

# HOUSE BILL REPORT

## ESHB 1428

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### As Amended by the Senate

**Title:** An act relating to the disclosure of attributes of electricity products.

**Brief Description:** Concerning the disclosure of attributes of electricity products.

**Sponsors:** House Committee on Environment & Energy (originally sponsored by Representatives Shewmake, Tarleton, Lekanoff and Fitzgibbon; by request of Department of Commerce).

#### **Brief History:**

##### **Committee Activity:**

Environment & Energy: 1/28/19, 1/31/19 [DPS].

##### **Floor Activity:**

Passed House: 2/14/19, 96-0.

Senate Amended.

Passed Senate: 4/10/19, 46-0.

#### **Brief Summary of Engrossed Substitute Bill**

- Makes changes to the state's fuel mix disclosure requirements for electric utilities.

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### HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, DeBolt, Doglio, Fey, Mead, Peterson and Shewmake.

**Staff:** Nikkole Hughes (786-7156).

#### **Background:**

##### Fuel Mix Disclosure.

Each electric utility must disclose its actual or imputed annual fuel mix used to generate electricity. The disclosure must provide the percentage attributable to each of the following

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generation sources: coal, hydroelectricity, natural gas, nuclear, and other. Utilities may separately report a subcategory of natural gas generation to identify high efficiency cogeneration. If a source categorized as other is more than 2 percent of a utility's total mix, then it must identify the component sources, such as biomass, geothermal, solar, and wind.

Any specifically identified source of electricity is considered a declared resource. Utilities that do not declare their resources must report the fuel mix of the Northwest power pool, called the "net system power mix." A renewable resource where the renewable attributes are separated and transferred to another entity must also be reported as the net system power mix. Utilities that purchase electricity from the Bonneville Power Administration (BPA) may disclose the source as the BPA system mix.

Retail electric utilities must make the following information available upon request:

- documentation of ownership of declared resources; or
- documentation of contractual rights to a stated quantity of electricity from a specific generating facility.

The Department of Commerce compiles fuel mix data from all retail electric utilities in the state, calculates the net system power mix, and publishes an annual fuel mix report.

### **Summary of Engrossed Substitute Bill:**

#### Fuel Mix Disclosure.

Each electric utility must provide its fuel mix disclosure annually through an electricity product content label presented in a uniform format.

The fuel characteristics disclosures must identify, for each electricity product, the percentage of the total electricity product sold by an electric utility during the previous year from each of the following categories:

- coal, hydroelectric, natural gas, nuclear, petroleum, solar, and wind;
- unspecified sources; and
- other generation.

If the percentage amount of unspecified sources exceeds 2 percent for an electricity product, the electric utility must include on the label a general description of unspecified sources and an explanation of why some power sources are unknown to the utility.

An electric utility may include with the electricity product content label additional information concerning the quantity of Renewable Energy Certificates (RECs), if not otherwise included in the utility's declared resources, that are retired for compliance with the Energy Independence Act in the reporting year.

#### Source and Disposition Report.

Each electric utility must report to the Department of Commerce (Department) each year, based on actual and verified activity in the prior year, the following information on its sources and uses of electricity in Washington:

- electricity delivered to retail electric customers;

- purchases or receipts of electricity from declared resources used to serve retail electric customers, by generating facility and fuel types; and
- purchases or receipts of electricity from unspecified sources used to serve retail electric customers.

An electric utility must report an electricity purchase or receipt as a declared resource if the utility was the direct or indirect owner of the generating facility or acquired the electricity in a transaction, supported by an auditable contract trail, in which the buyer and seller specified the source or set of sources of the electricity. An electric utility may assign declared resources and unspecified sources to its retail service using reasonable methods consistent with its business practices. An electric utility must identify any change in method from the prior year in its report to the Department.

An electric utility may not report a declared resource as a renewable resource if the utility does not own the REC or other instrument representing nonpower attributes associated with the resource. Any REC included in the source and disposition report must be created and retired within a certificate tracking system approved by the Department and must represent renewable generation of a generating facility located in the region of the tracking system. An electric utility must retire any REC included in its source and disposition report within one year after submitting its report.

A REC retired for any of the following purposes may not be included in the source and disposition report:

- voluntary renewable energy programs, except where the electricity product is an optional product;
- compliance obligations not related to the provision of electricity service to retail customers in Washington; and
- any other purpose established by rule by the Department.

Individual retail customer rate schedules do not constitute separate electricity products unless electricity sources are different.

#### Unspecified Fuel Mix Report.

The Department must develop and publish an estimate of the fuel characteristics of the generation sources reasonably available to serve Washington customers and not included as a declared resource of any electric utility. The Department may include or exclude any electricity source as it deems reasonable to accurately represent the characteristics of residual electricity supplies used by electric utilities in Washington. The Department must make available documentation of the inputs and calculations used in making the estimate.

#### Rulemaking Authority.

The Department may adopt administrative rules to implement the fuel mix disclosure requirements.

#### Definitions.

"Electricity product content label" means information presented in a uniform format by an electric utility to its retail customers and disclosing information about the characteristics of an electricity product.

"Fuel attribute" means the characteristic of electricity determined by the fuel used in the generation of that electricity. For a renewable resource, the fuel attribute is included in its nonpower attributes.

"Unspecified source" means an electricity source for which the fuel attribute is unknown or has been separated from the energy.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment corrects an internal reference.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Fuel mix disclosure is an important tool for customers and has become increasingly relevant as the state considers decarbonizing the electric grid. The electric industry has changed a lot since the fuel mix disclosure statute was originally enacted. This bill would update the statute to keep disclosures consistent with the ways utilities actually transact electricity today. This bill makes fuel mix disclosures more transparent, less cumbersome, and less time-consuming for the utility. This bill needs to be consistent with other clean energy legislation. The current law is not consistent with other clean energy legislation. The formula that's embedded in the statute requires utilities to disclose unspecified resources as being coal resources when that is not entirely accurate. It would be more accurate for a utility to say that it does not know the source of an electricity product than to default to labeling it as coal resources. This bill makes it clear that electric utilities may not double count the environmental attributes associated with electricity. However, this does not mean the fuel mix disclosure report is adequate for use as a basis of compliance with other state energy policies.

(Opposed) None.

(Other) Utilities should not be able to include Renewable Energy Certificates (RECs) in a fuel mix disclosure report. The bill should be amended to remove any reference to the ownership of the RECs. There's a distinct possibility that other clean energy policies could rely on fuel mix disclosure reports. The intent of the report is to provide information to customers, not to provide the basis for environmental compliance. The Legislature should wait to consider this bill until after other clean energy policies are enacted.

**Persons Testifying:** (In support) Representative Shewmake, prime sponsor; Glenn Blackmon, Department of Commerce; Amanda Jahshan, Renewable Northwest; Marian Dacca, Tacoma Public Utilities; and John Rothlin, Avista Utilities.

(Other) Kent Lopez, Washington Rural Electric Cooperative Association; Clark McIsaac, Snohomish County Public Utility District; Dave Arbaugh, Chelan County Public Utility District; Mendy Droke, Seattle City Light; and Nicolas Garcia, Washington Public Utility District Association.

**Persons Signed In To Testify But Not Testifying:** None.