
HOUSE BILL 1610

State of Washington 61st Legislature 2009 Regular Session

By Representatives Takko, Ericks, Kretz, Orcutt, Kessler, Short, Crouse, Blake, Ericksen, Wood, Herrera, Kristiansen, Kenney, and Ormsby

Read first time 01/26/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to creating incentives for the use of biomass in
2 renewable energy production; amending RCW 19.285.030; adding a new
3 section to chapter 82.04 RCW; adding a new section to chapter 82.08
4 RCW; adding a new section to chapter 82.12 RCW; creating a new section;
5 and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Communities across the state, including Everett, Longview,
9 Grays Harbor, and Colville, have natural resource-based economies and
10 rely on the use of biomass fuels to generate electricity for use in
11 manufacturing and to serve local residents;

12 (b) In 2007, by approving Initiative Measure No. 937, codified as
13 chapter 19.285 RCW, citizens of the state authorized a law requiring
14 electric utilities that serve more than twenty-five thousand customers
15 in Washington to obtain fifteen percent of their electricity from new
16 renewable resources by 2020 and to meet energy conservation goals;

17 (c) Eight other western states have renewable energy standards, but
18 most of those other laws, unlike chapter 19.285 RCW, allow existing
19 biomass resources to count as renewable energy resources; and

1 (d) By discriminating against our state's natural assets for
2 producing renewable energy, chapter 19.285 RCW obligates local electric
3 utilities to acquire more expensive renewable resource technologies.

4 (2) The legislature declares that chapter 19.285 RCW should be
5 amended to preserve our low electricity costs and its economic benefits
6 to urban and rural communities alike, and to promote further
7 development of the low cost, climate-friendly biomass resources that
8 form the foundation of our present and future clean energy economy.

9 **Sec. 2.** RCW 19.285.030 and 2007 c 1 s 3 are each amended to read
10 as follows:

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

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

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

20 (3) "Biomass energy" means energy produced from the combustion of
21 (a) organic byproducts of the pulping process or algae; (b) animal
22 waste; (c) solid organic fuels from wood; (d) forest or field residues;
23 (e) wooden demolition or construction debris; (f) landfill gas or
24 biogas produced from organic matter, wastewater, or anaerobic
25 digesters; or (g) dedicated energy crops. "Biomass energy" does not
26 include energy produced from the combustion of wood pieces that have
27 been treated with chemical preservatives such as: Creosote,
28 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
29 forests; or municipal solid waste.

30 (4) "Commission" means the Washington state utilities and
31 transportation commission.

32 ((+4)) (5) "Conservation" means any reduction in electric power
33 consumption resulting from increases in the efficiency of energy use,
34 production, or distribution.

35 ((+5)) (6) "Cost-effective" has the same meaning as defined in RCW
36 80.52.030.

1 ~~((+6+))~~ (7) "Council" means the Washington state apprenticeship and
2 training council within the department of labor and industries.

3 ~~((+7+))~~ (8) "Customer" means a person or entity that purchases
4 electricity for ultimate consumption and not for resale.

5 ~~((+8+))~~ (9) "Department" means the department of community, trade,
6 and economic development or its successor.

7 ~~((+9+))~~ (10) "Distributed generation" means an eligible renewable
8 resource where the generation facility or any integrated cluster of
9 such facilities has a generating capacity of not more than five
10 megawatts.

11 ~~((+10+))~~ (11) "Eligible renewable resource" means:

12 (a) Electricity from a generation facility powered by a renewable
13 resource other than fresh water that commences operation after March
14 31, 1999, where: (i) The facility is located in the Pacific Northwest;
15 or (ii) the electricity from the facility is delivered into Washington
16 state on a real-time basis without shaping, storage, or integration
17 services; ~~((or))~~

18 (b) Incremental electricity produced as a result of efficiency
19 improvements completed after March 31, 1999, to hydroelectric
20 generation projects owned by a qualifying utility and located in the
21 Pacific Northwest or to hydroelectric generation in irrigation pipes
22 and canals located in the Pacific Northwest, where the additional
23 generation in either case does not result in new water diversions or
24 impoundments; or

25 (c) Electricity from a biomass energy powered generation facility
26 located in Washington that commenced operation before March 31, 1999.

27 ~~((+11+))~~ (12) "Investor-owned utility" has the same meaning as
28 defined in RCW 19.29A.010.

29 ~~((+12+))~~ (13) "Load" means the amount of kilowatt-hours of
30 electricity delivered in the most recently completed year by a
31 qualifying utility to its Washington retail customers.

32 ~~((+13+))~~ (14) "Nonpower attributes" means all environmentally
33 related characteristics, exclusive of energy, capacity reliability, and
34 other electrical power service attributes, that are associated with the
35 generation of electricity from a renewable resource, including but not
36 limited to the facility's fuel type, geographic location, vintage,
37 qualification as an eligible renewable resource, and avoided emissions

1 of pollutants to the air, soil, or water, and avoided emissions of
2 carbon dioxide and other greenhouse gases.

3 ((+14)) (15) "Pacific Northwest" has the same meaning as defined
4 for the Bonneville power administration in section 3 of the Pacific
5 Northwest electric power planning and conservation act (94 Stat. 2698;
6 16 U.S.C. Sec. 839a).

7 ((+15)) (16) "Public facility" has the same meaning as defined in
8 RCW 39.35C.010.

9 ((+16)) (17) "Qualifying utility" means an electric utility, as
10 the term "electric utility" is defined in RCW 19.29A.010, that serves
11 more than twenty-five thousand customers in the state of Washington.
12 The number of customers served may be based on data reported by a
13 utility in form 861, "annual electric utility report," filed with the
14 energy information administration, United States department of energy.

15 ((+17)) (18) "Renewable energy credit" means a tradable
16 certificate of proof of at least one megawatt-hour of an eligible
17 renewable resource where the generation facility is not powered by
18 fresh water, the certificate includes all of the nonpower attributes
19 associated with that one megawatt-hour of electricity, and the
20 certificate is verified by a renewable energy credit tracking system
21 selected by the department.

22 ((+18)) (19) "Renewable resource" means: (a) Water; (b) wind; (c)
23 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,
24 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
25 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
26 on land cleared from old growth or first-growth forests where the
27 clearing occurred after December 7, 2006; and (i) biomass energy
28 (~~(based on animal waste or solid organic fuels from wood, forest, or~~
29 ~~field residues, or dedicated energy crops that do not include (i) wood~~
30 ~~pieces that have been treated with chemical preservatives such as~~
31 ~~creosote, pentachlorophenol, or copper chrome arsenic; (ii) black~~
32 ~~liquor byproduct from paper production; (iii) wood from old growth~~
33 ~~forests; or (iv) municipal solid waste)).~~

34 ((+19)) (20) "Rule" means rules adopted by an agency or other
35 entity of Washington state government to carry out the intent and
36 purposes of this chapter.

37 ((+20)) (21) "Year" means the twelve-month period commencing
38 January 1st and ending December 31st.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
2 to read as follows:

3 (1) In computing the tax imposed under this chapter, harvesters are
4 allowed a credit against the amount of tax otherwise due under this
5 chapter, as provided in this section. The credit is thirty dollars per
6 harvested green ton of forest derived biomass sold, transferred, or
7 used for production of electricity, steam, heat, or biofuel. Credit
8 may not be claimed for forest derived biomass sold, transferred, or
9 used before the effective date of this section. The amount of credit
10 allowed for a reporting period may not exceed the tax otherwise due
11 under this chapter for that reporting period. Any unused excess
12 credit in a reporting period may be carried forward to future reporting
13 periods for a maximum of two years.

14 (2) For the purposes of this section, "harvested" and "harvesters"
15 are defined in RCW 84.33.035, and "biofuel" is defined in RCW
16 43.325.010.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW
18 to read as follows:

19 (1) The tax levied by RCW 82.08.020 does not apply to sales of
20 forest derived biomass used to produce electricity, steam, heat, or
21 biofuel. This exemption is available only if the buyer provides the
22 seller with an exemption certificate in a form and manner prescribed by
23 the department. The seller must retain a copy of the certificate for
24 the seller's files.

25 (2) For purposes of this section, "biofuel" is defined in RCW
26 43.325.010.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW
28 to read as follows:

29 (1) The provisions of this chapter do not apply with respect to the
30 use of forest derived biomass for production of electricity, steam,
31 heat, or biofuel.

32 (2) For purposes of this section, "biofuel" is defined in RCW
33 43.325.010.

34 NEW SECTION. **Sec. 6.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 7.** Sections 3, 4, and 5 of this act take effect
5 October 1, 2009.

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