
Environment & Energy Committee

HB 2376

Brief Description: Concerning the regulatory obligations of certain public entities, including municipal gas utilities, under the climate commitment act.

Sponsors: Representatives Robertson, Stokesbary, Dent, Ybarra and Caldier.

Brief Summary of Bill

- Permits public entities subject to the Open Public Meetings Act to enter executive session to consider greenhouse gas allowance financial, proprietary, or market-sensitive information that is exempt from public disclosure under the Climate Commitment Act.
- Changes the rate of no-cost allowance allocation and the percent of allowances that must be consigned to auction for municipal gas utilities that are covered entities required to participate in the Climate Commitment Act's Cap and Invest Program.

Hearing Date: 1/22/24

Staff: Jacob Lipson (786-7196).

Background:

Climate Commitment Act.

Under the 2021 Climate Commitment Act (CCA), in order to ensure that greenhouse gas (GHG) emissions are reduced consistent with the state's 2030, 2040, and 2050 emissions limits, the Department of Ecology (Ecology) must implement a cap on GHG emissions from entities required to participate in the program (covered entities) and a program to track, verify, and enforce compliance through the use of compliance instruments, which include allowances or

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eligible offset credits. The Cap-and-Invest Program (Program) commenced on January 1, 2023.

The Program:

- establishes annual allowance budgets that limit emissions from covered entities;
 - defines covered entities, those entities that may voluntarily opt in to coverage under the Program (opt-in entities), and other persons that participate in auctions or allowance markets by purchasing, holding, selling, or voluntarily retiring compliance instruments (general market participants);
- provides for the distribution of emissions allowances at no-cost to certain covered entities, or by purchase at auction;
- provides for offset credits as a method for meeting compliance obligations;
- defines the compliance obligations of covered entities;
- provides for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington may have linkage agreements in the future; and
- provides monitoring and oversight of the sale and transfer of allowances.

Natural gas utilities with qualifying levels of emissions are among those entities required to comply with the CCA beginning in the first compliance period (2023 through 2026). Ecology rules adopted to implement the CCA establish the methods and procedures for allocating allowances to natural gas utilities at no cost during the first and second compliance periods. Ecology's rules provide that, relative to a baseline level of emissions set based on calendar year 2015 to 2019 emissions data, Ecology distributes no-cost allowances to natural gas utilities equal to 93 percent of baseline emission levels in 2023, declining by an additional 7 percent each year until 2030. From 2031 to 2042, the rate of decline of no-cost allowances relative to baseline levels decreases by 1.8 percent each year. Further no-cost allowance allocation rate decreases are prescribed for years 2043 through 2049.

Beginning in 2023, 65 percent of the no-cost allowances allocated to natural gas utilities must be consigned to auction for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Program. Rules adopted by Ecology increase the percentage of allowances consigned to auction by 5 percent each year until a total of 100 percent is reached. Revenues from allowances consigned to sale at auction must be returned to the utility's customers by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or being used to minimize cost impacts on low-income, residential, and small business customers through activities such as weatherization and bill assistance.

Ecology must adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information. Ecology may cancel or restrict a previously approved auction participation application or reject a new application if the agency determines that a registered entity has:

- provided false or misleading information;
- withheld material information that could influence a decision by Ecology;

- violated any part of the auction rules;
- violated registration requirements; or
- violated any of the rules regarding the conduct of the auction.

The following CCA records are confidential and are exempt from public disclosure in their entirety:

- auction bidding information;
- information contained in Ecology's secure, online electronic tracking form used to register entities, issue compliance instruments, track ownership, enable transfers, facilitate Program compliance, and support market oversight; and
- financial, proprietary, and other market-sensitive information, as determined by Ecology, submitted to Ecology, the independent contractor, the financial services administrator engaged by Ecology, or a linked jurisdiction.

Open Public Meetings Act.

The meetings of many governing bodies of governmental entities are required to be open and public. Covered entities include state agencies, local governments, subagencies of such entities, and policy groups whose membership includes representatives of publicly owned utilities under certain conditions. When actions are taken in violation of this rule, those actions are null and void and members of the board may be held personally liable in civil court. As an exception to the general rule, governing bodies may enter executive session and take otherwise prohibited actions. Executive sessions are parts of a regular or special meeting of a governing body that are closed to the public. These sessions may be permitted only for discussing reasons listed in statute, such as the purchase or sale of land, the qualifications of potential appointees, and considering complaints or charges against a public official or employee.

Summary of Bill:

Municipal Gas Utility No-Cost Allowance Allocation and Consignment.

The Department of Ecology (Ecology) must adopt Climate Commitment Act (CCA) rules applicable to municipal gas utilities, beginning in 2025, that include an annual decline in the provision of no-cost allowances by two percent each year relative to the utility's allocation baseline.

Ecology's CCA rules must increase the percentage of allowances consigned to auction by two percent each year, beginning in 2025, until a total of 100 percent of allowances is reached.

Ecology must adopt an updated allocation schedule by October 1, 2024 to implement these requirements.

Open Public Meetings Act Consideration of Climate Commitment Act Information.

Public entities regulated under the CCA may hold executive session under the Open Public Meetings Act to consider financial, propriety, or other market sensitive information that is exempt from public disclosure.

Appropriation: None.

Fiscal Note: Requested on January 16, 2024.

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