Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Technology, Energy & Communications Committee

HB 2156

Brief Description: Regarding carbon dioxide mitigation.

Sponsors: Representative Morris.

Brief Summary of Bill

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

Hearing Date: 2/13/07

Staff: Scott Richards (786-7156).

Background:

In 2004, the Legislature established a policy to mitigate carbon dioxide (CO_2) emissions from fossil-fueled thermal power plants with a generating capacity of 25 megawatts or more. These thermal power plants are required to mitigation for 20 percent of the CO_2 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 CO_2 emissions by 15 percent or more.

The CO_2 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) 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.

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.

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 CO2 mitigation not otherwise required or used for other CO2 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 CO2 offset; (4) accomplish CO2 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 (CO2) 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 CO2 mitigation plan detailing how the utility plans to mitigate CO2 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 CO2 emissions" means the amount of CO2 emitted by a fossil-fueled thermal electric power plant over the duration of a long-term financial commitment.

Carbon Dioxide (CO2) Mitigation

In mitigating CO2 emissions, the load-serving utility may choose one or a combination of the following CO2 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 CO2 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 CO2 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: Requested on February 12, 2007.

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