HOUSE BILL REPORT
HB 2156

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to carbon dioxide mitigation.

Brief Description: Regarding carbon dioxide mitigation.

Sponsors: Representatives Morris, Kenney, Chase and Ormsby.

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/13/07, 2/20/07 [DP].

Brief Summary of Bill

- Establishes carbon dioxide mitigation requirements for electric utilities who invest in or contract for baseload electric generation.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: Do pass. Signed by 11 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Ericksen, Hankins, Hudgins, Hurst, Takko and VanDeWege.

Staff: Scott Richards (786-7156).

Background:

In 2004, the Legislature established a policy to mitigate carbon dioxide (CO2) emissions from fossil-fueled thermal power plants with a generating capacity of 25 megawatts or more. These thermal power plants are required to mitigate for 20 percent of the CO2 emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification through the Energy Facility Site Evaluation Council (EFSEC) or an order of approval from the Department of Ecology (DOE) after July 1, 2004, and existing plants that increase the production of CO2 emissions by 15 percent or more.

The CO2 from these thermal power plants may be mitigated: (1) by making a payment to an independent qualified organization; (2) by direct purchase of permanent carbon credits; or (3)

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by direct investment in CO_2 mitigation projects. The EFSEC is to maintain a list of independent qualified organizations.

Payment to a Third Party Option: The rate that must be paid per ton for those CO_2 emissions that must be mitigated is $1.60. This rate is subject to adjustment. Payment may be made in a lump sum no later than 60 days prior to the start of construction or in partial payments over five years. Partial payments are paid in equal annual amounts and are also subject to adjustment.

The EFSEC may adjust the per ton rate every two years and any increase or decrease may not exceed 50 percent of the current rate. The DOE or local air pollution control authorities must use the adjusted rate established by the EFSEC.

Carbon Credit Option: Credits must come from real, permanent, verifiable CO_2 mitigation not otherwise required or used for other CO_2 mitigation projects.

Direct Investment Option: Mitigation projects must be approved by the EFSEC, the DOE, or a local air pollution control authority and must be included in the site certification agreement or the order of approval. Direct investments are limited in amount to no more than the cost of a lump sum payment option. Implementation is monitored by an independent entity for applicants under the jurisdiction of the EFSEC, and by the DOE or a local air pollution control authority for applicants not under the jurisdiction of the EFSEC, except for carbon credits.

Mitigation projects under both the payment to a third party option and direct investment option must: (1) provide a reasonable certainty that the performance requirements will be achieved; (2) be implemented after July 1, 2004; (3) minimize the extent to which external events can reduce the amount of CO_2 offset; (4) accomplish CO_2 reductions that would not otherwise take place; and (5) provide for mitigation of an appropriate duration.

Summary of Bill:

Any load-serving utility that enters into a long-term financial commitment for baseload generation located outside the borders of the state is required to mitigate 20 percent of the total carbon dioxide (CO_2) emissions produced by the fossil-fueled thermal electric power plant or plants over the period of the commitment. A "load-serving utility" means any consumer-owned or investor-owned utility serving electricity to end use customers in the state. The load-serving utility is required to develop a CO_2 mitigation plan detailing how the utility plans to mitigate CO_2 emissions.

A "long-term financial commitment" means either: (1) a new ownership investment in baseload generation; or (2) a new or renewed contract with a term of five or more years, which includes procurement of baseload generation. "Baseload generation" means electricity generation from a fossil-fueled power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. For a load-serving utility, "total

CO_2 emissions" means the amount of CO_2 emitted by a fossil-fueled thermal electric power plant over the duration of a long-term financial commitment.

Carbon Dioxide (CO_2) Mitigation

In mitigating CO_2 emissions, the load-serving utility may choose one or a combination of the following CO_2 mitigation options: (1) payment to a third party to provide mitigation; (2) direct purchase of permanent carbon credits; or (3) investment in load-serving utility-controlled CO_2 mitigation projects, including combined heat and power (cogeneration).

Payment to Third Party

If the load-serving utility chooses to pay a third party, the mitigation rate shall be $1.60 per metric ton of CO_2 mitigated. Payment may be made in a lump sum no later than 60 days prior to the start of a long-term commitment. As an alternative to a one-time payment, the load-serving utility may make partial payments over five years. Partial payments are paid in equal annual amounts and are also subject to adjustment.

The EFSEC may by rule adjust the rate per ton biennially as long as any increase or decrease does not exceed 50 percent of the current rate. In adjusting the mitigation rate, EFSEC must consider the current market price of a ton of CO_2.

Direct Investment

For load-serving utilities, direct investments must be implemented through mitigation projects conducted directly by, or under the control of, the load-serving utility. For an investor-owned utility, mitigation projects must be approved by the Washington Utilities and Transportation Commission (WUTC). For a consumer-owned utility, a mitigation project must be approved by the governing board of the utility. Direct investments are limited in amount to no more than the cost of a lump sum payment option.

Mitigation projects must be fully in place within a reasonable time after the start of the long-term financial commitment. The load-serving utility may not use more than 20 percent of the total funds for the selection, monitoring, and evaluation of mitigation projects and the management and enforcement of contracts.

For investor-owned utilities, the implementation of projects will be monitored by the WUTC. For consumer-owned utilities, the implementation projects, will be monitored by the governing board of the utility. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project.

The WUTC shall develop rules to carry out its responsibilities.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is a modification of a bill passed three years ago. It was one of the 50 most progressive bills passed that year. The bill extends CO_2 mitigation requirements to electric power from out-of-state generation. Existing assets are grandfathered. The intent is to true up in-state and the out-of-state policy.

This bill creates a level playing field between in-state and out-of-state electric power generation. It may be appropriate to true up the price per ton for CO_2 mitigation to better reflect current prices for credits existing requirements for CO_2 emissions. The bill should reflect that developers should pay the full cost of the mitigation projects.

(With concerns) This bill allows utilities to have some flexibility about what sources of generation we may choose from as we go forward in the future compared to other bills under consideration this session that require performance measures. For regulated electric utilities rate interest may be necessary.

(Neutral) This bill may have an impact on utility rates. If this bill creates a situation where utilities have to rely on renewable energy and hydropower, there is concern that part of the portfolio may become more scarce and more expensive.

The final bill should make sure that when a utility upgrades its own facilities that these upgrades are not included. The California approach is headed in this direction.

Utilities would like some assurance that they could recover these cost through reasonable rate increases. There is concern about an out-of-state power plant with existing CO_2 mitigation requirements having to mitigate twice under this bill for the same emissions.

(Opposed) None.

Persons Testifying: (In support) Representative Morris, prime sponsor; and Miguel Perez-Gibson, Northwest Energy Coalition.

(Concerns) Dave Warren, Washington Public Utility Districts Association; Mike Tracy, Puget Sound Energy; and Dave Danner, Washington Utilities and Transportation Commission.

(Neutral) Kathleen Collins, PacifiCorp.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: None.