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SENATE BILL 5992

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State of Washington

63rd Legislature

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By Senator Ericksen

1 AN ACT Relating to allowing certain incremental electricity  
2 produced as a result of efficiency improvements and hydroelectric  
3 generation from certain irrigation facilities to qualify as an eligible  
4 renewable resource under chapter 19.285 RCW, the energy independence  
5 act; amending RCW 19.285.040; and reenacting and amending RCW  
6 19.285.030.

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

8 **Sec. 1.** RCW 19.285.030 and 2013 c 158 s 1, 2013 c 99 s 1, and 2013  
9 c 61 s 1 are each reenacted and amended to read as follows:

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12 (1) "Attorney general" means the Washington state office of the  
13 attorney general.

14 (2) "Auditor" means: (a) The Washington state auditor's office or  
15 its designee for qualifying utilities under its jurisdiction that are  
16 not investor-owned utilities; or (b) an independent auditor selected by  
17 a qualifying utility that is not under the jurisdiction of the state  
18 auditor and is not an investor-owned utility.

1 (3)(a) "Biomass energy" includes: (i) Organic by-products of  
2 pulping and the wood manufacturing process; (ii) animal manure; (iii)  
3 solid organic fuels from wood; (iv) forest or field residues; (v)  
4 untreated wooden demolition or construction debris; (vi) food waste and  
5 food processing residuals; (vii) liquors derived from algae; (viii)  
6 dedicated energy crops; and (ix) yard waste.

7 (b) "Biomass energy" does not include: (i) Wood pieces that have  
8 been treated with chemical preservatives such as creosote,  
9 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth  
10 forests; or (iii) municipal solid waste.

11 (4) "Coal transition power" has the same meaning as defined in RCW  
12 80.80.010.

13 (5) "Commission" means the Washington state utilities and  
14 transportation commission.

15 (6) "Conservation" means any reduction in electric power  
16 consumption resulting from increases in the efficiency of energy use,  
17 production, or distribution.

18 (7) "Cost-effective" has the same meaning as defined in RCW  
19 80.52.030.

20 (8) "Council" means the Washington state apprenticeship and  
21 training council within the department of labor and industries.

22 (9) "Customer" means a person or entity that purchases electricity  
23 for ultimate consumption and not for resale.

24 (10) "Department" means the department of commerce or its  
25 successor.

26 (11) "Distributed generation" means an eligible renewable resource  
27 where the generation facility or any integrated cluster of such  
28 facilities has a generating capacity of not more than five megawatts.

29 (12) "Eligible renewable resource" means:

30 (a) Electricity from a generation facility powered by a renewable  
31 resource other than freshwater that commences operation after March 31,  
32 1999, where: (i) The facility is located in the Pacific Northwest; or  
33 (ii) the electricity from the facility is delivered into Washington  
34 state on a real-time basis without shaping, storage, or integration  
35 services;

36 (b) Incremental electricity produced as a result of efficiency  
37 improvements completed after March 31, 1999, to hydroelectric  
38 generation projects owned by a qualifying utility and located in the

1 Pacific Northwest (~~(or to hydroelectric generation in irrigation pipes~~  
2 ~~and canals located in the Pacific Northwest,~~) where the additional  
3 generation (~~(in either case)~~) does not result in new water diversions  
4 or impoundments;

5 (c) Qualified biomass energy; (~~(or)~~)

6 (d) For a qualifying utility that serves customers in other states,  
7 electricity from a generation facility powered by a renewable resource  
8 other than freshwater that commences operation after March 31, 1999,  
9 where: (i) The facility is located within a state in which the  
10 qualifying utility serves retail electrical customers; and (ii) the  
11 qualifying utility owns the facility in whole or in part or has a long-  
12 term contract with the facility of at least twelve months or more;

13 (e) That portion of incremental electricity produced as a result of  
14 efficiency improvements completed after March 31, 1999, attributable to  
15 a qualifying utility's share of the electricity output to hydroelectric  
16 generation projects whose energy output is marketed by the Bonneville  
17 power administration where the additional generation does not result in  
18 new water diversions or impoundments;

19 (f) The environmental attributes, including renewable energy  
20 credits, from (e) of this subsection transferred to investor-owned  
21 utilities pursuant to the Bonneville power administration's residential  
22 exchange program; or

23 (g) Hydroelectric generation from a project completed after March  
24 31, 1999, where the generation facility is located in, or uses water  
25 from and returns water to: (i) Irrigation pipes; (ii) irrigation  
26 canals; (iii) water pipes whose primary purpose is for conveyance of  
27 water for municipal, industrial, or domestic use; or (iv) wastewater  
28 pipes. Eligible pipes in (g)(i) through (iv) of this subsection must  
29 be located in Washington and new water must not be diverted into the  
30 pipes primarily to increase electric generation.

31 (13) "Investor-owned utility" has the same meaning as defined in  
32 RCW 19.29A.010.

33 (14) "Load" means the amount of kilowatt-hours of electricity  
34 delivered in the most recently completed year by a qualifying utility  
35 to its Washington retail customers.

36 (15)(a) "Nonpower attributes" means all environmentally related  
37 characteristics, exclusive of energy, capacity reliability, and other  
38 electrical power service attributes, that are associated with the

1 generation of electricity from a renewable resource, including but not  
2 limited to the facility's fuel type, geographic location, vintage,  
3 qualification as an eligible renewable resource, and avoided emissions  
4 of pollutants to the air, soil, or water, and avoided emissions of  
5 carbon dioxide and other greenhouse gases.

6 (b) "Nonpower attributes" does not include any aspects, claims,  
7 characteristics, and benefits associated with the on-site capture and  
8 destruction of methane or other greenhouse gases at a facility through  
9 a digester system, landfill gas collection system, or other mechanism,  
10 which may be separately marketable as greenhouse gas emission reduction  
11 credits, offsets, or similar tradable commodities. However, these  
12 separate avoided emissions may not result in or otherwise have the  
13 effect of attributing greenhouse gas emissions to the electricity.

14 (16) "Pacific Northwest" has the same meaning as defined for the  
15 Bonneville power administration in section 3 of the Pacific Northwest  
16 electric power planning and conservation act (94 Stat. 2698; 16 U.S.C.  
17 Sec. 839a).

18 (17) "Public facility" has the same meaning as defined in RCW  
19 39.35C.010.

20 (18) "Qualified biomass energy" means electricity produced from a  
21 biomass energy facility that: (a) Commenced operation before March 31,  
22 1999; (b) contributes to the qualifying utility's load; and (c) is  
23 owned either by: (i) A qualifying utility; or (ii) an industrial  
24 facility that is directly interconnected with electricity facilities  
25 that are owned by a qualifying utility and capable of carrying  
26 electricity at transmission voltage.

27 (19) "Qualifying utility" means an electric utility, as the term  
28 "electric utility" is defined in RCW 19.29A.010, that serves more than  
29 twenty-five thousand customers in the state of Washington. The number  
30 of customers served may be based on data reported by a utility in form  
31 861, "annual electric utility report," filed with the energy  
32 information administration, United States department of energy.

33 (20) "Renewable energy credit" means a tradable certificate of  
34 proof, except as provided in RCW 19.285.040(2)(m), of at least one  
35 megawatt-hour of an eligible renewable resource where, except as  
36 provided in subsection (12)(f) of this section, the generation facility  
37 is not powered by freshwater. The certificate includes all of the

1 nonpower attributes associated with that one megawatt-hour of  
2 electricity, and the certificate is verified by a renewable energy  
3 credit tracking system selected by the department.

4 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
5 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or  
6 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel  
7 fuel as defined in RCW 82.29A.135 that is not derived from crops raised  
8 on land cleared from old growth or first-growth forests where the  
9 clearing occurred after December 7, 2006; or (i) biomass energy.

10 (22) "Rule" means rules adopted by an agency or other entity of  
11 Washington state government to carry out the intent and purposes of  
12 this chapter.

13 (23) "Year" means the twelve-month period commencing January 1st  
14 and ending December 31st.

15 **Sec. 2.** RCW 19.285.040 and 2013 c 158 s 2 are each amended to read  
16 as follows:

17 (1) Each qualifying utility shall pursue all available conservation  
18 that is cost-effective, reliable, and feasible.

19 (a) By January 1, 2010, using methodologies consistent with those  
20 used by the Pacific Northwest electric power and conservation planning  
21 council in its most recently published regional power plan, each  
22 qualifying utility shall identify its achievable cost-effective  
23 conservation potential through 2019. At least every two years  
24 thereafter, the qualifying utility shall review and update this  
25 assessment for the subsequent ten-year period.

26 (b) Beginning January 2010, each qualifying utility shall establish  
27 and make publicly available a biennial acquisition target for cost-  
28 effective conservation consistent with its identification of achievable  
29 opportunities in (a) of this subsection, and meet that target during  
30 the subsequent two-year period. At a minimum, each biennial target  
31 must be no lower than the qualifying utility's pro rata share for that  
32 two-year period of its cost-effective conservation potential for the  
33 subsequent ten-year period.

34 (c) In meeting its conservation targets, a qualifying utility may  
35 count high-efficiency cogeneration owned and used by a retail electric  
36 customer to meet its own needs. High-efficiency cogeneration is the  
37 sequential production of electricity and useful thermal energy from a

1 common fuel source, where, under normal operating conditions, the  
2 facility has a useful thermal energy output of no less than thirty-  
3 three percent of the total energy output. The reduction in load due to  
4 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
5 the fuel chargeable to power heat rate of the cogeneration facility  
6 compared to the heat rate on a new and clean basis of a  
7 best-commercially available technology combined-cycle natural gas-fired  
8 combustion turbine; and (ii) counted towards meeting the biennial  
9 conservation target in the same manner as other conservation savings.

10 (d) The commission may determine if a conservation program  
11 implemented by an investor-owned utility is cost-effective based on the  
12 commission's policies and practice.

13 (e) The commission may rely on its standard practice for review and  
14 approval of investor-owned utility conservation targets.

15 (2)(a) Except as provided in (j) and (l) of this subsection, each  
16 qualifying utility shall use eligible renewable resources or acquire  
17 equivalent renewable energy credits, or any combination of them, to  
18 meet the following annual targets:

19 (i) At least three percent of its load by January 1, 2012, and each  
20 year thereafter through December 31, 2015;

21 (ii) At least nine percent of its load by January 1, 2016, and each  
22 year thereafter through December 31, 2019; and

23 (iii) At least fifteen percent of its load by January 1, 2020, and  
24 each year thereafter.

25 (b) A qualifying utility may count distributed generation at double  
26 the facility's electrical output if the utility: (i) Owns or has  
27 contracted for the distributed generation and the associated renewable  
28 energy credits; or (ii) has contracted to purchase the associated  
29 renewable energy credits.

30 (c) In meeting the annual targets in (a) of this subsection, a  
31 qualifying utility shall calculate its annual load based on the average  
32 of the utility's load for the previous two years.

33 (d) A qualifying utility shall be considered in compliance with an  
34 annual target in (a) of this subsection if: (i) The utility's weather-  
35 adjusted load for the previous three years on average did not increase  
36 over that time period; (ii) after December 7, 2006, the utility did not  
37 commence or renew ownership or incremental purchases of electricity  
38 from resources other than coal transition power or renewable resources

1 other than on a daily spot price basis and the electricity is not  
2 offset by equivalent renewable energy credits; and (iii) the utility  
3 invested at least one percent of its total annual retail revenue  
4 requirement that year on eligible renewable resources, renewable energy  
5 credits, or a combination of both.

6 (e) The requirements of this section may be met for any given year  
7 with renewable energy credits produced during that year, the preceding  
8 year, or the subsequent year. Each renewable energy credit may be used  
9 only once to meet the requirements of this section.

10 (f) In complying with the targets established in (a) of this  
11 subsection, a qualifying utility may not count:

12 (i) Eligible renewable resources or distributed generation where  
13 the associated renewable energy credits are owned by a separate entity;  
14 or

15 (ii) Eligible renewable resources or renewable energy credits  
16 obtained for and used in an optional pricing program such as the  
17 program established in RCW 19.29A.090.

18 (g) Where fossil and combustible renewable resources are cofired in  
19 one generating unit located in the Pacific Northwest where the cofiring  
20 commenced after March 31, 1999, the unit shall be considered to produce  
21 eligible renewable resources in direct proportion to the percentage of  
22 the total heat value represented by the heat value of the renewable  
23 resources.

24 (h)(i) A qualifying utility that acquires an eligible renewable  
25 resource or renewable energy credit may count that acquisition at one  
26 and two-tenths times its base value:

27 (A) Where the eligible renewable resource comes from a facility  
28 that commenced operation after December 31, 2005; and

29 (B) Where the developer of the facility used apprenticeship  
30 programs approved by the council during facility construction.

31 (ii) The council shall establish minimum levels of labor hours to  
32 be met through apprenticeship programs to qualify for this extra  
33 credit.

34 (i) A qualifying utility shall be considered in compliance with an  
35 annual target in (a) of this subsection if events beyond the reasonable  
36 control of the utility that could not have been reasonably anticipated  
37 or ameliorated prevented it from meeting the renewable energy target.  
38 Such events include weather-related damage, mechanical failure,

1 strikes, lockouts, and actions of a governmental authority that  
2 adversely affect the generation, transmission, or distribution of an  
3 eligible renewable resource under contract to a qualifying utility.

4 (j)(i) Beginning January 1, 2016, only a qualifying utility that  
5 owns or is directly interconnected to a qualified biomass energy  
6 facility may use qualified biomass energy to meet its compliance  
7 obligation under (~~RCW 19.285.040(2)~~) this subsection.

8 (ii) A qualifying utility may no longer use electricity and  
9 associated renewable energy credits from a qualified biomass energy  
10 facility if the associated industrial pulping or wood manufacturing  
11 facility ceases operation other than for purposes of maintenance or  
12 upgrade.

13 (k) An industrial facility that hosts a qualified biomass energy  
14 facility may only transfer or sell renewable energy credits associated  
15 with its facility to the qualifying utility with which it is directly  
16 interconnected with facilities owned by such a qualifying utility and  
17 that are capable of carrying electricity at transmission voltage. The  
18 qualifying utility may only use an amount of renewable energy credits  
19 associated with qualified biomass energy that are equivalent to the  
20 proportionate amount of its annual targets under (a)(ii) and (iii) of  
21 this subsection that was created by the load of the industrial  
22 facility. A qualifying utility that owns a qualified biomass energy  
23 facility may not transfer or sell renewable energy credits associated  
24 with qualified biomass energy to another person, entity, or qualifying  
25 utility.

26 (l) Beginning January 1, 2016, a qualifying utility may use  
27 eligible renewable resources as identified under RCW 19.285.030(12) (e)  
28 and (f) to meet its compliance obligation under this subsection (2).  
29 A qualifying utility may not transfer or sell these eligible renewable  
30 resources to another utility for compliance purposes under this  
31 chapter.

32 (m) Renewable energy credits allocated under RCW 19.285.030(12)(f)  
33 may not be transferred or sold to another qualifying utility for  
34 compliance under this chapter.

35 (3) Utilities that become qualifying utilities after December 31,  
36 2006, shall meet the requirements in this section on a time frame



1 comparable in length to that provided for qualifying utilities as of  
2 December 7, 2006.

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