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SENATE BILL 5918

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State of Washington

65th Legislature

2017 Regular Session

By Senators Ericksen and Chase

1 AN ACT relating to providing incentives for carbon reduction  
2 investments in rural manufacturing; and amending RCW 19.285.030,  
3 19.285.040, and 19.285.070.

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

5 **Sec. 1.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Attorney general" means the Washington state office of the  
10 attorney general.

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

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

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

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

7 (5) "Commission" means the Washington state utilities and  
8 transportation commission.

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

12 (7) "Cost-effective" has the same meaning as defined in RCW  
13 80.52.030.

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

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

18 (10) "Department" means the department of commerce or its  
19 successor.

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

24 (12) "Eligible renewable resource" means:

25 (a) Electricity from a generation facility powered by a renewable  
26 resource other than freshwater that commences operation after March  
27 31, 1999, where: (i) The facility is located in the Pacific  
28 Northwest; or (ii) the electricity from the facility is delivered  
29 into Washington state on a real-time basis without shaping, storage,  
30 or integration services;

31 (b) Incremental electricity produced as a result of efficiency  
32 improvements completed after March 31, 1999, to hydroelectric  
33 generation projects owned by a qualifying utility and located in the  
34 Pacific Northwest where the additional generation does not result in  
35 new water diversions or impoundments;

36 (c) Hydroelectric generation from a project completed after March  
37 31, 1999, where the generation facility is located in irrigation  
38 pipes, irrigation canals, water pipes whose primary purpose is for  
39 conveyance of water for municipal use, and wastewater pipes located

1 in Washington where the generation does not result in new water  
2 diversions or impoundments;

3 (d) Carbon reduction investments;

4 (e) Qualified biomass energy; or

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

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

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

18 (15)(a) "Nonpower attributes" means all environmentally related  
19 characteristics, exclusive of energy, capacity reliability, and other  
20 electrical power service attributes, that are associated with the  
21 generation of electricity from a renewable resource, including but  
22 not limited to the facility's fuel type, geographic location,  
23 vintage, qualification as an eligible renewable resource, and avoided  
24 emissions of pollutants to the air, soil, or water, and avoided  
25 emissions of carbon dioxide and other greenhouse gases.

26 (b) "Nonpower attributes" does not include any aspects, claims,  
27 characteristics, and benefits associated with the on-site capture and  
28 destruction of methane or other greenhouse gases at a facility  
29 through a digester system, landfill gas collection system, or other  
30 mechanism, which may be separately marketable as greenhouse gas  
31 emission reduction credits, offsets, or similar tradable commodities.  
32 However, these separate avoided emissions may not result in or  
33 otherwise have the effect of attributing greenhouse gas emissions to  
34 the electricity.

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

39 (17) "Public facility" has the same meaning as defined in RCW  
40 39.35C.010.

1 (18) "Qualified biomass energy" means electricity produced from a  
2 biomass energy facility that: (a) Commenced operation before March  
3 31, 1999; (b) contributes to the qualifying utility's load; and (c)  
4 is owned either by: (i) A qualifying utility; or (ii) an industrial  
5 facility that is directly interconnected with electricity facilities  
6 that are owned by a qualifying utility and capable of carrying  
7 electricity at transmission voltage.

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

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

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

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

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

32 (24) "Carbon reduction investment" means a qualifying utility's  
33 investment in support of eligible projects proposed and implemented  
34 by a manufacturer in a rural area that reduce, prevent, or remove  
35 from the atmosphere the emissions of greenhouse gases.

36 (25) "Greenhouse gas" means carbon dioxide, methane, nitrous  
37 oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

38 (26) "Rural area" means a county in Washington state with a  
39 population of less than seven hundred thousand.

1       **Sec. 2.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to  
2 read as follows:

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

5       (a) By January 1, 2010, using methodologies consistent with those  
6 used by the Pacific Northwest electric power and conservation  
7 planning council in the most recently published regional power plan  
8 as it existed on June 12, 2014, or a subsequent date as may be  
9 provided by the department or the commission by rule, each qualifying  
10 utility shall identify its achievable cost-effective conservation  
11 potential through 2019. Nothing in the rule adopted under this  
12 subsection precludes a qualifying utility from using its utility  
13 specific conservation measures, values, and assumptions in  
14 identifying its achievable cost-effective conservation potential. At  
15 least every two years thereafter, the qualifying utility shall review  
16 and update this assessment for the subsequent ten-year period.

17       (b) Beginning January 2010, each qualifying utility shall  
18 establish and make publicly available a biennial acquisition target  
19 for cost-effective conservation consistent with its identification of  
20 achievable opportunities in (a) of this subsection, and meet that  
21 target during the subsequent two-year period. At a minimum, each  
22 biennial target must be no lower than the qualifying utility's pro  
23 rata share for that two-year period of its cost-effective  
24 conservation potential for the subsequent ten-year period.

25       (c)(i) Except as provided in (c)(ii) and (iii) of this  
26 subsection, beginning on January 1, 2014, cost-effective conservation  
27 achieved by a qualifying utility in excess of its biennial  
28 acquisition target may be used to help meet the immediately  
29 subsequent two biennial acquisition targets, such that no more than  
30 twenty percent of any biennial target may be met with excess  
31 conservation savings.

32       (ii) Beginning January 1, 2014, a qualifying utility may use  
33 single large facility conservation savings in excess of its biennial  
34 target to meet up to an additional five percent of the immediately  
35 subsequent two biennial acquisition targets, such that no more than  
36 twenty-five percent of any biennial target may be met with excess  
37 conservation savings allowed under all of the provisions of this  
38 section combined. For the purposes of this subsection (1)(c)(ii),  
39 "single large facility conservation savings" means cost-effective  
40 conservation savings achieved in a single biennial period at the

1 premises of a single customer of a qualifying utility whose annual  
2 electricity consumption prior to the conservation savings exceeded  
3 five average megawatts.

4 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
5 qualifying utility with an industrial facility located in a county  
6 with a population between ninety-five thousand and one hundred  
7 fifteen thousand that is directly interconnected with electricity  
8 facilities that are capable of carrying electricity at transmission  
9 voltage((τ)) may use cost-effective conservation from that industrial  
10 facility in excess of its biennial acquisition target to help meet  
11 the immediately subsequent two biennial acquisition targets, such  
12 that no more than twenty-five percent of any biennial target may be  
13 met with excess conservation savings allowed under all of the  
14 provisions of this section combined.

15 (d) In meeting its conservation targets, a qualifying utility may  
16 count high-efficiency cogeneration owned and used by a retail  
17 electric customer to meet its own needs. High-efficiency cogeneration  
18 is the sequential production of electricity and useful thermal energy  
19 from a common fuel source, where, under normal operating conditions,  
20 the facility has a useful thermal energy output of no less than  
21 thirty-three percent of the total energy output. The reduction in  
22 load due to high-efficiency cogeneration shall be: (i) Calculated as  
23 the ratio of the fuel chargeable to power heat rate of the  
24 cogeneration facility compared to the heat rate on a new and clean  
25 basis of a best-commercially available technology combined-cycle  
26 natural gas-fired combustion turbine; and (ii) counted towards  
27 meeting the biennial conservation target in the same manner as other  
28 conservation savings.

29 (e) The commission may determine if a conservation program  
30 implemented by an investor-owned utility is cost-effective based on  
31 the commission's policies and practice.

32 (f) The commission may rely on its standard practice for review  
33 and approval of investor-owned utility conservation targets.

34 (2)(a) Except as provided in ((+j+)) (e) and (k) of this  
35 subsection, each qualifying utility shall use eligible renewable  
36 resources or acquire equivalent renewable energy credits, or any  
37 combination of them, to meet the following annual targets:

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

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

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

5 (b) A qualifying utility may count distributed generation at  
6 double the facility's electrical output if the utility: (i) Owns or  
7 has contracted for the distributed generation and the associated  
8 renewable energy credits; or (ii) has contracted to purchase the  
9 associated renewable energy credits.

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

13 (d) A qualifying utility shall be considered in compliance with  
14 an annual target in (a) of this subsection if: (i) The utility's  
15 weather-adjusted load for the previous three years on average did not  
16 increase over that time period; (ii) after December 7, 2006, the  
17 utility did not commence or renew ownership or incremental purchases  
18 of electricity from resources other than coal transition power or  
19 renewable resources other than on a daily spot price basis and the  
20 electricity is not offset by equivalent renewable energy credits; and  
21 (iii) the utility invested at least one percent of its total annual  
22 retail revenue requirement that year on eligible renewable resources,  
23 renewable energy credits, or a combination of both.

24 (e)(i) Beginning January 1, 2020, a qualifying utility may use  
25 carbon reduction investments, eligible renewable resources, or  
26 renewable energy credits, or any combination of these, to comply with  
27 an annual target in (a) of this subsection as specified under this  
28 subsection (2)(e). For the purposes of complying with an annual  
29 target in (a) of this subsection, 0.2 metric ton of carbon dioxide  
30 equivalent emissions reduced, prevented, or removed from the  
31 atmosphere is equal to the compliance equivalent of one renewable  
32 energy credit.

33 (ii) The determination and certification of emissions reductions  
34 must be measured, verified, and documented by a third-party expert  
35 retained by the rural manufacturer seeking investment by a qualifying  
36 utility and subject only to determination or audit as specified under  
37 RCW 19.285.060.

38 (f) Except as provided in (e) of this subsection, the  
39 requirements of this section may be met for any given year with  
40 renewable energy credits produced during that year, the preceding

1 year, or the subsequent year. Each renewable energy credit may be  
2 used only once to meet the requirements of this section.

3 ~~((f))~~ (g) In complying with the targets established in (a) of  
4 this subsection, a qualifying utility may not count:

5 (i) Eligible renewable resources or distributed generation where  
6 the associated renewable energy credits are owned by a separate  
7 entity; or

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

11 ~~((g))~~ (h) Where fossil and combustible renewable resources are  
12 cofired in one generating unit located in the Pacific Northwest where  
13 the cofiring commenced after March 31, 1999, the unit shall be  
14 considered to produce eligible renewable resources in direct  
15 proportion to the percentage of the total heat value represented by  
16 the heat value of the renewable resources.

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

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

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

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

27 ~~((i))~~ (j) A qualifying utility shall be considered in  
28 compliance with an annual target in (a) of this subsection if events  
29 beyond the reasonable control of the utility that could not have been  
30 reasonably anticipated or ameliorated prevented it from meeting the  
31 renewable energy target. Such events include weather-related damage,  
32 mechanical failure, strikes, lockouts, and actions of a governmental  
33 authority that adversely affect the generation, transmission, or  
34 distribution of an eligible renewable resource under contract to a  
35 qualifying utility.

36 ~~((j))~~ (k)(i) Beginning January 1, 2016, only a qualifying  
37 utility that owns or is directly interconnected to a qualified  
38 biomass energy facility may use qualified biomass energy to meet its  
39 compliance obligation under this subsection.



1 (ii) A qualifying utility may no longer use electricity and  
2 associated renewable energy credits from a qualified biomass energy  
3 facility if the associated industrial pulping or wood manufacturing  
4 facility ceases operation other than for purposes of maintenance or  
5 upgrade.

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

19 (3) Utilities that become qualifying utilities after December 31,  
20 2006, shall meet the requirements in this section on a time frame  
21 comparable in length to that provided for qualifying utilities as of  
22 December 7, 2006.

23 **Sec. 3.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read  
24 as follows:

25 (1) On or before June 1, 2012, and annually thereafter, each  
26 qualifying utility shall report to the department on its progress in  
27 the preceding year in meeting the targets established in RCW  
28 19.285.040, including expected electricity savings from the biennial  
29 conservation target, expenditures on conservation, actual electricity  
30 savings results, the utility's annual load for the prior two years,  
31 the amount of megawatt-hours needed to meet the annual renewable  
32 energy target, the amount of megawatt-hours of each type of eligible  
33 renewable resource acquired, the type and amount of renewable energy  
34 credits acquired, the type and amount of any carbon reduction  
35 investments, and the percent of its total annual retail revenue  
36 requirement invested in the incremental cost of eligible renewable  
37 resources and the cost of renewable energy credits. For each year  
38 that a qualifying utility elects to demonstrate alternative  
39 compliance under RCW 19.285.040(2) (d) or ~~((i))~~ (j) or

1 19.285.050(1), it must include in its annual report relevant data to  
2 demonstrate that it met the criteria in that section. A qualifying  
3 utility may submit its report to the department in conjunction with  
4 its annual obligations in chapter 19.29A RCW.

5 (2) A qualifying utility that is an investor-owned utility shall  
6 also report all information required in subsection (1) of this  
7 section to the commission, and all other qualifying utilities shall  
8 also make all information required in subsection (1) of this section  
9 available to the auditor.

10 (3) A qualifying utility shall also make reports required in this  
11 section available to its customers.

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