

HOUSE BILL REPORT

E2SHB 2416

As Amended by the Senate

Title: An act relating to fair treatment of waste to energy facilities under the climate commitment act.

Brief Description: Concerning fair treatment of waste to energy facilities under the climate commitment act.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Hill, Ormsby, Parshley, Schmidt, Scott, Peterson, Obras, Shavers, Engell and Graham).

Brief History:

Committee Activity:

Environment & Energy: 1/20/26, 2/3/26 [DPS];
Appropriations: 2/6/26, 2/9/26 [DP2S(w/o sub ENVI)].

Floor Activity:

Passed House: 2/17/26, 67-30.
Senate Amended.
Passed Senate: 3/4/26, 39-10.

Brief Summary of Engrossed Second Substitute Bill

- Provides no-cost allowances to a waste-to-energy (WTE) facility during the second compliance period of the Climate Commitment Act.
- Requires the WTE facility to submit a greenhouse gas emission reduction plan and a waste reduction and material recovery plan to the Department of Ecology and the Department of Commerce by December 1, 2030.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

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.

Signed by 12 members: Representatives Doglio, Chair; Hall, Vice Chair; Berry, Duerr, Fey, Hackney, Kloba, Mena, Ramel, Stearns, Street and Wylie.

Minority Report: Do not pass. Signed by 3 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abell.

Minority Report: Without recommendation. Signed by 6 members: Representatives Abbarno, Barnard, Ley, Mendoza, Stuebe and Ybarra.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 20 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Peterson, Pollet, Ryu, Springer, Stonier, Street and Thai.

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

Minority Report: Without recommendation. Signed by 9 members: Representatives Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Burnett, Dye, Keaton, Manjarrez, Marshall, Rude and Valdez.

Staff: Dan Jones (786-7118).

Background:

Climate Commitment Act.

The global warming potential of a greenhouse gas (GHG), as classified by the Department of Ecology (Ecology), is measured in terms of the equivalence to the emission of an identical volume of carbon dioxide over a 100-year timeframe (CO₂e), and is also known as a carbon dioxide equivalent. The Washington Clean Air Act requires facilities and fuel suppliers whose annual emissions exceed 10,000 metric tons of CO₂e, and all electricity suppliers, to report their emissions to Ecology annually.

State law establishes the following limits on the emissions of GHGs in Washington:

- by 2020, reduce overall emissions of GHGs in the state to 1990 levels, or 90.5 million metric tons of carbon dioxide equivalents (MMT CO₂e);
- by 2030, reduce overall emissions of GHGs in the state to 45 percent below 1990 levels, or 50 MMT CO₂e;
- by 2040, reduce overall emissions of GHGs in the state to 70 percent below 1990 levels, or 27 MMT CO₂e; and

- by 2050, reduce overall emissions of GHGs in the state to 95 percent below 1990 levels, or 5 MMT CO₂e, and achieve net-zero GHG emissions.

The Climate Commitment Act (CCA) establishes a Cap-and-Invest Program. The CCA defines those entities covered by the Cap-and-Invest Program (covered entities), those entities that may voluntarily opt in to coverage, and other persons that participate in auctions or allowance markets by purchasing, holding, selling, or voluntarily retiring compliance instruments.

Except for no-cost allowances allocated to emissions-intensive trade-exposed facilities, electric utilities, and natural gas utilities, CCA allowances are distributed via periodic allowance auctions. A portion of the no-cost allowances allocated to gas utilities are consigned to auction for the benefit of gas utility customers, and Ecology is directed to adopt rules addressing the consignment of no-cost allowances to auction for the benefit of electric utility ratepayers.

Compliance obligations under the CCA are currently phased in over the following four-year compliance periods:

- The first compliance period is 2023 through 2026.
- The second compliance period is 2027 through 2030.
- There will be subsequent four-year compliance periods beginning in 2031.

However, if Ecology enters into a linkage agreement with another jurisdiction with a similar GHG emission cap program, Ecology may amend the CCA rules to synchronize Washington's compliance periods with the other jurisdiction.

The compliance obligation for most covered entities under the CCA began at the beginning of the first compliance period, in 2023. However, the owner or operator of a waste-to-energy (WTE) facility utilized by a county and city solid waste management program and with GHG emissions above 25,000 metric tons begins to be a covered entity under the CCA at the beginning of the second compliance period.

All covered and opt-in entities are required to submit allowances or offset credits in a timely manner to meet their compliance obligations in each compliance period. Most CCA violations are subject to a penalty of up to \$10,000 per violation per day for noncompliance, although violations of certain CCA requirements are subject to alternative penalty amounts.

Solid Waste Management.

Under the state's solid waste management laws, counties are responsible for developing solid waste management plans. Under state laws addressing the local planning and management of solid waste, a waste management hierarchy is established for the collection, handling, and management of solid waste. This hierarchy prioritizes in descending order: (1) waste reduction; (2) recycling, with source separation of recyclable materials as the preferred method; (3) energy recovery, incineration, or landfill of separated waste; and (4)

energy recovery, incineration, or landfill of mixed municipal solid wastes.

State law establishes requirements related to organic material management service requirements applicable to businesses and residential customers, including requirements that:

- certain businesses arrange for organic material management services if they generate waste exceeding specified thresholds;
- beginning in 2027, certain local governments that implement a solid waste plan must provide year-round, source-separated organic solid waste collection services to single-family residents and certain nonresidential customers; and
- beginning in 2030, persons, other than multifamily residences, may only use source-separated organic material collection services to discard unwanted organic materials for curbside disposal.

Exceptions to these organic material management requirements apply under certain circumstances, including if Ecology determines that there is no available capacity at solid waste facilities for additional organic material deliveries.

Under the 2025 Recycling Reform Act, producers of certain paper products and packaging are required to participate in and fund the operations of a producer responsibility organization related to the postconsumer management of paper products and packaging, and other recycling-related activities.

Summary of Engrossed Second Substitute Bill:

For the duration of the second compliance period, Ecology must allocate no-cost allowances to a WTE facility constructed prior to 1992 that becomes a CCA covered entity at the beginning of the second compliance period, if the facility is operated in compliance with federal laws and regulations and meets state air quality standards. Relative to the facility's baseline GHG emissions from 2021 through 2025, Ecology must allocate no cost allowance equal to 93 percent of baseline emissions for emissions year 2027, and must allocate no-cost allowances for the remainder of the second compliance period in an amount that declines by an additional 7 percent per emissions year. Fifty percent of the allowances allocated to the WTE facility must be consigned to auction, with proceeds to be used, with Ecology approval, for investments in projects or programs that reduce GHG emissions associated with the WTE facility.

Ecology may not allocate no-cost allowances to electric utilities for GHG emissions associated with electricity produced by a WTE facility that receives no-cost allowances.

By December 1, 2030, the owner or operator of the WTE facility constructed prior to 1992 must provide a two-part plan to Ecology and the Department of Commerce. One portion of the plan is a greenhouse gas emission reduction plan that must outline how the facility will achieve emissions consistent with the state emissions limits for 2040 and 2050 through any

combination of GHG emission reduction strategies. The other portion of the plan is a waste reduction and material recovery plan that must be consistent with the state's waste management hierarchy, take into consideration the organic material management policies that apply to local governments and businesses and the expected impacts of the 2025 Recycling Reform Act, and align with the county's local solid waste plan.

The owner or operator of the WTE facility must consult with local municipally created sustainability advisory groups. The facility owner or operator must submit the plan for review by Ecology in consultation with the Department of Commerce, and must address comments received from the agencies within 90 days. The owner or operator of the WTE facility must take reasonable steps to implement the plan and to operate the facility and take actions consistent with the goals of the plan.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:

- adjusts the amount and duration of no-cost allowance allocation to the Waste-to-Energy (WTE) facility by the Department of Ecology (Ecology) under the Climate Commitment Act (CCA), including by:
 - providing no-cost allowances through December 31, 2030, rather than through the end of the second compliance period;
 - providing no-cost allowances at 100 percent of the WTE facility's baseline greenhouse gas (GHG) emissions for 2027 and 2028, at 93 percent of baseline emissions for 2029, and 86 percent of baseline emissions for 2030; and
 - consigning 40 percent, rather than 50 percent, of the no-cost allowances allocated to the WTE facility to be used for GHG emission reduction projects or programs;
- establishes a process for the WTE facility owner or operator to submit a written proposal to, and receive approval from, Ecology regarding the use of no-cost allowances on projects or programs to reduce GHG emissions;
- provides that if a WTE facility's GHG emissions exceed the no-cost allowances allocated to the facility for 2027 through 2030, the WTE facility owner or operator must acquire additional compliance instruments equal to its compliance obligation;
- authorizes the WTE facility to bank unused allowances;
- requires Ecology to withhold or withdraw the relevant share of no-cost allowances to the WTE facility if the WTE facility ceases production and closes, with the withheld or withdrawn allowances being transferred to the CCA's Emissions Containment Reserve;
- provides that if the WTE facility curtails production, it may retain but not trade allowances during the period of curtailment;
- authorizes Ecology to provide technical assistance and guidance in the development and implementation of the two-part GHG reduction and waste reduction and material recovery plan;
- amends the contents of the two-part plan, including by authorizing the inclusion of

- the projected costs of emission reductions and information on funding options, and by requiring the plan to consider social, environmental, and health factors in overburdened communities and vulnerable populations;
- requires the WTE facility to consult with specified stakeholder and community advisory groups when addressing Ecology's comments and finalizing the two-part plan;
 - extends the length of time for Ecology to review the two-part plan from 90 days to 180 days, and extends the length of time for the WTE facility owner or operator to address Ecology's comments and finalize the plan from 90 days to 120 days;
 - specifies that Ecology may not allocate allowances to an electric utility for GHG emissions for which a WTE facility has a compliance obligation; and
 - delays, from October 1, 2028, until October 1, 2030, the deadline for Ecology to adopt a rule establishing an allocation schedule for no-cost allowances for electric utilities for calendar years 2031 through 2045.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 3, 2026.

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

Staff Summary of Public Testimony (Environment & Energy):

(In support) This Spokane WTE is a unique facility in a unique and exceptional situation. By next year, the facility would need to meet GHG reductions or pay allowances that would have a 20 percent impact on rates, which Spokane ratepayers cannot afford, especially as the median household income in the area is less than the statewide average. If the facility has to comply with this cost, it will lead to the closure of the plant. Without the bill, half of the waste would be trucked to landfills outside of the county. This bill would allow time for the facility to develop options for a solution and provide a pathway for compliance. There is a desire to find parity between this WTE facility and landfills, which are not covered by the CCA. The CCA should incentivize capturing and destroying methane, as methane is an incredibly potent GHG. Some version of this bill should advance to save the WTE facility.

(Opposed) This is an unfortunate situation and there is sympathy for the situation Spokane is in, but other WTE plants have closed for the same reasons. There are environmental justice issues with toxic chemicals. This WTE facility is a significant source of GHG emissions, and the bill gives the Spokane incinerator preferential treatment under the CCA with no guarantee that the facility will reduce pollution. An alternative approach would allow for compliance but ensure pollution declines, with zero-waste methods in the future. This bill is not aligned with the state's climate policies; it allows for free allowances without reducing GHG emissions and sets different targets. Even though the facility is unique it must reduce emissions and should do so on a similar trajectory as required by the Clean

Energy Transformation Act. The alternative for the facility's waste would be worse for the environment, and it is critical that the good union jobs at this facility are protected.

(Other) There is recognition that this facility is unique, but the proposed GHG reductions are inconsistent with the state's emissions reductions targets, there is no requirement the facility pursue emissions reductions, the state is subsidizing the majority of the facilities reductions, and the facility could emit at 85 percent at no cost, which is not something any other CCA covered entity could do. By providing a WTE facility with no-cost allowances, which are only provided to emissions-intensive, trade-exposed industries and utilities, it sets a difficult precedent. The bill should not impact allowances on the market, which could exacerbate further scarcity and strain the Cap-and-Invest Program; Ecology should be directed to create additional allowances if the bill moves forward. There is support for the bill, with amendments. There should be environmental compliance and enforceable requirements on material recovery and waste diversion, and assistance with transitioning the region away from reliance on this WTE facility.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill would help ensure that Spokane's WTE facility meets the CCA by providing opportunities for planning and investment in waste reduction, diversion, and other technologies while balancing the impact to our state's ratepayers, many of whom are in overburdened communities. The bill creates an alternative framework for WTE facilities that do not fit into either the landlord law or the CCA. There is still work to be done, such as the initial reduction targets, but the framework encourages and accommodates a reasonable path towards carbon reductions. The bill maintains crucial grid power for Spokane residents.

(Opposed) None.

Persons Testifying (Environment & Energy): (In support) Representative Natasha Hill, prime sponsor; Lisa Brown, Mayor, City of Spokane; Chris Averyt, City of Spokane; Paul Dillon, Spokane City Councilmember District 2, Position 1; James Tieken, Vice President, AFSCME Council 2 County and City Employees; Carly Michiels, Washington Public Ports Association; Chris Jordan, Spokane County Commissioner, District 1; Logan Camporeale; Kelly Wright; and Schade Maghan.

(Opposed) Darcy Nonemacher, Washington Conservation Action; Leah Missik, Climate Solutions; and Heather Trim, Zero Waste Washington.

(Other) Joel Creswell, Washington Department of Ecology; Peter Godlewski, Association of Washington Business; and Katy Sheehan.

Persons Testifying (Appropriations): Katy Sheehan; Robert Duff, City of Spokane; and Jim Tieken, AFSCME Council 2.

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

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