S-3844.1

SENATE BILL 6092

State of Washington 69th Legislature 2026 Regular Session

By Senators Riccelli, Holy, and Liias

Read first time 01/13/26. Referred to Committee on Environment, Energy & Technology.

AN ACT Relating to fair treatment of waste to energy facilities under the climate commitment act; amending RCW 70A.65.120; adding a new section to chapter 70A.65 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds, based on a study published by the department of ecology in March 2024, that the only waste to energy system in the state will emit fewer greenhouse gases than the alternative of managing, hauling, and disposing of that system's waste to landfills in other communities. The legislature intends to treat all municipal solid waste management systems fairly and equivalently throughout the state under the Washington cap and invest program. This act achieves more equal treatment of all communities with municipal solid waste management systems under the Washington cap and invest program by adding a narrow allocation of no cost allowances for the state's only waste to energy municipal solid waste management system.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.65 RCW to read as follows:

(1) The department must allocate no cost allowances to a waste to energy facility specified in RCW 70A.65.080(2), if the facility is

operated in compliance with federal laws and regulations and meets state air quality standards, as follows:

(a) Beginning January 1, 2027, until the end of the second compliance period, the facility must be awarded no cost allowances equal to 100 percent of the facility's greenhouse gas emissions;

(b) At the beginning of the third compliance period, the facility must be awarded no-cost allowances equal to 97 percent of the facility's greenhouse gas emissions;

(c) At the beginning of the fourth compliance period and for each subsequent compliance period, the amount of no-cost allowances awarded to the facility must decline by an additional three percent for each compliance period, relative to the amount awarded under (a) of this subsection.

(2)(a) The department must make an initial allocation of no-cost allowances to a facility described in subsection (1) of this section for greenhouse gas emissions for a given year (t) by the end of that calendar year, in an amount equal to the greenhouse gas emissions reported by the facility to the department for the preceding calendar year (t-1), multiplied by the appropriate percentage of the facility's emissions specified in subsection (1)(a) through (c) of this section.

(b) After the facility described in subsection (1) of this section reports greenhouse gas emissions to the department for the given year (t) consistent with RCW 70A.15.2200 and the department receives and verifies that report, the department must either:

(i) If necessary to ensure that the facility receives no-cost allowances for year (t) in the amount specified in subsection (1) of this section, provide the facility with additional allowances prior to the next compliance deadline under this chapter; or

(ii) If the facility has received, in its initial allocation under (a) of this subsection based on the emissions from year (t-1), a greater number of no-cost allowances for year (t) than the amount specified in subsection (1) of this section, subtract the difference from the number of allowances allocated to the facility for the next emission year (t+1).

Sec. 3. RCW 70A.65.120 and 2021 c 316 s 14 are each amended to read as follows:

(1) The legislature intends by this section to allow all consumer-owned electric utilities and investor-owned electric

utilities subject to the requirements of chapter 19.405 RCW, the Washington clean energy transformation act, to be eligible for allowance allocation as provided in this section in order to mitigate the cost burden of the program on electricity customers.

(2)(a) By October 1, 2022, the department shall adopt rules, in consultation with the department of commerce and the utilities and transportation commission, establishing the methods and procedures for allocating allowances for consumer-owned and investor-owned electric utilities. The rules must take into account the cost burden of the program on electricity customers.

(b) By October 1, 2022, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the first compliance period for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of the covered entities in the first compliance period.

(c) By October 1, 2026, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the provision of allowances for the second compliance period at no cost to consumer-owned and investor-owned electric utilities. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of covered entities in the second compliance period. The allowances included in this schedule must reflect the increased scope of coverage in the electricity sector relative to the program budget of allowances established in 2022.

(d) By October 1, 2028, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities for the compliance periods contained within calendar years 2031 through 2045. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of the

covered entities in the compliance periods. The rule developed under this subsection (2)(d) may prescribe an amount of allowances allocated at no cost that must be consigned to auction by consumer-owned and investor-owned electric utilities. However, utilities may use allowances for compliance equal to their covered emissions in any calendar year they were not subject to potential penalty under RCW 19.405.090. Under no circumstances may utilities receive any free allowances after 2045.

(3)(a) During the first compliance period, allowances allocated at no cost to consumer-owned and investor-owned electric utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. The rules adopted by the department under subsection (2) of this section must include provisions for directing revenues generated under this subsection to the applicable utilities.

(b) By October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, must adopt rules governing the amount of allowances allocated at no cost under subsection (2)(c) of this section that must be consigned to auction. For calendar year 2030, electric utilities may use allowances for compliance equal to their covered emissions if not subject to potential penalty under RCW 19.405.090.

(4) The benefits of all allowances consigned to auction under this section must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers.

(5) If an entity is identified by the department as an emissions-intensive, trade-exposed industry under RCW 70A.65.110, unless allowances have been otherwise allocated for electricity-related emissions to the entity under RCW 70A.65.110 or to a consumer-owned utility under this section, the department shall allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the entity in an amount equal to the forecasted emissions for electricity consumption for the entity for the compliance period.

(6) The department shall allow for allowances to be transferred between a power marketing administration and electric utilities and used for direct compliance.

(7) Rules establishing the allocation of allowances to consumer-owned utilities and investor-owned utilities must consider the impact

of electrification of buildings, transportation, and industry on the electricity sector.

(8) Nothing in this section affects the requirements of chapter 19.405 RCW.

(9) A consumer-owned utility that is party to a contract that meets the following conditions must be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party:

(a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

(b) The contract was in effect as of July 25, 2021, and expires no later than the end of the first compliance period.

(10) The department may not allocate allowances to an electric utility under this section for greenhouse gas emissions associated with electricity produced by a waste to energy facility that receives no-cost allowances under section 2 of this act.

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