

SENATE BILL REPORT

ESSB 6001

As Amended by House, April 12, 2007

Title: An act relating to mitigating the impacts of climate change.

Brief Description: Mitigating the impacts of climate change.

Sponsors: Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Pridemore, Poulsen, Rockefeller, Brown, Eide, Oemig, Hargrove, Marr, Fraser, Kohl-Welles, Keiser, Regala, Franklin, Fairley, Jacobsen, Shin, Haugen, Berkey, Spanel, Kline and Weinstein).

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/14/07, 2/28/07 [DPS, DNP].
Passed Senate: 3/10/07, 35-13.

Brief Summary of Bill

- Establishes state goals to reduce greenhouse gases emissions.
- Establishes a greenhouse gases emissions performance standard for electric utilities operating in the state.
- Authorizes the Department of General Administration to purchase 100 plug-in hybrid vehicles when commercially available.
- Authorizes municipal electric utilities, public utility districts, and counties to mitigate greenhouse gases emissions from their power generating operations and purchases.
- Creates the Office of Washington State Climatologist.

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6001 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Marr, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin, Holmquist and Morton.

Staff: William Bridges (786-7424)

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

Background: Climate Change and Greenhouse Gases (GHG): The term "climate change" refers to any significant change in measures of climate, such as temperature, which last for decades or longer. Climate change may result from natural causes or human activities.

The National Academy of Sciences, The Inter-Governmental Panel on Climate Change, and The United States' Climate Change Science Program have concluded that human activities, such as GHG production, are the likely cause of climate change during the last several decades.

GHG Emissions Targets: According to the Pew Center on Global Climate Change, 12 states have set GHG emissions targets, including Arizona, California, New Mexico, and Oregon. Most of the targets have been set by agencies or by executive order and typically use a 1990 baseline to measure reductions. The targets are usually characterized as "goals."

Governor Gregoire's Executive Order Setting GHG Emissions Goals: On February 7, 2007, the Governor issued an executive order establishing goals for GHG reductions, for increasing clean energy sector jobs, and for reducing expenditures on imported fuel. The executive order also directs the Department of Ecology (DOE) and the Department of Community, Trade, and Economic Development (CTED) to lead stakeholders in a process that will consider a full range of policies and strategies to achieve the emissions goals.

GHG Emission Performance Standards: In 2006, the California Legislature enacted a law to prevent long-term investments in power plants with GHG emissions in excess of those produced by a combined-cycle natural gas power plant. Among other things, the law prohibits electric utilities from making or renewing contracts of five years or longer for the purchase of baseload generation that does not comply with GHG emission performance standards to be established by the state Public Utilities Commission and the state Energy Commission.

Okeson v. City of Seattle: On January 18, 2007, the Washington State Supreme Court ruled, among other things, that Seattle City Light lacked the authority to mitigate the effects of its GHG emissions by purchasing carbon offsets. Carbon offsets enable entities to reduce their GHG emissions profile by arranging for reductions of GHG in other places.

Additional Rate of Return for Conservation & Renewable Resources: In 1980, the Legislature established an incentive program to encourage investor-owned utility investments in conservation, renewable resources, and cogeneration. The program included an additional 2 percent higher rate-of-return on the common equity portion of qualifying investments initiated after June 12, 1980, and before January 1, 1990.

State Climatologist: According to DOE, Washington had a federally funded state climatologist until the funding stopped in 1971. Since then, the position has either been vacant or filled by volunteers. In 1993, the current volunteer climatologist restarted the office with seed money from DOE.

Public Utility Tax (PUT): Gross income derived from the operation of public and privately owned utilities is subject to the PUT. The rate for electric utilities is 3.873 percent.

Summary of Engrossed Substitute Bill: I. Economic and GHG Emissions Goals

Establishing Goals to Reduce GHG Emissions: The following goals are established for statewide GHG emissions:

- By 2020, reduce emissions to 1990 levels;
- By 2035, reduce emissions to 25 percent below 1990 levels; and
- By 2050, reduce emissions to 50 percent below 1990 levels or 70 percent below the state's expected levels that year by 2050.

Establishing an Employment Goal: By 2020, increase the number of clean energy sector jobs to 25,000 from the 8,400 jobs the state had in 2004.

Establishing a Spending Goal for Imported Petroleum: By 2020, reduce expenditures by 25 percent on fuels imported into the state.

Adopting the Governor's Mechanism for Achieving the Goals: Executive Order No. 07-02 shall provide the mechanisms for identifying the policies and strategies necessary to achieve the Legislature's economic and emission reduction goals. To the maximum extent possible, stakeholders participating in developing the Governor's strategy shall protect Washington jobs.

Requiring Emissions Reports: By December 31 of each even-numbered year beginning in 2010, DOE and CTED shall report to the Governor and the Legislature the total GHG emissions for the preceding two years, and totals in each major source sector.

Findings: Various findings are made, including the existence of climate change, the vulnerability of Washington's economy and environment to climate change, and the value of forests in mitigating climate change.

II. GHG Emissions Performance Standard

Establishing an Emissions Performance Standard: Beginning July 1, 2008, the GHG emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of 1,100 pounds of GHG per megawatt-hour or the emissions rate for a commercially available combined-cycle natural gas thermal electric generation facility that provides baseload electric generation. The GHG performance standard does not apply to baseload electric generation facilities in operation on June 30, 2008, until they are the subject of long-term financial commitments.

Electric utilities may not make or renew long-term investments in baseload electric generation that do not comply with the performance standard. All such investments must be reviewed by the WUTC, or by the governing board of a consumer-owned utility, whichever is appropriate. The WUTC or governing board may exempt a utility from the performance standard for such things as unanticipated electric system reliability needs, catastrophic events, or significant financial harm arising from unforeseen circumstances.

Authorizing Investor-Owned Utilities to Seek Pre-Determinations by the WUTC: Before making decisions to acquire electric generation or to purchase electricity that complies with the performance standards, investor-owned electric utilities may seek determinations from the WUTC, which must determine the need and the appropriateness of a proposed resource. The

WUTC must consider such factors as the utility's forecasted loads and power plant technology. In addition, the WUTC must provide for the recovery of prudently incurred costs of these resources, among other things. Furthermore, the utilities may defer costs associated with the long-term commitments.

Allowing an Additional Rate of Return: The WUTC must adopt policies allowing an additional rate of return for investor-owned electric utility to encourage investments in distributed generation and certain energy efficiency measures. The policies must include a 2 percent increment to the rate of return on common equity, which must be allowed for at least seven years but not more than 30 years.

Enforcing the Performance Standards: The WUTC enforces any requirements with respect to investor-owned utilities. For consumer-owned utilities, the State Auditor is responsible for auditing their compliance, while the Attorney General is responsible for enforcing that compliance. The WUTC must adopt rules to carry out its assigned duties.

Definitions: Various terms are defined. For example, "baseload generation" means electricity generated from a plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. "Electric utility" covers investor-owned and consumer-owned utilities.

Findings: Various findings are made, including the unequivocal evidence of the warming climate, the encouragement of environmentally sound energy resources, and the reduction of future reliability problems in electricity supplies.

III. Plug-In Electric Hybrid Vehicles

Authorizing the Purchase of Plug-In Electric Vehicles: During the biennium ending June 30, 2009, the Department of General Administration (GA) is authorized to purchase at least 100 plug-in electric hybrid vehicles, when commercially available at comparable life costs to other vehicles. GA must assign the vehicles to departments and job functions that average the most driving miles. The use of the hybrid vehicles must include an economic analysis of their total life-cycle cost.

IV. GHG Mitigation by Public Utilities

Authorizing Municipal Utilities, Public Utility Districts, and Counties to Mitigate GHG Emissions: Eligible utilities and counties may mitigate their power generation emissions by any mechanism recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of carbon offsets or credits. Any carbon offset or credit purchased after the effective date of this act must be recognized by any GHG registry developed by the state.

V. State Climatologist

Creating the Office of Washington State Climatologist: The Director of the Office of Washington State Climatologist must be appointed jointly by the presidents of Washington State University and the University of Washington. The state climatologist's duties include serving as an expert source of climate and weather information for state and local decision makers and representing the state in all climatological and meteorological matters.

Appropriation: None.

Fiscal Note: Available on original bill.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There is overwhelming evidence of man-made climate change. Climate change is the greatest ecological threat facing Washington and mankind. The state needs a bold effort to rollback greenhouse gas emissions to 1990 levels. Spokane is the 400th U.S. city to support the effort by municipalities to lower greenhouse gasses emissions. The limiting factor in controlling climate change is not technology, economics, or resources. It is our will. With the passage of California's emissions performance standards, Washington will be the biggest market for coal power. The standard set out in the bill provides certainty in policy and regulations, which will help utilities acquire financing. The 2 percent additional rate will promote wise investments and increase jobs. The sections allowing for utility offsets rewards early adopters. Statutory goals are needed because executive orders can change with the governors. Goals should go beyond 2050. Oil savings goals need to be stronger. It is a religious, moral, and ethical responsibility to take care of the earth. The 2050 goals should be consistent with California's. Fuel savings goal should be based on quantity, not expenditures. The bill should also provide for plug-in hybrid conversion kits for GA. Climate change hurts sports fisheries. Birds are a great indicator of environmental health, and climate change will adversely affect the habitat of Washington's birds, especially the Goldfinch.

CON: Washington has relatively low greenhouse gas emissions. The Governor's stakeholder process to determine the goal-achieving strategies is preferred. Any strategy should give credit to those companies that have already lowered their emissions. The state climatologist should be unbiased.

OTHER: Caution is urged in approaching the emissions issue. The Governor's executive order is the more prudent approach. The goals in the bill look like mandates, they pick the highest fruit first, they do not recognize the hydro legacy in the state, and they target utility emissions by hurting ratepayers. The pre-determination process in the bill shifts the risk of new investments to ratepayers. The additional 2 percent rate needs to be firmed up to insure cost-effectiveness. Washington should not reinvent the wheel--it should codify the standards developed in the rulemaking record established in California. A portfolio standard approach is preferred to a plant specific approach. The pre-determination process is not necessary and could take too much time. Biofuels can reduce petroleum consumption and should be recognized in the goals. Some of the data used to support climate change predictions have been misinterpreted or are inaccurate. The pre-determination process and the additional 2 percent rate are not good for ratepayers.

Persons Testifying: PRO: Senator Pridemore, prime sponsor; Janice Adair, Department of Ecology; LeeAnne Beres, Brian Naasz, Earth Ministry; Ezra Eickmeyer, Eickmeyer & Associates Climate Action Fund; Craig Engelking, Sierra Club; Rich Feldman, Apollo Alliance; Jean Godden, Seattle City Council; K.C. Golden, Mo McBroom, Washington Environmental Council; Sara Patton, NW Energy Coalition; Miguel Perez-Gibson, Auduban

Washington; Joelle Robinson, National Wildlife Federation; Collins Sprague, Avista Corp.; Marian Wineman, League of Women Voters of Washington; Roger Woodworth, Avista Utilities.

CON: Grant Nelson, Association of Washington Businesses.

OTHER: Tim Boyd, Industrial Customers of NW Utilities; Dave Danner, Washington Utilities and Transportation Commission; Kyle Davis, PacifiCorp; Ken Johnson, Puget Sound Energy; Kay Jones, Ph.D., retired environmental engineer; Llewellyn Matthews, NW Pulp & Paper Association, Dave Warren, Washington PUD Association.

House Amendment(s): Modifies findings by emphasizing, among other things, Washington's pioneering efforts in adopting a carbon dioxide mitigation program for thermal power plants and stating that the GHG performance standard will work in unison with this program.

Removes a GHG reduction goal that requires a 20 percent reduction in energy expenditures for fuel imported into the state.

Requires the Governor to develop policy recommendations to the Legislature on how the state can achieve reductions in GHG emissions and the potential benefits of creating tax incentives to encourage GHG reductions.

Adds a requirement that DOE and CTED report to the Legislature, by December 31, 2007, Washington's total GHG emissions for 1990.

Changes definitions: for example, the definition of "out-put based methodology" is removed and a definition of "average available greenhouse gases emissions output" is added, which will be a level determined by surveys conducted by CTED.

Specifies that the GHG emissions performance standard may be measured, among other things, as the average available GHG emissions output established by CTED in rules after it conducts surveys. The GHG measurement based on the rate of emissions from "commercially available" combined-cycle natural gas facilities is removed. Electric generation facilities that exclusively use renewable resources are deemed to be in compliance with the standard.

Excludes GHG emissions that are permanently sequestered by other means as approved by DOE. Under certain circumstances, emissions may also be excluded if they are sequestered or mitigated under a plan approved by Energy Facility Site Evaluation Council (EFSEC). A process is provided for certain projects to purchase verifiable GHG emissions reductions from an electric generating facility located within the Western Interconnection.

Removes the 2 percent rate increase for investor-owned utilities that invest in distributed generation and certain energy efficiency measures, and specifies that the deferral period for costs associated with long-term commitments cannot exceed 24 months.

Removes the following provisions: (1) authorizing GA to purchase 100 plug-in hybrid vehicles; (2) authorizing municipal utilities and PUDs to mitigate their GHG emissions from utility operations; and (3) creating the Office of State Climatologist.