HOUSE BILL REPORT
HB 2367

As Passed Legislature

Title: An act relating to eliminating preferential treatment related to a coal-fired electric generating plant.

Brief Description: Eliminating preferential treatment related to a coal-fired electric generating plant.

Sponsors: Representatives Fitzgibbon, Doglio, Berry, Mena, Ramel, Parshley, Kloba, Duerr, Ormsby, Hill and Pollet.

Brief History:

Committee Activity:

Environment & Energy: 1/19/26, 1/22/26 [DP];
Finance: 2/3/26, 2/6/26 [DP].

Floor Activity:

Passed House: 2/12/26, 63-33.
Passed Senate: 2/28/26, 29-19.
Passed Legislature.

Brief Summary of Bill

- Specifies that the exemption from the Cap-and-Invest Program for emissions from a certain coal-fired electric generation facility (coal facility) applies only to those emissions before January 1, 2026.
- Removes the limitation on state agencies and political subdivisions of the state from imposing greenhouse gas emission requirements on a coal facility that are inconsistent with or in addition to the Greenhouse Gas Emissions Performance Standard or the memorandum of agreement between the Governor and the coal facility.
- Repeals sales and use tax exemptions for coal used at a coal facility placed in operation after December 3, 1969, and before July 1, 1975.

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.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass. Signed by 19 members: Representatives Doglio, Chair; Hall, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abell, Barnard, Berry, Duerr, Fey, Hackney, Kloba, Ley, Mena, Mendoza, Ramel, Stearns, Street, Stuebe and Ybarra.

Minority Report: Do not pass. Signed by 1 member: Representative Abbarno.

Staff: Megan McPhaden (786-7114).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 11 members: Representatives Berg, Chair; Street, Vice Chair; Abell, Mena, Ramel, Santos, Scott, Springer, Walen, Wylie and Zahn.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Chase.

Staff: Tracey Taylor (786-7152).

Background:

<u>Certain Coal Emissions Exempt from the Cap-and-Invest Program</u>.
Under the 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 covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments, which include allowances or eligible offset credits. The Cap-and-Invest Program commenced on January 1, 2023.

Seven categories of emissions are exempt from coverage under the Cap-and-Invest Program, including emissions from a coal-fired electric generation facility in operation on or before July 22, 2011.

<u>Greenhouse Gas Emissions Performance Standards for Electric Generation Plants</u>.
Electric utilities may not enter into a long-term financial commitment for baseload electric generation on or after July 1, 2008, unless the generating plant's emissions are the lower of: 1100 pounds of GHG per megawatt (MW)-hour; or the average available GHG emissions output as updated by the Department of Commerce. Baseload electric generation is electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent.

A coal-fired baseload electric generation facility in Washington that emitted more than 1 million tons of GHG in any calendar year prior to 2008 must meet the lower of the emissions standards such that one generating boiler is in compliance by December 31, 2020, and any other generating boiler is in compliance by December 31, 2025.

Coal Facility Memorandum of Agreement.
The Governor must enter into a memorandum of agreement (MOA) that takes effect on April 1, 2012, with the owners of a coal-fired baseload facility that emitted more than 1 million tons of GHG in any year before 2008. The MOA must include certain commitments for installing pollution control technology and for providing financial assistance.

Limitation on Imposing Additional or Inconsistent Greenhouse Gas Emissions Requirements for a Coal Facility or Coal Power Purchases.
State agencies or political subdivisions of the state cannot adopt or impose a greenhouse gas emission performance standard, or other operating or financial requirement or limitation related to greenhouse gas emissions, on a coal facility in operation on or before July 22, 2011, or on an electric utility's long-term purchase of coal transition power, that is inconsistent with or in addition to the GHG Emissions Performance Standards or the MOA.

Sales and Use Tax Exemptions for Coal at a Coal Facility.
The sales and use of coal at a thermal electric generating facility placed in operation after December 3, 1969, and before July 1, 1975, are exempt from retail sales and use taxes. The exemptions are contingent on owners of the coal facility demonstrating to Ecology that progress is being made to install the necessary air pollution control devices and that the facility has emitted no more than 10,000 tons of sulfur dioxide during the previous 12 months.

Summary of Bill:

Exemption for Coal Emissions Under the Cap-and-Invest Program is Removed.
Only the emissions that occurred before January 1, 2026, from a coal-fired electric generation facility in operation on or before July 22, 2011, are exempt from the Cap-and-Invest Program.

Limitation on Imposing Greenhouse Gas Standards.
For a coal-fired electric generation facility that remains in operation after December 31, 2025, and is subject to the MOA, the limitation on imposing an inconsistent or additional greenhouse gas standard, or other greenhouse gas operating or financial requirement, is removed.

Sales and Use Tax Exemptions for Coal are Repealed.
The sales and use tax exemptions for coal used to generate electric power at a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975, are repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Environment & Energy):

(In support) In 2011, Governor Gregoire signed a memorandum of agreement with TransAlta, the owner and operator of the coal plant in the 20th Legislative District, to close one boiler by 2020 and the second by 2025 and to make investments in the local communities. The company and state have upheld their commitments, which is one reason that the Climate Commitment Act exempted emissions from that coal plant under the Cap-and-Invest Program. TransAlta was embarking on a transition to new natural gas and there is no buyer for coal power now. The point of the bill is to acknowledge the progress the state and TransAlta made and keep the state on track to end coal combustion and move to cheaper, cleaner power. Coal is not clean, cheap, or needed. The federal order is illegal and it jeopardizes the state's clean energy agreements. The bill sends a strong message that the state isn't going backwards on the clean energy transition. The tax preferences are outdated and special treatment carveouts for coal are inconsistent with today's policies. This provides needed clarity, increases market fairness, reduces the risk of prolonged investments in high-carbon resources, creates clearer and more consistent rules for utilities and regulators, and is important for planning and resource adequacy. If coal emissions greatly exceed the state's carbon budget, the Cap-and-Invest Program will have implementation challenges that will need to be addressed.

(Opposed) None.

(Other) This is not a position on the bill, but there is a concern that if this bill goes into effect and a coal plant is pulled into the Cap-and-Invest Program, the additional needed allowances could further constrain the credit market. The Department of Ecology should have flexibility to evaluate the Cap-and-Invest Program and make adjustments to the allowance budget to ensure there is no impact to the Climate Commitment Act credit market.

Staff Summary of Public Testimony (Finance):

(In support) In 2011 the Governor and TransAlta executed a memorandum of understanding (MOU) regarding TransAlta's coal plant in Centralia. The MOU provided for the installation of new boilers and about $55 million in community-related investments. Both parties to the MOU have upheld their part of the agreement. Currently, the company is planning to transition the site to utilize natural gas to generate the electricity instead of coal. This bill keeps the plan for the facility on track to meet its goals. In December, the federal government issued an order that has cast some confusion around the plant's future;

however, there is little coal left at the plant and the workforce is no longer there. Moreover, it is unclear that the federal government can compel the company to operate the plant utilizing coal. This is currently being litigated. It is clear that if this plant continues utilizing coal, it should operate under the Climate Commitment Act (CCA) and without any tax preferences.

(Opposed) None.

(Other) One important issue is that if this policy is implemented, the Department of Ecology should be able to issue additional CCA credits. There is amendment language circulating to address the need for adjusting the allowances.

Persons Testifying (Environment & Energy): (In support) Representative Joe Fitzgibbon, prime sponsor; Charlee Thompson, NW Energy Coalition; Caitlin Krenn, Washington Conservation Action; and Leah Missik, Climate Solutions.

(Other) Peter Godlewski, Association of Washington Business; and Sophia Steele Conley, WSPA.

Persons Testifying (Finance): (In support) Representative Joe Fitzgibbon, prime sponsor; and Leah Missik, Climate Solutions.

(Other) Peter Godlewski, Association of Washington Business; and Sophia Steele, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying (Environment & Energy): None.

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