

# HOUSE BILL REPORT

## ESSB 6001

---

### As Passed House - Amended:

EnterDate

**Title:** An act relating to mitigating the impacts of climate change.

**Brief Description:** Mitigating the impacts of climate change.

**Sponsors:** By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Pridemore, Poulsen, Rockefeller, Brown, Eide, Oemig, Hargrove, Marr, Fraser, Kohl-Welles, Keiser, Regala, Franklin, Fairley, Jacobsen, Shin, Haugen, Berkey, Spanel, Kline and Weinstein).

### Brief History:

#### Committee Activity:

Technology, Energy & Communications: 3/27/07, 3/30/07 [DPA];

Appropriations: 3/31/07 [DPA(APP w/o TEC)s].

#### Floor Activity:

Passed House - Amended: EnterDate, EnterVote.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Establishes state goals to reduce greenhouse gases emissions.
- Requires the Governor to develop and make policy recommendations to the Legislature on how the state can achieve greenhouse gases emissions reduction goals.
- Establishes a greenhouse gases emissions performance standard for electric utilities and new baseload electric generation facilities operating in the state.

---

## HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives Morris, Chair; McCoy, Vice Chair; Hudgins, Hurst, Takko and VanDeWege.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 4 members: Representatives Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Ericksen and Hankins.

**Staff:** Scott Richards (786-7156).

---

## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Technology, Energy & Communications. Signed by 24 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Anderson, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist and P. Sullivan.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Buri, Chandler, Dunn and Kretz.

**Staff:** Alicia Dunkin (786-7178).

### **Background:**

#### **Climate Change and Greenhouse Gases (GHGs)**

The term "climate change" refers to any significant change in measures of climate, such as temperature, which last for decades or longer. Climate change may result from natural causes or human activities. The National Academy of Sciences, the Inter-Governmental Panel on Climate Change, and the U.S. Climate Change Science Program have concluded that human activities, such as GHGs production, are the likely cause of climate change during the last several decades.

#### **GHGs Emissions Targets**

According to the Pew Center on Global Climate Change, 12 states have set GHGs emissions targets, including Arizona, California, New Mexico, and Oregon. Most of the targets have been set by agencies or by executive order and typically use a 1990 baseline to measure reductions. The targets are usually characterized as "goals."

#### **Governor Gregoire's Executive Order Setting GHGs Emissions Goals**

On February 7, 2007, the Governor issued an executive order establishing goals for GHGs reductions, for increasing clean energy sector jobs, and for reducing expenditures on imported fuel. The executive order also directs the Department of Ecology (DOE) and the Department of Community, Trade and Economic Development (DCTED) to lead stakeholders in a process that will consider a full-range of policies and strategies to achieve the emissions goals.

#### **GHGs Emission Performance Standards**

In 2006, the California Legislature enacted a law to require that all new long-term commitments for baseload generation to serve California consumers be with power plants that have emissions no greater than a combined cycle gas turbine plant. The law prohibits electric utilities from making or renewing contracts of five years or longer for the purchase of baseload

generation that does not comply with the GHGs emission performance standard established by the California Public Utilities Commission (PUC). In January 2007, the PUC adopted GHGs Emissions Performance Standards of 1,100 pounds of carbon dioxide per megawatt-hour.

### **Summary of Amended Bill:**

#### **Greenhouse Gases Emissions Reduction and Clean Energy Job Growth Goals**

Overall GHGs emissions reduction goals are established for Washington. These goals are: by 2020, reduce overall GHGs emissions in the state to 1990 levels; by 2035, reduce overall GHGs emissions in the state to 25 percent below 1990 levels; and by 2050, the state will do its part to reach global climate stabilization levels by reducing overall emissions to 50 percent below 1990 levels, or 70 percent below the state's expected emissions that year.

A clean energy job growth goal is established. The clean energy job growth goal is by 2020, increase the number of clean energy jobs to 25,000 from the 8,400 jobs the state had in 2004.

#### **Reporting of GHGs Emissions**

By December 31, 2007, the Department of Ecology (DOE) and the Department of Community, Trade and Economic Development (DCTED) shall report to the Legislature the total GHGs emissions for 1990 and the totals in each major sector for 1990. Beginning in 2010, the DOE and the DCTED shall report to the Governor and to the Legislature the total GHGs emissions for the preceding two years, and totals in each major source sector.

#### **Governor's Recommendations to the Legislature**

The Governor shall develop policy recommendations to the Legislature for consideration in the 2008 legislative session on how the state can achieve the GHGs reduction goals. These recommendations must include, but are not limited to:

how market mechanisms would assist in achieving the GHGs emissions reduction goals; how geologic injection, forest sequestration, and other carbon sequestration options could be used to achieve state GHGs reduction goals; a process for replacing the highest emitting thermal electric plants that have exceeded their expected useful life with newer technologies that have lower GHGs emissions levels; methods to utilize indigenous resources, such as landfill gas, geothermal resources, and other assets that might reduce GHGs emissions; and how regulatory and tax policies for electric utilities could be improved to help achieve GHGs emissions goals in a manner that is equitable for electric utilities and consumers.

In addition, by December 31, 2007, the Governor shall report to the Legislature regarding the potential benefits of creating tax incentives to encourage baseload electric facilities to upgrade their equipment to reduce carbon dioxide emissions, the nature and level of tax incentives likely to produce the greatest benefits, and the cost of providing such incentives.

#### **GHGs Emissions Performance Standard**

Beginning July 1, 2008, the GHGs emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of:

1,100 pounds of GHGs per megawatt-hour; or the average available GHGs emissions output.

#### **Long-Term Financial Commitment**

Long-term financial commitment means:

either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or a new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

#### **Average Available GHGs Emissions Output**

The Energy Policy Division (Division) of DCTED shall adopt by rule the average available greenhouse gases emissions output every five years beginning five years after the effective date of this act. The Division shall report the results of its survey to the Legislature every five years, beginning June 30, 2013.

The Division shall provide an opportunity for interested parties to comment on the development of a survey of new combined-cycle natural gas thermal electric generation turbines commercially available and offered for sale by manufacturers and purchased in the United States to determine the average rate of emissions of greenhouse gases for these turbines.

#### **GHGs Emission Performance Standard Rulemaking**

By June 30, 2008, the Directors of the Energy Facility Site Evaluation Council (Council) and the DOE shall each adopt rules in coordination with each other to implement and enforce the GHGs emissions performance standard.

#### **Investor-Owned and Consumer-Owned Utilities**

Electric utilities may not make or renew long-term commitments in baseload electric generation that do not comply with the GHGs performance standard. All long-term financial commitments must be reviewed by the Washington Utilities and Transportation Commission (WUTC), or by the governing board of a consumer-owned utility, whichever is appropriate. The WUTC or governing board may exempt a utility from the performance standard for such things as unanticipated electric system reliability needs, catastrophic events, or significant financial harm arising from unforeseen circumstances.

#### **Existing and New Baseload Electric Generation Facilities**

All baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the GHGs emissions performance standard until the facilities are the subject of long-term financial commitments. All baseload electric generation that commences operation after June 30, 2008, and is located in Washington, must comply with the GHGs emissions performance standard.

#### **Renewable Energy and Cogeneration Facilities**

Electric generation facilities or power plants powered exclusively by renewable resources are deemed to be in compliance with the GHGs emissions performance standard. The definition for renewable resources is the same as used by electric utilities in preparing Integrated Resource Plans.

Cogeneration facilities in the state that are fueled by natural gas or waste gas or a combination of the two fuels, and that are in operation as of June 30, 2008, are deemed to be in compliance with the GHGs emissions performance standard until the facilities are the subject of a new

ownership interest or are upgraded. The DOE shall establish an output-based methodology that accounts for the total usable energy output of the cogeneration process.

### **Carbon Sequestration and Mitigation**

Certain GHGs emissions produced by baseload electric generation shall not be counted as emissions in determining compliance with the GHGs emissions performance standard: emissions injected permanently in geological formations; emissions permanently sequestered by other means approved by the DOE; and emissions sequestered or mitigated as part of a proposed project seeking site certification approval from the Council as of the effective date of this act.

In adopting rules for implementing the GHGs emissions performance standard, the DOE and the Council shall each include criteria to be applied in evaluating carbon sequestration plans (plan). The rules shall include but not be limited to:

provisions for financial assurances sufficient to ensure successful implementation of the plan; provisions for geological or other approved sequestration commencing within five years of plant operation; provisions for monitoring the effectiveness of the implementation of the plan; penalties for failure to achieve implementation of the plan on schedule; provisions for an owner to purchase emissions reductions in the event of the failure of a plan; and provisions for public notice and comment on the plan.

The DOE shall determine whether sequestration or a plan for sequestration will provide safe, reliable, and permanent protection against the greenhouse gases entering the atmosphere from the power plant and all ancillary facilities. The Council shall contract for review of sequestration or a plan with the DOE for projects under its jurisdiction.

A project under consideration by the Council by the effective date of this act that receives final site certification agreement approval is required to make a good faith effort to implement the plan. If the project owner determines that implementation is not feasible, the project owner is required to submit documentation of that determination to the Council. Then the project owner is required to meet the GHGs emissions performance standard by purchasing verifiable GHGs emissions reductions from an electric generating facility located within the Western Interconnection.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:** (Technology, Energy & Communications)

(In support) Climate change may be the greatest environmental challenge of our age. This is not an attempt to address global warming; this is to address climate change. Many other states on the West Coast are moving forward on this issue. This bill helps us put pressure on the federal government to move towards a national solution. Our snowpack has reduced considerably over the last several years. There is less water in the summer when we need it. Climate change is already having a significant impact on our economy and our environment.

Electrification is part of the solution for ports in order to reduce our emissions, but in order for it to be an effective solution, we need clean, efficient sources of electricity.

We support the greenhouse gas emissions performance standard. We think it is economically critical to pass this legislation at this time. The potential environmental consequences in delaying are substantial. This region will be dramatically altered if we don't take action soon. This is a critical first step. We must reduce greenhouse gas emissions. We need to send the message that only the cleanest, more efficient sources of energy will be used in our state going forward. This will help us compete in the global marketplace, as we continue to reduce our dependence on fossil fuels. The greenhouse gas emissions performance standard is essentially a technology performance standard. Without this standard, a single coal plant would add as much to our emission inventory as a million cars. This bill is not a cap and trade bill. Carbon sequestration is a promising technology, and this bill recognizes sequestration, provided that the sequestration is proven. We support the Governor's executive order and strongly believe that the 2008 legislative session will have an ambitious climate change agenda. This bill is a risk mitigation tool for Washington. We are opening the door to newer, cleaner technologies, paving the way to a carbonless future.

Our utility appreciates having regulatory certainty in terms of what types of resources will be allowable in the future. We support this because it is a technology standard. It supports the development of lower-carbon technologies. This lays the foundation for the types of energy investments the state will make over the next 30 to 50 years. The bill's performance standard changes our regulatory paradigm; it shifts from a least cost standard to an environmental standard. Absent clear direction, regulatory uncertainties will drive upward our costs. This bill provides financial incentives to invest in new energy efficiency technologies. As part of a start-up company looking to attract investors, this is the kind of strong signal to the marketplace that this is the place to invest in clean energy.

Birds are important to Washington's economy as well as ecology. They are an ecological barometer and a critical component of our ecosystem which help to manage insects that affect the health of our forest and agricultural industries. Nature tourism is more than a billion dollar industry in the state. Climate change is affecting those birds.

This bill seeks to arrest the possibility of new emissions from the electrical sector as we move on to the stakeholder process and start figuring out a way to dig us out of this hole. The evidence supporting climate change is very convincing. Just because you aren't sure of the weatherman's prediction of rain doesn't mean you leave your umbrella at home.

(With concerns) We have a significant concern about how it might treat an integrated-gasification project. We are looking at developing one of these projects in the state. This balance between the environment, reliability, and price is an important consideration. We believe it is crucial to develop carbon sequestration, but we are concerned about being able to sequester within five years. This bill deals with electricity, which is only a part of the climate change issue for Washington.

We were very close to supporting this bill coming out of the Senate. Part of that fairness doctrine was the incentives. In the original bill we had a 2 percent tax credit for public utilities making the same investments as the investor-owned utilities that was taken out of the bill. We could support the bill if integrated-gasification combined cycles (IGCC) had better treatment and the incentives were there.

We do not need legislation to proceed with the development of an IGCC facility in Washington, but if the bill is not crafted carefully, it could prevent the development of IGCCs in this state. We think a technology-neutral approach is best. We believe that the Energy Facility Site Evaluation Council should retain its "one-stop-shop" integrity and the DOE should drive the state's carbon sequestration expertise.

(Opposed) We believe this bill is premature and that the stakeholder process should proceed first and that it is the appropriate venue to discuss what are the best policies for Washington.

This bill allows utilities to charge an extra 2 percent from its customers for these measures. This will have a negative impact on our industry. The business community was not included in the stakeholder process. This bill fails to recognize the rulemaking activities underway according to Initiative 937 and the Governor's stakeholder process, which is just getting started. This bill focuses almost exclusively on electric energy, even though we have a very clean, hydro-based system. We would like to see more focus on the transportation standard. This makes significant changes to energy policy for investor-owned utilities. The bill grants pre-approval by the WUTC; deferred accounting by the WUTC, and it provides a 2 percent return on investment.

**Staff Summary of Public Testimony:** (Appropriations)

(In support) We support the bill that left the Senate because it was carefully negotiated and agreed upon by all parties and we oppose the striking amendment that passed the House policy committee. Even though there is currently a task force working on this we need this bill because the world is moving forward and growing in population and this bill would prevent future growth in green house gas emissions and would provide a PUT credit that we support.

(With concerns) We support the bill as passed by the Senate but not the striking amendment by the House Technology Committee. We support the sections in the Senate bill to reverse the results of the *Okeson v. City of Seattle*, the technical amendments related to the Governor's executive order, the goals that were added, and the PUT credit language.

(Opposed) This bill is a year premature, the Governor established a stakeholder process that met yesterday, which is funded within existing resources, and we believe that in 2008 we can come back with a better package. The bill focuses on electric energy generators and puts pressure on electric energy to the point that rates will go up and shift the burden to rate payers, including state agencies. The pulp and paper mill industry had declined mainly because of increasing energy costs. There is nothing in this bill that we can't do a year from now.

**Persons Testifying:** (Technology, Energy & Communications) (In support) Senator Pridemore, prime sponsor; Alec Fiskien; Marian Wineman, Washington League of Women Voters; Patty Glick, National Wildlife Federation; K.C. Golden, Climate Solutions; Sara Patton, Northwest Energy Coalition; Craig Engelking, Sierra Club; Kyle L. Davis, PacifiCorp; Brian Grunkemeyer; Peggy Duxbury, Seattle City Light; Kevin Raymond, Pacific Forest Trust, Earth Ministry, and Washington Biodiesel; Bruce Folsom, Avista Utilities; Ken Johnson, Puget Sound Energy; Robert Kahn, Northwest and Intermountain Power Producers Coalition; Heath Packard, Audubon; Bill LaBorde, WashPIRG; David Goldberg, Mithun, Incorporated; Heather Melton, Clark County Conservation Voters and Sierra Club; and Tim Newcomb, Net Green.

(With concerns) Jack Baker, Energy Northwest; Dave Warren, Washington Public Utility District Association; Kent Lopez, Washington Rural Electric Cooperative Association; and Dave Arbaugh, United Power.

(Opposed) Llewellyn Matthews, Northwest Pulp and Paper Association; Tim Boyd, Industrial Customers of Northwest Utilities, Boise Cascade, and Washington State Potato Commission; and Grant Nelson, Association of Washington Business.

**Persons Testifying:** (Appropriations) (In support) Miguel Perez-Gibson, Audubon Washington and Northwest Energy Coalition.

(With concerns) Ken Johnson, Puget Sound Energy; Collins Sprague, Avista Corporation; Craig Engelking, Sierra Club; and Kathleen Collins, PacifiCorp.

(Opposed) Tim Boyd, Boise Cascade and Industrial Customers of Northwest Utilities; and Bill Stauffacher, American Forest and Paper Association.

**Persons Signed In To Testify But Not Testifying:** (Technology, Energy & Communications) None.

**Persons Signed In To Testify But Not Testifying:** (Appropriations) None.