

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5560

Chapter 519, Laws of 2009

(partial veto)

61st Legislature
2009 Regular Session

STATE AGENCIES--EMISSIONS REDUCTION

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 21, 2009
YEAS 28 NAYS 19

BRAD OWEN

President of the Senate

Passed by the House April 16, 2009
YEAS 60 NAYS 37

FRANK CHOPP

Speaker of the House of Representatives

Approved May 15, 2009, 2:42 p.m., with
the exception of Sections 3, 4 and 7
which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **ENGROSSED SECOND
SUBSTITUTE SENATE BILL 5560** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 18, 2009

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5560

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington **61st Legislature** **2009 Regular Session**

By Senate Ways & Means (originally sponsored by Senators Ranker, Swecker, Brown, Hargrove, Pridemore, Marr, Kilmer, Rockefeller, Kauffman, Haugen, Eide, Hobbs, Kohl-Welles, Jarrett, Fraser, Jacobsen, and Murray)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to state agency climate leadership; amending RCW
2 70.235.010, 43.41.130, and 39.35D.010; adding new sections to chapter
3 70.235 RCW; adding a new chapter to Title 43 RCW; and creating new
4 sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that in chapter 14,
7 Laws of 2008, the legislature established greenhouse gas emission
8 reduction limits for Washington state, including a reduction of overall
9 emissions by 2020 to emission levels in 1990, a reduction by 2035 to
10 levels twenty-five percent below 1990 levels, and by 2050 a further
11 reduction below 1990 levels. Based upon estimated 2006 emission levels
12 in Washington, this will require a reduction from present emission
13 levels of over twenty-five percent in the next eleven years. The
14 legislature further finds that state government activities are a
15 significant source of emissions, and that state government should meet
16 targets for reducing emissions from its buildings, vehicles, and all
17 operations that demonstrate that these reductions are achievable, cost-
18 effective, and will help to promote innovative energy efficiency
19 technologies and practices.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.235 RCW
2 to read as follows:

3 (1) All state agencies shall meet the statewide greenhouse gas
4 emission limits established in RCW 70.235.020 to achieve the following,
5 using the estimates and strategy established in subsections (2) and (3)
6 of this section:

7 (a) By July 1, 2020, reduce emissions by fifteen percent from 2005
8 emission levels;

9 (b) By 2035, reduce emissions to thirty-six percent below 2005
10 levels; and

11 (c) By 2050, reduce emissions to the greater reduction of fifty-
12 seven and one-half percent below 2005 levels, or seventy percent below
13 the expected state government emissions that year.

14 (2)(a) By June 30, 2010, all state agencies shall report estimates
15 of emissions for 2005 to the department, including 2009 levels of
16 emissions, and projected emissions through 2035.

17 (b) State agencies required to report under RCW 70.94.151 must
18 estimate emissions from methodologies recommended by the department and
19 must be based on actual operation of those agencies. Agencies not
20 required to report under RCW 70.94.151 shall derive emissions estimates
21 using an emissions calculator provided by the department.

22 (3) By June 30, 2011, each state agency shall submit to the
23 department a strategy to meet the requirements in subsection (1) of
24 this section. The strategy must address employee travel activities,
25 teleconferencing alternatives, and include existing and proposed
26 actions, a timeline for reductions, and recommendations for budgetary
27 and other incentives to reduce emissions, especially from employee
28 business travel.

29 (4) By October 1st of each even-numbered year beginning in 2012,
30 each state agency shall report to the department the actions taken to
31 meet the emission reduction targets under the strategy for the
32 preceding fiscal biennium. The department may authorize the department
33 of general administration to report on behalf of any state agency
34 having fewer than five hundred full-time equivalent employees at any
35 time during the reporting period. The department shall cooperate with
36 the department of general administration and the department of
37 community, trade, and economic development to develop consolidated

1 reporting methodologies that incorporate emission reduction actions
2 taken across all or substantially all state agencies.

3 (5) All state agencies shall cooperate in providing information to
4 the department, the department of general administration, and the
5 department of community, trade, and economic development for the
6 purposes of this section.

7 (6) The governor shall designate a person as the single point of
8 accountability for all energy and climate change initiatives within
9 state agencies. This position must be funded from current full-time
10 equivalent allocations without increasing budgets or staffing levels.
11 If duties must be shifted within an agency, they must be shifted among
12 current full-time equivalent allocations. All agencies, councils, or
13 work groups with energy or climate change initiatives shall coordinate
14 with this designee.

15 ***Sec. 3. RCW 70.235.010 and 2008 c 14 s 2 are each amended to read**
16 **as follows:**

17 **The definitions in this section apply throughout this chapter**
18 **unless the context clearly requires otherwise.**

19 (1) **"Carbon dioxide equivalents" means a metric measure used to**
20 **compare the emissions from various greenhouse gases based upon their**
21 **global warming potential.**

22 (2) **"Climate advisory team" means the stakeholder group formed in**
23 **response to executive order 07-02.**

24 (3) **"Climate impacts group" means the University of Washington's**
25 **climate impacts group.**

26 (4) **"Department" means the department of ecology.**

27 (5) **"Direct emissions" means emissions of greenhouse gases from**
28 **sources of emissions, including stationary combustion sources, mobile**
29 **combustion emissions, process emissions, and fugitive emissions.**

30 (6) **"Director" means the director of the department.**

31 (7) **"Greenhouse gas" and "greenhouse gases" includes carbon**
32 **dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,**
33 **and sulfur hexafluoride.**

34 (8) **"Indirect emissions" means emissions of greenhouse gases**
35 **associated with the purchase of electricity, heating, cooling, or**
36 **steam.**

1 (9) "Person" means an individual, partnership, franchise holder,
2 association, corporation, a state, a city, a county, or any subdivision
3 or instrumentality of the state.

4 (10) "Program" means the department's climate change program.

5 (11) "Small-scale powered equipment" means a tool or other nonroad
6 or marine machine powered by a gasoline, diesel, or propane spark
7 ignition engine that has a standard manufacturer's listed horsepower
8 rating of fifty horsepower or less. Examples of the term "small-scale
9 powered equipment" include, but are not limited to, the following items
10 when the components of the definition are satisfied: Lawnmowers,
11 string trimmers, leaf blowers, air compressors, chainsaws, turf
12 equipment, and lawn and garden tractors.

13 (12) "Total emissions of greenhouse gases" means all direct
14 emissions and all indirect emissions.

15 ((+12)) (13) "Western climate initiative" means the collaboration
16 of states, Canadian provinces, Mexican states, and tribes to design a
17 multisector market-based mechanism as directed under the western
18 regional climate action initiative signed by the governor on February
19 22, 2007.

*Sec. 3 was vetoed. See message at end of chapter.

20 *NEW SECTION. Sec. 4. A new section is added to chapter 70.235 RCW
21 to read as follows:

22 (1) As part of satisfying the requirements of section 2 of this
23 act, state agencies are, except as otherwise provided in this section,
24 prohibited from purchasing small-scale powered equipment if the market
25 offers an alternative item that is powered by an electrical cord or
26 rechargeable battery.

27 (2)(a) The top administrative official of a state agency may waive
28 the provisions of this section on a case-by-case basis if the top
29 administrative official of the agency publishes a finding in the
30 Washington State Register explaining the details as to why the purchase
31 or use of the small-scale powered equipment was necessary and why the
32 use of an electric-based alternative would have been impractical.

33 (b) The Washington State Register publication requirements of this
34 section may be satisfied with one annual publication summarizing all
35 instances where the requirements of this section were waived by the top
36 administrative official in the preceding year.

1 (3) *As a demonstration to other state agencies as to how the*
2 *requirements of this section may be achieved, the department of general*
3 *administration shall suspend the use of all spark ignition push*
4 *lawnmowers, string trimmers, and leaf blowers on the capitol campus by*
5 *October 1, 2009. The department of general administration shall*
6 *document its transition from small-scale powered equipment to*
7 *electrical or manual alternatives to aid other state agencies in their*
8 *implementation of this section.*

**Sec. 4 was vetoed. See message at end of chapter.*

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.235 RCW
10 to read as follows:

11 (1) The department shall develop an emissions calculator to assist
12 state agencies in estimating aggregate emissions as well as in
13 estimating the relative emissions from different ways in carrying out
14 activities.

15 (2) The department may use data such as totals of building space
16 occupied, energy purchases and generation, motor vehicle fuel purchases
17 and total mileage driven, and other reasonable sources of data to make
18 these estimates. The estimates may be derived from a single
19 methodology using these or other factors, except that for the top ten
20 state agencies in occupied building space and vehicle miles driven, the
21 estimates must be based upon the actual and projected operations of
22 those agencies. The estimates may be adjusted, and reasonable
23 estimates derived, when agencies have been created since 1990 or
24 functions reorganized among state agencies since 1990. The estimates
25 may incorporate projected emissions reductions that also affect state
26 agencies under the program authorized in RCW 70.235.020 and other
27 existing policies that will result in emissions reductions.

28 (3) By December 31st of each even-numbered year beginning in 2010,
29 the department shall report to the governor and to the appropriate
30 committees of the senate and house of representatives the total state
31 agencies' emissions of greenhouse gases for 2005 and the preceding two
32 years and actions taken to meet the emissions reduction targets.

33 **Sec. 6.** RCW 43.41.130 and 1982 c 163 s 13 are each amended to read
34 as follows:

35 The director of financial management, after consultation with other
36 interested or affected state agencies, shall establish overall policies

1 governing the acquisition, operation, management, maintenance, repair,
2 and disposal of, all passenger motor vehicles owned or operated by any
3 state agency. Such policies shall include but not be limited to a
4 definition of what constitutes authorized use of a state owned or
5 controlled passenger motor vehicle and other motor vehicles on official
6 state business. The definition shall include, but not be limited to,
7 the use of state-owned motor vehicles for commuter ride sharing so long
8 as the entire capital depreciation and operational expense of the
9 commuter ride-sharing arrangement is paid by the commuters. Any use
10 other than such defined use shall be considered as personal use. By
11 June 15, 2010, the director of the department of general
12 administration, in consultation with the office and other interested or
13 affected state agencies, shall develop strategies to reduce fuel
14 consumption and emissions from all classes of vehicles. State agencies
15 shall use these strategies to:

16 (1) Phase in fuel economy standards for motor pools and leased
17 vehicles to achieve an average fuel economy standard of thirty-six
18 miles per gallon for passenger vehicle fleets by 2015;

19 (2) Achieve an average fuel economy of forty miles per gallon for
20 light duty passenger vehicles purchased after June 15, 2010; and

21 (3) Achieve an average fuel economy standard of twenty-seven miles
22 per gallon for light duty vans and sport utility vehicles purchased
23 after June 15, 2010.

24 State agencies must report annually on the progress made to achieve
25 the goals under subsections (1) through (3) of this section beginning
26 October 31, 2011.

27 The department of general administration, in consultation with the
28 office and other affected or interested agencies, shall develop a
29 separate fleet fuel economy standard for all other classes of vehicles
30 and report the progress made toward meeting the fuel consumption and
31 emissions goals established by this section to the governor and the
32 relevant legislative committees by December 1, 2012.

33 For the purposes of this section, light duty vehicles refers to
34 cars, sport utility vehicles, and passenger vans. The following
35 vehicles are excluded from the agency fleet average fuel economy
36 calculation: Emergency response vehicles, passenger vans with a gross
37 vehicle weight of eight thousand five hundred pounds or greater,
38 vehicles that are purchased for off-pavement use, and vehicles that are

1 driven less than two thousand miles per year. Average fuel economy
2 calculations must be based upon the current United States environmental
3 protection agency composite city and highway mile per gallon rating.

4 ~~((Such policies shall also include the widest possible use of~~
5 ~~gasohol and cost effective alternative fuels in all motor vehicles~~
6 ~~owned or operated by any state agency. As used in this section,~~
7 ~~"gasohol" means motor vehicle fuel which contains more than nine and~~
8 ~~one half percent alcohol by volume.))~~

9 ***NEW SECTION.** *Sec. 7. The department of general administration*
10 *must perform energy performance monitoring from July 2009 to July 2011*
11 *on each building that has completed an energy audit and installed*
12 *energy conservation measures within the last five years and report to*
13 *the legislature on the cost of the energy conservation measures, the*
14 *projected energy savings, and the actual energy savings realized.*

**Sec. 7 was vetoed. See message at end of chapter.*

15 **Sec. 8.** RCW 39.35D.010 and 2005 c 12 s 1 are each amended to read
16 as follows:

17 (1) The legislature finds that public buildings can be built and
18 renovated using high-performance methods that save money, improve
19 school performance, and make workers more productive. High-performance
20 public buildings are proven to increase student test scores, reduce
21 worker absenteeism, and cut energy and utility costs.

22 (2) It is the intent of the legislature that state-owned buildings
23 and schools be improved by adopting recognized standards for high-
24 performance public buildings, reducing energy consumption, and allowing
25 flexible methods and choices in how to achieve those standards and
26 reductions. The legislature also intends that public agencies and
27 public school districts shall document costs and savings to monitor
28 this program and ensure that economic, community, and environmental
29 goals are achieved each year, and that an independent performance
30 review be conducted to evaluate this program and determine the extent
31 to which the results intended by this chapter are being met.

32 (3) The legislature further finds that state agency leadership is
33 needed in the development of preparation and adaptation actions for
34 climate change to ensure the economic health, safety, and environmental
35 well-being of the state and its citizens.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.235 RCW
2 to read as follows:

3 Beginning in 2010, when distributing capital funds through
4 competitive programs for infrastructure and economic development
5 projects, all state agencies must consider whether the entity receiving
6 the funds has adopted policies to reduce greenhouse gas emissions.
7 Agencies also must consider whether the project is consistent with:

8 (1) The state's limits on the emissions of greenhouse gases
9 established in RCW 70.235.020;

10 (2) Statewide goals to reduce annual per capita vehicle miles
11 traveled by 2050, in accordance with RCW 47.01.440, except that the
12 agency shall consider whether project locations in rural counties, as
13 defined in RCW 43.160.020, will maximize the reduction of vehicle miles
14 traveled; and

15 (3) Applicable federal emissions reduction requirements.

16 NEW SECTION. **Sec. 10.** (1) The departments of ecology,
17 agriculture, community, trade, and economic development, fish and
18 wildlife, natural resources, and transportation shall develop an
19 integrated climate change response strategy to better enable state and
20 local agencies, public and private businesses, nongovernmental
21 organizations, and individuals to prepare for, address, and adapt to
22 the impacts of climate change. The integrated climate change response
23 strategy should be developed, where feasible and consistent with the
24 direction of the strategy, in collaboration with local government
25 agencies with climate change preparation and adaptation plans.

26 (2) The department of ecology shall serve as a central
27 clearinghouse for relevant scientific and technical information about
28 the impacts of climate change on Washington's ecology, economy, and
29 society, as well as serve as a central convener for the development of
30 vital programs and necessary policies to help the state adapt to a
31 rapidly changing climate.

32 (3) The department of ecology shall consult and collaborate with
33 the departments of fish and wildlife, agriculture, community, trade,
34 and economic development, natural resources, and transportation in
35 developing an integrated climate change response strategy and plans of
36 action to prepare for and adapt to climate change impacts.

1 NEW SECTION. **Sec. 11.** (1) The integrated climate change response
2 strategy should address the impact of and adaptation to climate change,
3 as well as the regional capacity to undertake actions, existing
4 ecosystem and resource management concerns, and health and economic
5 risks. In addition, the departments of ecology, agriculture,
6 community, trade, and economic development, fish and wildlife, natural
7 resources, and transportation should include a range of scenarios for
8 the purposes of planning in order to assess project vulnerability and,
9 to the extent feasible, reduce expected risks and increase resiliency
10 to the impacts of climate change.

11 (2)(a) By December 1, 2011, the department of ecology shall compile
12 an initial climate change response strategy, including information and
13 data from the departments of fish and wildlife, agriculture, community,
14 trade, and economic development, natural resources, and transportation
15 that: Summarizes the best known science on climate change impacts to
16 Washington; assesses Washington's vulnerability to the identified
17 climate change impacts; prioritizes solutions that can be implemented
18 within and across state agencies; and identifies recommended funding
19 mechanisms and technical and other essential resources for implementing
20 solutions.

21 (b) The initial strategy must include:

22 (i) Efforts to identify priority planning areas for action, based
23 on vulnerability and risk assessments;

24 (ii) Barriers challenging state and local governments to take
25 action, such as laws, policies, regulations, rules, and procedures that
26 require revision to adequately address adaptation to climate change;

27 (iii) Opportunities to integrate climate science and projected
28 impacts into planning and decision making; and

29 (iv) Methods to increase public awareness of climate change, its
30 projected impacts on the community, and to build support for meaningful
31 adaptation policies and strategies.

32 NEW SECTION. **Sec. 12.** The departments of ecology, agriculture,
33 community, trade, and economic development, fish and wildlife, natural
34 resources, and transportation may consult with qualified nonpartisan
35 experts from the scientific community as needed to assist with
36 developing an integrated climate change response strategy. The

1 qualified nonpartisan experts from the scientific community may assist
2 the department of ecology on the following components:

3 (1) Identifying the timing and extent of impacts from climate
4 change;

5 (2) Assessing the effects of climate variability and change in the
6 context of multiple interacting stressors or impacts;

7 (3) Developing forecasting models;

8 (4) Determining the resilience of the environment, natural systems,
9 communities, and organizations to deal with potential or actual impacts
10 of climate change and the vulnerability to which a natural or social
11 system is susceptible to sustaining damage from climate change impacts;
12 and

13 (5) Identifying other issues, as determined by the department of
14 ecology, necessary to develop policies and actions for the integrated
15 climate change response strategy.

16 NEW SECTION. **Sec. 13.** State agencies shall strive to incorporate
17 adaptation plans of action as priority activities when planning or
18 designing agency policies and programs. Agencies shall consider: The
19 integrated climate change response strategy when designing, planning,
20 and funding infrastructure projects; and incorporating natural resource
21 adaptation actions and alternative energy sources when designing and
22 planning infrastructure projects.

23 NEW SECTION. **Sec. 14.** Sections 10 through 13 of this act
24 constitute a new chapter in Title 43 RCW.

25 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
26 this act, referencing this act by bill or chapter number, is not
27 provided by June 30, 2009, in the omnibus appropriations act, this act
28 is null and void.

Passed by the Senate April 21, 2009.

Passed by the House April 16, 2009.

Approved by the Governor May 15, 2009, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 18, 2009.

Note: Governor's explanation of partial veto is as follows:

"I have approved, except for Sections 3, 4 and 7, Engrossed Second
Substitute Senate Bill 5560 entitled:

"AN ACT Relating to state agency climate leadership."

Sections 3 and 4 require agencies to use battery operated or electric
small-scale powered equipment that is not yet available for commercial

or heavy duty use, although it is available for home or light duty use. I am directing the Department of General Administration to examine landscaping policies on the Capitol Campus and develop and implement a plan that will reduce the carbon footprint of landscaping within the 2009-11 biennium, including a pilot project to showcase methods for "green landscaping" of the Capitol Campus.

Section 7 addresses energy audits and high performance buildings. On May 8, 2009, I signed Engrossed Second Substitute Senate Bill 5854 which directs the Department of General Administration to conduct energy audits and assign energy benchmarks of state buildings. Engrossed Second Substitute Senate Bill 5854 provides a complete and thorough process to examine state buildings and, therefore, this additional provision is not needed at this time.

For these reasons, I have vetoed Sections 3, 4 and 7 of Engrossed Second Substitute Senate Bill 5560.

With the exception of Sections 3, 4 and 7, Engrossed Second Substitute Senate Bill 5560 is hereby approved."