

SENATE BILL REPORT

SB 6058

As of January 10, 2024

Title: An act relating to facilitating linkage of Washington's carbon market with the California-Quebec carbon market.

Brief Description: Facilitating linkage of Washington's carbon market with the California-Quebec carbon market.

Sponsors: Senators Nguyen, Hunt, Kuderer, Liias, Mullet, Pedersen, Saldaña, Shewmake and Stanford; by request of Department of Ecology.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/12/24.

Brief Summary of Bill

- Authorizes the Department of Ecology (Ecology) to change the length of the compliance periods under the Cap and Invest Program (Program).
- Modifies the definitions and policies related to electricity importing and reports.
- Increases the percent of allowances a covered or opt-in entity may buy from 10 percent to 25 percent in a single auction.
- Continues to prohibit a general market participant from owning more than 10 percent of the total allowances issued in any calendar year, until Washington's Program is linked with another jurisdiction.
- Clarifies when offset projects on tribal lands or from jurisdictions linked with Washington apply toward compliance obligations.
- Eliminates Ecology's discretion to reduce penalties for failure to submit compliance instruments.
- Authorizes Ecology to establish greenhouse gas emissions reporting methodologies that are different from the Environmental Protection

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

Agency.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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Background: Cap and Invest Program. In 2021 the Legislature directed the Department of Ecology (Ecology) to implement a cap and invest program (Program), also known as the Climate Commitment Act, to reduce greenhouse gas (GHG) emissions consistent with the statewide statutory emissions limits.

Starting on January 1, 2023, the Program will cover industrial facilities, certain fuel suppliers, in-state electricity generators, electricity importers, and natural gas distributors with annual greenhouse gas emissions above 25,000 metric tons of carbon dioxide equivalent (CO₂e). Covered entities must either reduce their emissions, or obtain allowances to cover any remaining emissions. The total number of allowances will decrease over time to meet statutory limits. Some utilities and industries will be issued free allowances; other allowances will be auctioned.

Compliance Instruments, Obligations, and Periods. The Program must track, verify, and enforce compliance through the use of compliance instruments. A compliance instrument is an allowance or offset credit issued by Ecology or a trading program linked with Washington's Program. One compliance instrument is equal to one metric ton of CO₂e.

Covered and opt-in entities may not buy more than 10 percent of the allowances offered during a single auction. A General Market Participant (GMP) may not own more than 10 percent of the total allowances issued in any calendar year.

If a covered or opt-in entity fails to submit sufficient compliance instruments to meet its compliance obligations by the specified transfer dates, it must submit a penalty of four allowances for every one allowance missing within six months. Civil penalties are levied if a covered or opt-in entity fails to submit penalty allowances.

A compliance period is four years, and the first compliance period is January 1, 2023, through December 31, 2026.

Offsets. A portion of a covered or opt-in entity's compliance obligation may be met through offset credits from projects that result in GHG reductions or removals that are real, permanent, quantifiable, verifiable, and enforceable. Offset projects must be in addition to emissions reductions required by law and a certain percentage must provide direct environmental benefits to Washington State.

Linkage Agreement. The Program requires Ecology to seek to enter linkage agreement with other jurisdictions. Ecology must conduct a public comment process and establish a finding that the linking jurisdiction and linkage agreement meet specified criteria before any linkage program can go forward, including requiring that linkage broadens GHG emission reduction opportunities to reduce costs of compliance on covered entities and consumers and providing consistent requirements for covered entities across jurisdictions. A linkage agreement must also ensure the distribution of benefits from the Program to vulnerable populations and overburdened communities and not adversely impact Washington's ability to achieve its statutory emission reduction limits.

In October 2023 Ecology published a Cap-and-Invest Linkage Criteria Preliminary Analysis report, with the recommendation that joining a larger, more liquid market with a greater number of participants would likely lead allowance prices to be lower, provide greater price stability, and lead to a more durable program.

The Director of Ecology is authorized to executive linkage agreements with other jurisdictions with GHG trading programs consistent with Washington's Program. In November 2023 the Director of Ecology announced a preliminary decision to pursue linking Washington's carbon market with the California-Quebec market. Current law requires Ecology to provide agency request legislation if it finds any statutory provision prevents linking Washington's Program with another jurisdiction.

Greenhouse Gas Emissions Reporting. Under the state Clean Air Act, GHG emissions associated with electricity must be reported if they reach 10,000 metric tons of CO₂e per year. Washington's GHG emissions reporting is required to review and, if necessary, update whenever the U.S. Environmental Protection Agency (EPA) adopts GHG emissions reporting requirements.

Initiatives to the Legislature. The Washington State Constitution authorizes the initiative process, allowing the people to place a proposition on the ballot or to submit the proposed law to the Legislature. If an initiative to the Legislature is certified for sufficient signatures, the Legislature may approve the measure, reject or take no action on the measure, or pass an alternative proposal. If the Legislature takes no action, the measure is submitted to the voters at the next general election for approval or rejection. If the Legislature approves an alternative measure, both the alternative and original measures are submitted to the voters at the next general election for approval or rejection.

As of January 9, 2024, Initiative Measure No. 2117 (I-2117), concerning carbon tax credit trading, has been granted provisional certification while signatures are verified.

Summary of Bill: Compliance Periods. If Ecology enters into a linkage agreement, Ecology is authorized to amend its rules to synchronize Washington's current four-year compliance periods with those of a linked jurisdiction. Statutory references to a four-year compliance period and dates for the second compliance period and beyond are removed.

Ecology's comprehensive review of the Program reporting requirement, beginning December 1, 2027, must continue one year after a compliance period ends, rather than every four years.

Electricity. Ecology may define by rule an electricity importer where:

- electricity is provided as balancing energy for a resource located in Washington State that is also inside a balancing authority area not located entirely within Washington State; and
- imported electricity is not otherwise assigned an electricity importer under the Program.

The definition of imported electricity is amended so it no longer needs to exclude imports of unspecified electricity netted by exports of unspecified electricity under certain circumstances.

An electricity importer of specified sources continues to become a covered entity once they report emissions or provide data that indicates their emissions equal or exceed a threshold of 25,000 metric tons of CO₂e. An electricity importer of unspecified resources is a covered entity regardless of their level of emissions.

Allowance Purchase Limits. The percentage of allowances a covered or opt-in entity may buy during a single auction is increased from 10 to 25 percent.

A general market participant continues to be prohibited from owning more than 10 percent of the total allowances issued in any calendar year, until Washington links with a jurisdiction that does not have this requirement.

Offsets. A covered or opt-in entity may meet up to 5 percent of its first compliance period obligation with offset credits and up to 4 percent during the second compliance period, regardless of whether or not the offset project is located on federally recognized tribal land. It is clarified that up to an additional 3 percent of compliance obligations during the first compliance period and up to additional 2 percent during the second compliance period may be met with offset projects on federally recognized tribal land.

Any offset credits issued by Ecology must be for reporting periods after July 25, 2021, or within two years prior to July 25, 2021, and be consistent with Ecology's offset protocols. Offset credits issued by a jurisdiction linked with Washington must come from offset projects located in the linked jurisdiction.

Penalties. Ecology's discretion to reduce the penalty amount for an entity that fails to submit compliance instruments to meet its compliance obligation for the first compliance period is removed.

Greenhouse Gas Emissions Reporting. Under the Clean Air Act, Ecology may require

entities that supply electricity to report emissions of GHG from all electricity purchased, sold, imported, exported, or exchanged in Washington, regardless of how many metric tons of CO₂e.

Ecology must establish GHG emission reporting methodologies under the state Clean Air Act. Ecology is no longer required to review and update its rules whenever the EPA adopts federal reporting requirements for GHG emissions nor to ensure consistency with emissions reporting requirements in jurisdictions with a linkage agreement with Washington.

Contingent Null and Void Clause. This act is declared not to be a conflicting measure with I-2117, but if the Washington State Supreme Court directs the Secretary of State to place this act on the 2024 ballot as an alternative to I-2117, this act is null and void and may not be placed on the ballot.

Appropriation: None.

Fiscal Note: Requested on January 6, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2025, only if I-2117 is not approved by a vote of the people in the 2024 general election. If I-2117 is approved by a vote of the people in the 2024 general election, this act is null and void.