity generation; and

9 (e) Potential legislation to achieve the goals of this act at the
10 lowest reasonable cost to utility ratepayers.

11 (4) In developing the report required under subsection (3) of
12 this section, the clean energy transition work group may request that
13 the Washington utilities and transportation commission and the
14 department of commerce contract with additional persons who have
15 specific technical expertise if such expertise is necessary to carry
16 out the mandates of the report. The work group may also interview
17 experts and take other actions as necessary to gather information,
18 provide recommendations, and complete the report required under
19 subsection (3) of this section.

20 (5) The department of commerce and the Washington utilities and
21 transportation commission must cooperate with and provide support to
22 the clean energy transition work group.

23 (6) This section expires July 1, 2019.

24 NEW SECTION. **Sec. 12.** Sections 2 through 6 of this act
25 constitute a new chapter in Title 19 RCW.

26 NEW SECTION. **Sec. 13.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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