
HOUSE BILL 2495

State of Washington

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By Representative Shewmake

1 AN ACT Relating to the use of electricity from energy recovery
2 facilities using municipal solid waste under the Washington clean
3 energy transformation act; amending RCW 19.405.040 and 19.405.050;
4 and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

7 (1) According to the United States energy information
8 administration, in 2016, seventy-one power plants in the United
9 States generated approximately fourteen billion kilowatt-hours of
10 electricity by burning approximately thirty million tons of municipal
11 solid waste. Biomass materials constituted roughly sixty-four percent
12 of the weight of the combustible municipal solid waste and accounted
13 for about fifty-one percent of the electricity generated.

14 (2) The combustion of municipal solid waste for the generation of
15 electricity also reduces the amount of material that would otherwise
16 likely be buried in landfills. According to the United States energy
17 information administration, burning municipal solid waste reduces the
18 volume of waste by about eighty-seven percent.

19 (3) Washington's thirteen remaining municipal solid waste
20 landfills are quickly approaching their maximum capacity. At least
21 nine of those landfills, including the only remaining landfill in

1 King county, are expected to close by 2040. A 2019 report
2 commissioned by the King county council examined the feasibility of
3 using either waste-to-energy or waste export by rail as the county's
4 next disposal method for its municipal solid waste. The report
5 concluded that waste-to-energy would provide a gross savings of
6 between four and seven billion dollars compared to waste export by
7 rail over a fifty year planning period. The report also concluded
8 that waste-to-energy would result in lower net greenhouse gas
9 emissions compared to waste export by rail.

10 (4) It is therefore the intent of the legislature to allow
11 electricity generated by any existing or future municipal waste-to-
12 energy facility to count toward a portion of an electric utility's
13 2030 and 2045 compliance obligations under chapter 19.405 RCW, the
14 Washington clean energy transformation act, provided that the
15 following criteria are met:

16 (a) The facility is operated in compliance with federal laws and
17 regulations and meets state air quality standards; and

18 (b) The department of commerce and the department of ecology
19 determine that electricity generation at the facility provides a net
20 reduction in greenhouse gas emissions compared to any other available
21 waste management best practice.

22 **Sec. 2.** RCW 19.405.040 and 2019 c 288 s 4 are each amended to
23 read as follows:

24 (1) It is the policy of the state that all retail sales of
25 electricity to Washington retail electric customers be greenhouse gas
26 neutral by January 1, 2030.

27 (a) For the four-year compliance period beginning January 1,
28 2030, and for each multiyear compliance period thereafter through
29 December 31, 2044, an electric utility must demonstrate its
30 compliance with this standard using a combination of nonemitting
31 electric generation and electricity from renewable resources, or
32 alternative compliance options, as provided in this section. To
33 achieve compliance with this standard, an electric utility must: (i)
34 Pursue all cost-effective, reliable, and feasible conservation and
35 efficiency resources to reduce or manage retail electric load, using
36 the methodology established in RCW 19.285.040, if applicable; and
37 (ii) use electricity from renewable resources and nonemitting
38 electric generation in an amount equal to one hundred percent of the
39 utility's retail electric loads over each multiyear compliance

1 period. An electric utility must achieve compliance with this
2 standard for the following compliance periods: January 1, 2030,
3 through December 31, 2033; January 1, 2034, through December 31,
4 2037; January 1, 2038, through December 31, 2041; and January 1,
5 2042, through December 31, 2044.

6 (b) Through December 31, 2044, an electric utility may satisfy up
7 to twenty percent of its compliance obligation under (a) of this
8 subsection with an alternative compliance option consistent with this
9 section. An alternative compliance option may include any combination
10 of the following:

11 (i) Making an alternative compliance payment under RCW
12 19.405.090(2);

13 (ii) Using unbundled renewable energy credits, provided that
14 there is no double counting of any nonpower attributes associated
15 with renewable energy credits within Washington or programs in other
16 jurisdictions, as follows:

17 (A) Unbundled renewable energy credits produced from eligible
18 renewable resources, as defined under RCW 19.285.030, which may be
19 used by the electric utility for compliance with RCW 19.285.040 and
20 this section as provided under RCW 19.285.040(2)(e); and

21 (B) Unbundled renewable energy credits, other than those included
22 in (b)(ii)(A) of this subsection, that represent electricity
23 generated within the compliance period;

24 (iii) Investing in energy transformation projects, including
25 additional conservation and efficiency resources beyond what is
26 otherwise required under this section, provided the projects meet the
27 requirements of subsection (2) of this section and are not credited
28 as resources used to meet the standard under (a) of this subsection;
29 or

30 (iv) Using electricity from an energy recovery facility using
31 municipal solid waste as the principal fuel source, where (~~the~~
32 ~~facility was constructed prior to 1992, and~~) the facility is
33 operated in compliance with federal laws and regulations and meets
34 state air quality standards. An electric utility may only use
35 electricity from such an energy recovery facility if the department
36 and the department of ecology determine that electricity generation
37 at the facility provides a net reduction in greenhouse gas emissions
38 compared to any other available waste management best practice. The
39 determination must be based on a life-cycle analysis comparing the
40 energy recovery facility to other technologies available in the

1 jurisdiction in which the facility is located for the waste
2 management best practices of waste reduction, recycling, composting,
3 and minimizing the use of a landfill.

4 (c) Electricity from renewable resources used to meet the
5 standard under (a) of this subsection must be verified by the
6 retirement of renewable energy credits. Renewable energy credits must
7 be tracked and retired in the tracking system selected by the
8 department.

9 (d) Hydroelectric generation used by an electric utility in
10 meeting the standard under (a) of this subsection may not include new
11 diversions, new impoundments, new bypass reaches, or expansion of
12 existing reservoirs constructed after May 7, 2019, unless the
13 diversions, bypass reaches, or reservoir expansions are necessary for
14 the operation of a pumped storage facility that: (i) Does not
15 conflict with existing state or federal fish recovery plans; and (ii)
16 complies with all local, state, and federal laws and regulations.

17 (e) Nothing in (d) of this subsection precludes an electric
18 utility that owns and operates hydroelectric generating facilities,
19 or the owner of a hydroelectric generating facility whose energy
20 output is marketed by the Bonneville power administration, from
21 making efficiency or other improvements to its hydroelectric
22 generating facilities existing as of May 7, 2019, or from installing
23 hydroelectric generation in pipes, culverts, irrigation canals, and
24 other manmade waterways, as long as those changes do not create
25 conflicts with existing state or federal fish recovery plans and
26 comply with all local, state, and federal laws and regulations.

27 (f) Nonemitting electric generation used to meet the standard
28 under (a) of this subsection must be generated during the compliance
29 period and must be verified by documentation that the electric
30 utility owns the nonpower attributes of the electricity generated by
31 the nonemitting electric generation resource.

32 (g) Nothing in this section prohibits an electric utility from
33 purchasing or exchanging power from the Bonneville power
34 administration.

35 (2) Investments in energy transformation projects used to satisfy
36 an alternative compliance option provided under subsection (1)(b) of
37 this section must use criteria developed by the department of
38 ecology, in consultation with the department and the commission. For
39 the purpose of crediting an energy transformation project toward the
40 standard in subsection (1)(a) of this section, the department of

1 ecology must establish a conversion factor of emissions reductions
2 resulting from energy transformation projects to megawatt-hours of
3 electricity from nonemitting electric generation that is consistent
4 with the emission factors for unspecified electricity, or for energy
5 transformation projects in the transportation sector, consistent with
6 default emissions or conversion factors established by other
7 jurisdictions for clean alternative fuels. Emissions reductions from
8 energy transformation projects must be:

9 (a) Real, specific, identifiable, and quantifiable;

10 (b) Permanent: The department of ecology must look to other
11 jurisdictions in setting this standard and make a reasonable
12 determination on length of time;

13 (c) Enforceable by the state of Washington;

14 (d) Verifiable;

15 (e) Not required by another statute, rule, or other legal
16 requirement; and

17 (f) Not reasonably assumed to occur absent investment, or if an
18 investment has already been made, not reasonably assumed to occur
19 absent additional funding in the near future.

20 (3) Energy transformation projects must be associated with the
21 consumption of energy in Washington and must not create a new use of
22 fossil fuels that results in a net increase of fossil fuel usage.

23 (4) The compliance eligibility of energy transformation projects
24 may be scaled or prorated by an approved protocol in order to
25 distinguish effects related to reductions in electricity usage from
26 reductions in fossil fuel usage.

27 (5) Any compliance obligation fulfilled through an investment in
28 an energy transformation project is eligible for use only: (a) By the
29 electric utility that makes the investment; (b) if the investment is
30 made by the Bonneville power administration, by electric utilities
31 that are preference customers of the Bonneville power administration;
32 or (c) if the investment is made by a joint operating agency
33 organized under chapter 43.52 RCW, by a member of the joint operating
34 agency. An electric utility making an investment in partnership with
35 another electric utility or entity may claim credit proportional to
36 its share invested in the total project cost.

37 (6)(a) In meeting the standard under subsection (1) of this
38 section, an electric utility must, consistent with the requirements
39 of RCW 19.285.040, if applicable, pursue all cost-effective,
40 reliable, and feasible conservation and efficiency resources, and

1 demand response. In making new investments, an electric utility must,
2 to the maximum extent feasible:

3 (i) Achieve targets at the lowest reasonable cost, considering
4 risk;

5 (ii) Consider acquisition of existing renewable resources; and

6 (iii) In the acquisition of new resources constructed after May
7 7, 2019, rely on renewable resources and energy storage, insofar as
8 doing so is consistent with (a)(i) of this subsection.

9 (b) Electric utilities subject to RCW 19.285.040 must demonstrate
10 pursuit of all conservation and efficiency resources through
11 compliance with the requirements in RCW 19.285.040.

12 (7) An electric utility that fails to meet the requirements of
13 this section must pay the administrative penalty established under
14 RCW 19.405.090(1), except as otherwise provided in this chapter.

15 (8) In complying with this section, an electric utility must,
16 consistent with the requirements of RCW 19.280.030 and 19.405.140,
17 ensure that all customers are benefiting from the transition to clean
18 energy: Through the equitable distribution of energy and nonenergy
19 benefits and reduction of burdens to vulnerable populations and
20 highly impacted communities; long-term and short-term public health
21 and environmental benefits and reduction of costs and risks; and
22 energy security and resiliency.

23 (9) Affected market customers must comply with the standard
24 established under subsection (1) of this section.

25 (10) A market customer that purchases electricity exclusively
26 from carbon-free resources and eligible renewable resources, as
27 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
28 special contract with an investor-owned utility approved, prior to
29 May 7, 2019, by order of the commission is subject to the
30 requirements of such an order and not to the standard established in
31 this section. For purposes of interpreting any such special contract,
32 chapter 19.285 RCW, as in effect on January 1, 2019, is not, either
33 directly or indirectly, amended or supplemented.

34 (11) To reduce costs for utility customers or avoid exceeding the
35 cost impact limit in RCW 19.405.060(3)(a), a multistate electric
36 utility with fewer than two hundred fifty thousand customers in
37 Washington may apply the total amount of megawatt-hours of coal-fired
38 resources eliminated from the utility's allocation of electricity
39 before December 31, 2025, as an equivalent amount of megawatt-hours
40 of nonemitting electric generation or electricity from renewable

1 resources required to comply with subsection (1)(a) of this section.
2 The utility must demonstrate that for every megawatt-hour of early
3 action compliance credit there is a real, permanent reduction in
4 greenhouse gas emissions in the western interconnection directly
5 associated with that credit. A multistate electric utility must
6 request to use early action compliance credit in its clean energy
7 implementation plan that is submitted under RCW 19.405.060. The
8 multistate electric utility must specify in its clean energy
9 implementation plan the compliance years to which the early action
10 compliance credit will apply, but in no event may the multistate
11 electric utility use the early action compliance credits beyond 2035.
12 The commission must establish conditions for use of early action
13 compliance credits, including a determination of whether action
14 constitutes early action, before the multistate electric utility's
15 use of early action compliance credits in a clean energy
16 implementation plan.

17 **Sec. 3.** RCW 19.405.050 and 2019 c 288 s 5 are each amended to
18 read as follows:

19 (1) It is the policy of the state that nonemitting electric
20 generation and electricity from renewable resources supply one
21 hundred percent of all sales of electricity to Washington retail
22 electric customers by January 1, 2045. By January 1, 2045, and each
23 year thereafter, each electric utility must demonstrate its
24 compliance with this standard using a combination of nonemitting
25 electric generation and electricity from renewable resources.

26 (2) Each electric utility must incorporate subsection (1) of this
27 section into all relevant planning and resource acquisition practices
28 including, but not limited to: Resource planning under chapter 19.280
29 RCW; the construction or acquisition of property, including electric
30 generating facilities; and the provision of electricity service to
31 retail electric customers.

32 (3) In planning to meet projected demand consistent with the
33 requirements of subsection (2) of this section and RCW 19.285.040, if
34 applicable, an electric utility must pursue all cost-effective,
35 reliable, and feasible conservation and efficiency resources, and
36 demand response. In making new investments, an electric utility must,
37 to the maximum extent feasible:

38 (a) Achieve targets at the lowest reasonable cost, considering
39 risk;

1 (b) Consider acquisition of existing renewable resources; and

2 (c) In the acquisition of new resources constructed after May 7,
3 2019, rely on renewable resources and energy storage, insofar as
4 doing so is consistent with (a) of this subsection.

5 (4) The commission, department, energy facility site evaluation
6 council, department of ecology, and all other state agencies must
7 incorporate this section into all relevant planning and utilize all
8 programs authorized by statute to achieve subsection (1) of this
9 section.

10 (5) (a) Hydroelectric generation used by an electric utility to
11 satisfy the requirements of this section may not include new
12 diversions, new impoundments, new bypass reaches, or expansion of
13 existing reservoirs constructed after May 7, 2019, unless the
14 diversions, bypass reaches, or reservoir expansions are necessary for
15 the operation of a pumped storage facility that: (i) Does not
16 conflict with existing state or federal fish recovery plans; and (ii)
17 complies with all local, state, and federal laws and regulations.

18 (b) Nothing in (a) of this subsection precludes an electric
19 utility that owns and operates hydroelectric generating facilities,
20 or the owner of a hydroelectric generating facility whose energy
21 output is marketed by the Bonneville power administration, from
22 making efficiency or other improvements to its hydroelectric
23 generating facilities existing as of May 7, 2019, or from installing
24 hydroelectric generation in pipes, culverts, irrigation canals, and
25 other manmade waterways as long as those changes do not create
26 conflicts with existing state or federal fish recovery plans and
27 comply with all local, state, and federal laws and regulations.

28 (6) Nothing in this section prohibits an electric utility from
29 purchasing or exchanging power from the Bonneville power
30 administration.

31 (7) Affected market customers must comply with the obligations of
32 this section.

33 (8) Any market customer that purchases electricity exclusively
34 from carbon-free resources and eligible renewable resources, as
35 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
36 special contract with an investor-owned utility approved, prior to
37 May 7, 2019, by order of the commission is subject to the
38 requirements of such an order and not to the standards established in
39 this section. For the purposes of interpreting such a special

1 contract, chapter 19.285 RCW, as in effect on January 1, 2019, is
2 not, either directly or indirectly, amended or supplemented.

3 (9) (a) Nothing in this section prohibits an electric utility from
4 using electricity from an energy recovery facility using municipal
5 solid waste as the principal fuel source, where the facility is
6 operated in compliance with federal laws and regulations and meets
7 state air quality standards.

8 (b) An electric utility may only use electricity from a municipal
9 solid waste energy recovery facility if the department and the
10 department of ecology determine that electricity generation at the
11 facility provides a net reduction in greenhouse gas emissions
12 compared to any other available waste management best practice. The
13 determination must be based on a life-cycle analysis comparing the
14 energy recovery facility to other technologies available in the
15 jurisdiction in which the facility is located for the waste
16 management best practices of waste reduction, recycling, composting,
17 and minimizing the use of a landfill.

18 (c) An electric utility must request to use electricity from a
19 municipal solid waste energy recovery facility in its clean energy
20 implementation plan that is submitted under RCW 19.405.060.

21 (d) An electric utility may supply no more than ten percent of
22 all sales of electricity to Washington retail electric customers
23 using electricity from a municipal solid waste energy recovery
24 facility.

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