

E2SSB 5735 - H COMM AMD
By Committee on Ways & Means

NOT ADOPTED 04/14/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that
4 Washington should maintain its leadership on climate change by
5 continuing Washington's participation in the development of any federal
6 or regional programs to reduce greenhouse gas emissions.

7 The legislature finds that by continuing its participation in the
8 development of federal and regional programs to reduce greenhouse gas
9 emissions, Washington maximizes its ability to influence and shape
10 those programs so that they may reflect Washington's emissions
11 portfolio, including the state's hydroelectric system, aid Washington's
12 forest resources and agricultural industries, reduce Washington's
13 expenditures on imported fuels, and create a strong economy.

14 The legislature further finds that by continuing Washington's
15 participation in the development of federal and regional programs to
16 reduce greenhouse gas emissions, Washington has the opportunity to
17 protect Washington families and small businesses from undue financial
18 impacts arising from the transition to a clean energy future, to
19 protect Washington's economy from disadvantages resulting from
20 competition with industries that do not participate in carbon control
21 efforts, and provide appropriate credit for those businesses that have
22 taken early actions to reduce greenhouse gas emissions.

23 The legislature further finds that well-designed climate policies
24 should mitigate any impacts on the cost and affordability of food,
25 housing, energy, transportation, and other routine expenses on low and
26 moderate-income people, and ensure that economic benefits are available
27 to both urban and rural communities, and to traditionally underserved
28 communities.

29 The legislature further finds the continued efforts to reduce
30 greenhouse gases in the transportation sector through the continued

1 development of alternative fuels, improved vehicle technologies, and
2 providing choices that reduce overall vehicle miles traveled to be
3 critical steps in creating jobs, fostering economic growth, and
4 reducing our reliance on foreign petroleum-based transportation fuels.

5 NEW SECTION. **Sec. 2.** NATIONAL AND REGIONAL GREENHOUSE GAS
6 REDUCTION PROGRAMS. (1) The office of the governor and the department
7 are directed to represent the state's interests in the development of
8 a national program to reduce greenhouse gas emissions. As part of this
9 effort, the department is directed to continue to participate in the
10 western climate initiative to develop a regional program to reduce
11 greenhouse gas emissions. This regional program must be used to
12 influence the national program to reduce greenhouse gas emissions.

13 (2) In order to provide needed information to the legislature,
14 government agencies, and those persons who are responsible for
15 significant emissions of greenhouse gases so that they may effectively
16 plan for the long-term emissions reductions under RCW 70.235.020, the
17 department shall develop:

18 (a) Its best estimate of emissions levels in 2012 for persons that
19 the department reasonably believes emit twenty-five thousand metric
20 tons of carbon dioxide equivalent or greater each year;

21 (b) The trajectory of emissions reductions necessary to meet the
22 2020 requirement of reducing the state's greenhouse gas emissions to
23 1990 levels; and

24 (c) An assessment of the state's emissions sources and sectors
25 where reductions in the state's greenhouse gas emissions cannot be
26 realized and the sectors are necessary to ensure the economic viability
27 of the state.

28 (3) The department shall develop the estimated 2012 emissions
29 levels and the 2020 reduction trajectories in consultation with
30 business and other interested stakeholders by December 15, 2009. The
31 reduction trajectories must reflect the department's best estimate of
32 each person's proportionate share of the 2020 reductions and must
33 consider each person's use of industry best practices and of fuels that
34 are either carbon neutral or that do not emit greenhouse gases.
35 Consideration may be given to industries whose processes are inherently
36 energy intensive.

1 (4) The department shall provide each person with its estimate of
2 the person's 2012 emissions levels and the 2020 reduction trajectory as
3 soon as they are available, but no later than December 15, 2009. Each
4 person or groups of persons representing a sector of Washington's
5 economy may recommend strategies or actions to the department that they
6 believe would achieve the needed reductions. The recommendations must
7 be provided to the department by June 15, 2010.

8 (5) The department shall provide a report to the legislature by
9 December 31, 2010, that includes the 2012 emissions estimates, the 2020
10 reduction trajectories, and the strategies and actions, including
11 complementary policies that collectively will achieve the state's 2020
12 emissions reduction in RCW 70.235.020. The report must also include a
13 description of any additional authority that is needed to implement the
14 identified strategies or actions.

15 (6) For purposes of this section, emissions of carbon dioxide from
16 industrial combustion of biomass in the form of fuel wood, wood waste,
17 wood byproducts, including pulping liquor, and wood residuals may not
18 be considered a greenhouse gas as long as the region's silvicultural
19 sequestration capacity is maintained or increased.

20 NEW SECTION. **Sec. 3.** ACCOUNTABILITY. The governor shall
21 designate a currently employed full-time equivalent person as the
22 single point of accountability for all energy and climate change
23 initiatives within state agencies. All agencies, councils, or work
24 groups with energy or climate change initiatives must coordinate with
25 this designee. This position must be funded from current full-time
26 equivalent allocations without increasing budgets or staffing levels.
27 If duties must be shifted in the agency, they must be shifted to
28 current full-time equivalent allocations.

29 NEW SECTION. **Sec. 4.** FORESTRY OFFSET POLICY. The department, in
30 consultation with the department of natural resources and the forest
31 carbon working group, shall develop recommendations for the state's
32 policy for forestry offset projects within Washington. The agencies
33 and the forest carbon working group must use the 2008 report of the
34 forest carbon working group as the starting point in developing the
35 policy. The final policy must be submitted to the legislature by
36 December 31, 2010. The policy recommendations must address:

1 (1) Specific standards and guidelines that will support carbon
2 accounting in managed forests participating in an offset program;

3 (2) Recommendations on how any carbon that is reduced or
4 sequestered by a forestry offset project may be eligible for an offset
5 credit available to coal-fired power plants under section 7 of this
6 act, and within regional and federal climate policies;

7 (3) Recognition of management activities that increase carbon
8 stocks including, but not limited to, thinning, lengthening rotations,
9 increased retention of trees after harvest, fertilization, genetics,
10 timber stand improvement, fire management, and specific site class and
11 productivity of a managed forest;

12 (4) Specific standards and guidelines to support wood products
13 accounting, recognizing that carbon is stored in products after trees
14 are harvested, including the use of the one hundred year method which
15 estimates the amount of carbon stored in the wood products that are
16 projected to remain in use over one hundred years;

17 (5) Guidelines on how transfer of development rights or on-site
18 cluster development projects may be used to create forestry offset
19 projects;

20 (6) Guidelines on how forestry offset projects and forestry
21 financial incentive programs can work together so that Washington's
22 forest landowners will not be disadvantaged in comparison to other
23 jurisdictions participating in a national or regional cap and trade
24 program;

25 (7) How to verify or certify carbon stocks in a manner that will
26 not be administratively burdensome; and

27 (8) Specific standards for how landowners who are no longer able or
28 willing to meet their offset obligations can opt out of the program.
29 The specific standards must require the landowner to procure other
30 allowances or offsets equal to the offsets issued under the management
31 plan for any offsets they have sold and surrender those offsets and any
32 unsold offsets to the state.

33 NEW SECTION. **Sec. 5.** FINANCIAL INCENTIVES FOR FORESTRY. The
34 department of ecology, in consultation with the department of natural
35 resources and the forest carbon working group, shall develop and
36 deliver to the legislature by December 31, 2010, recommendations for
37 financial incentives for forestry and forest products that will

1 recognize and encourage forest land management and use of forest
2 products that will maintain or increase carbon sequestration,
3 including, but not limited to:

4 (1) Thinning, lengthening of rotations, increased retention of
5 trees at harvest, fertilization, genetics, timber stand improvement,
6 and fire management;

7 (2) Production of wood products while maintaining or increasing
8 carbon stocks on the ground; and

9 (3) Retention of high carbon stocks where there is no obligation to
10 retain such stocks.

11 NEW SECTION. **Sec. 6.** AGRICULTURAL OFFSET POLICY. The department,
12 in consultation with Washington State University, the department of
13 agriculture, and the agriculture carbon working group shall develop
14 recommendations for agricultural offset projects within Washington.
15 The agencies and the agricultural carbon working group must use the
16 2008 report of the agricultural carbon working group as the starting
17 point in developing the policy. The final recommendations of the
18 agriculture carbon working group must be submitted to the legislature
19 by December 31, 2010. The policy recommendations must address:

20 (1) A process and timeline to survey, catalog, and map Washington
21 soils in a manner that describes the carbon soil sequestration level of
22 the soils;

23 (2) Activities that would increase carbon sequestration in soils
24 and therefore potentially qualify as offset projects; and

25 (3) Recommendations on how any carbon that is reduced or
26 sequestered by an agricultural offset project may be eligible for an
27 offset credit available to coal-fired power plants under section 7 of
28 this act, and within regional and federal climate policies.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.94 RCW
30 to read as follows:

31 STANDARDS FOR COAL-FIRED POWER PLANTS. (1) This section only
32 applies to coal-fired power plants within Washington that burn over one
33 million tons of coal per year.

34 (2) By 2015, coal-fired power plants must reduce emissions of
35 greenhouse gases by one million metric tons unless the state is

1 participating in a national or regional cap and trade program by or
2 during 2012 that covers the emissions from these plants.

3 (3) The department shall negotiate and implement a compliance
4 agreement with the coal-fired power plants covered by this section that
5 describes how the required emissions reduction will be accomplished.
6 The compliance agreement may include, but is not limited to, measures
7 such as the substitution of biomass and other renewable resources for
8 more carbon-intensive fuels as well as the limited use of offset
9 projects. No more than forty-nine percent of the total emissions
10 reductions from the coal-fired power plants covered by this section may
11 be satisfied with offsets. The department shall report to the
12 legislature on the status and content of the compliance agreement by
13 December 31, 2011.

14 (4)(a) If an order or approval is required as a result of the
15 reductions required under subsection (2) of this section, the
16 department shall issue the order or approval within sixty days of
17 receipt of a complete application that demonstrates to the department's
18 satisfaction that the coal-fired power plant will achieve the emissions
19 reduction required by this section.

20 (b) Within thirty days after issuing an order or approval, the
21 department must submit to the legislature notice of the issuance of an
22 order or approval and the findings that led to the issuance of the
23 order or approval. The department must also post the notice of the
24 issuance of an order or approval and the findings that led to the
25 issuance of the order or approval on their department web site.

26 (5) If a coal-fired power plant subject to this section has begun
27 to reduce its emissions as a result of this requirement and the state
28 subsequently participates in a national or regional cap and trade
29 program, the state shall advocate for appropriate credit to be given
30 for these early reductions.

31 (6) If the compliance agreement under this section requires
32 substitution of biomass or other renewable resources for more carbon
33 intensive fuels, the substitution does not constitute an upgrade as
34 defined in RCW 80.80.010.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 47.38 RCW
36 to read as follows:

37 ALTERNATIVE FUELS CORRIDOR PILOT. (1) As a necessary and desirable

1 step to encourage public and private investment in both electric
2 vehicle infrastructure and alternative fuel distribution
3 infrastructure, the legislature authorizes an alternative fuels
4 corridor pilot project capable of supporting electric vehicle charging
5 and battery exchange technologies, and providing alternative fuel
6 distribution sites.

7 (2) To the extent permitted under federal programs, rules, or law,
8 the department of transportation shall pursue partnership agreements
9 with other public and private entities for the use of land and
10 facilities along state routes and within interstate highway rights-of-
11 way for an alternative fuels corridor pilot project. The department of
12 transportation shall strive to have the partnership agreement in place
13 by June 30, 2010. At a minimum, the pilot project must:

14 (a) Limit renewable fuel and vehicle technology offerings to those
15 with a forecasted demand over the next fifteen years and approved by
16 the department of transportation;

17 (b) Ensure that a pilot project site does not compete with existing
18 retail businesses in the same geographic area for the provision of the
19 same refueling services, recharging technologies, or other retail
20 commercial activities;

21 (c) Provide existing truck stop operators and retail truck
22 refueling businesses with an absolute right of first refusal over the
23 offering of refueling and recharging services to class six trucks with
24 a maximum gross vehicle weight of twenty-six thousand pounds within the
25 same geographic area identified for a possible pilot project site;

26 (d) Reach agreement with the department of services for the blind
27 ensuring that any activities at host sites do not materially affect the
28 revenues forecasted from their vending operations at each site;

29 (e) Regulate the internal rate of return from the partnership,
30 including provisions to reduce or eliminate the level of state support
31 once the partnership attains economic self-sufficiency;

32 (f) Be limited to not more than five locations on state-owned land
33 within federal interstate rights-of-way or state highway rights-of-way
34 in Washington; and

35 (g) Be limited in duration to a term of years reasonably necessary
36 for the partnership to recover the cost of capital investments, plus
37 the regulated internal rate of return.

1 (3) The department of transportation is not responsible for
2 providing capital equipment or operating refueling or recharging
3 services. The department of transportation must provide periodic
4 status reports on the pilot project to the office of financial
5 management and the relevant standing committees of the legislature at
6 least every biennium.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.19 RCW
8 to read as follows:

9 ELECTRIFICATION OF THE WEST COAST INTERSTATE. (1) The office of
10 the governor, in consultation with the department of community, trade,
11 and economic development, the department of ecology, the department of
12 general administration, the department of transportation, and
13 Washington State University, shall develop a project for the
14 electrification of the west coast interstate and associated
15 metropolitan centers.

16 (2) The project should be developed in collaboration with
17 representatives of Oregon and California, the federal government, and
18 the private sector, as appropriate.

19 (3) The state shall seek federal funds for purchasing electric
20 vehicles and the installation of public infrastructure for electric and
21 other high-efficiency, zero or low-carbon vehicles. The department of
22 ecology shall also seek funds to expand the network of truck stop
23 electrification facilities and port electrification facilities.

24 **Sec. 10.** RCW 47.80.030 and 2005 c 328 s 2 are each amended to read
25 as follows:

26 (1) Each regional transportation planning organization shall
27 develop in cooperation with the department of transportation, providers
28 of public transportation and high capacity transportation, ports, and
29 local governments within the region, adopt, and periodically update a
30 regional transportation plan that:

31 (a) Is based on a least cost planning methodology that identifies
32 the most cost-effective facilities, services, and programs;

33 (b) Identifies existing or planned transportation facilities,
34 services, and programs, including but not limited to major roadways
35 including state highways and regional arterials, transit and
36 nonmotorized services and facilities, multimodal and intermodal

1 facilities, marine ports and airports, railroads, and noncapital
2 programs including transportation demand management that should
3 function as an integrated regional transportation system, giving
4 emphasis to those facilities, services, and programs that exhibit one
5 or more of the following characteristics:

6 (i) Crosses member county lines;

7 (ii) Is or will be used by a significant number of people who live
8 or work outside the county in which the facility, service, or project
9 is located;

10 (iii) Significant impacts are expected to be felt in more than one
11 county;

12 (iv) Potentially adverse impacts of the facility, service, program,
13 or project can be better avoided or mitigated through adherence to
14 regional policies;

15 (v) Transportation needs addressed by a project have been
16 identified by the regional transportation planning process and the
17 remedy is deemed to have regional significance; and

18 (vi) Provides for system continuity;

19 (c) Establishes level of service standards for state highways and
20 state ferry routes, with the exception of transportation facilities of
21 statewide significance as defined in RCW 47.06.140. These regionally
22 established level of service standards for state highways and state
23 ferries shall be developed jointly with the department of
24 transportation, to encourage consistency across jurisdictions. In
25 establishing level of service standards for state highways and state
26 ferries, consideration shall be given for the necessary balance between
27 providing for the free interjurisdictional movement of people and goods
28 and the needs of local commuters using state facilities;

29 (d) Includes a financial plan demonstrating how the regional
30 transportation plan can be implemented, indicating resources from
31 public and private sources that are reasonably expected to be made
32 available to carry out the plan, and recommending any innovative
33 financing techniques to finance needed facilities, services, and
34 programs;

35 (e) Assesses regional development patterns, capital investment and
36 other measures necessary to:

37 (i) Ensure the preservation of the existing regional transportation
38 system, including requirements for operational improvements,

1 resurfacing, restoration, and rehabilitation of existing and future
2 major roadways, as well as operations, maintenance, modernization, and
3 rehabilitation of existing and future transit, railroad systems and
4 corridors, and nonmotorized facilities; and

5 (ii) Make the most efficient use of existing transportation
6 facilities to relieve vehicular congestion and maximize the mobility of
7 people and goods;

8 (f) Sets forth a proposed regional transportation approach,
9 including capital investments, service improvements, programs, and
10 transportation demand management measures to guide the development of
11 the integrated, multimodal regional transportation system. For
12 regional growth centers, the approach must address transportation
13 concurrency strategies required under RCW 36.70A.070 and include a
14 measurement of vehicle level of service for off-peak periods and total
15 multimodal capacity for peak periods; and

16 (g) Where appropriate, sets forth the relationship of high capacity
17 transportation providers and other public transit providers with regard
18 to responsibility for, and the coordination between, services and
19 facilities.

20 (2) Regional transportation planning organizations encompassing at
21 least one county planning under RCW 36.70A.040 with a population
22 greater than two hundred forty-five thousand must adopt a regional
23 transportation plan for those counties that implement the goals to
24 reduce annual per capita vehicle miles traveled under RCW 47.01.440.

25 (3) The organization shall review the regional transportation plan
26 biennially for currency and forward the adopted plan along with
27 documentation of the biennial review to the state department of
28 transportation.

29 ~~((+3))~~ (4) All transportation projects, programs, and
30 transportation demand management measures within the region that have
31 an impact upon regional facilities or services must be consistent with
32 the plan and with the adopted regional growth and transportation
33 strategies.

34 (5) In satisfying the requirements of subsections (2) and (3) of
35 this section, the organization shall review and document consistency
36 with locally adopted comprehensive plans of all jurisdictions fully
37 planning under chapter 36.70A RCW within the boundary of the

1 organization and shall identify any potential conflicts between the
2 locally adopted comprehensive plans and regional efforts to reduce per
3 capita vehicle miles.

4 **Sec. 11.** RCW 43.19.648 and 2007 c 348 s 202 are each amended to
5 read as follows:

6 AGGREGATE PURCHASING OF ELECTRIC VEHICLES. (1) Effective June 1,
7 2015, all state agencies and local government subdivisions of the
8 state, to the extent determined practicable by the rules adopted by the
9 department of community, trade, and economic development pursuant to
10 RCW 43.325.080, are required to satisfy one hundred percent of their
11 fuel usage for operating publicly owned vessels, vehicles, and
12 construction equipment from electricity or biofuel.

13 (2) The department of general administration is directed to work
14 with California, Oregon, other states, federal agencies, local
15 governments, and private fleet owners to encourage aggregate purchasing
16 of electric vehicles to the maximum extent possible.

17 (3) Except for cars owned or operated by the Washington state
18 patrol, when tires on vehicles in the state's motor vehicle fleet are
19 replaced, they must be replaced with tires that have the same or better
20 rolling resistance as the original tires.

21 NEW SECTION. **Sec. 12.** TRIBAL GOVERNMENTS. (1) The department
22 must consult with tribal governments upon request on elements of the
23 state's climate change program that may impact tribal governments, such
24 as their voluntary development of offset projects.

25 (2) Nothing in this chapter is intended to expand state authority
26 over Indian country as that term is defined in 18 U.S.C. Sec. 1151.

27 NEW SECTION. **Sec. 13.** Captions used in this act are not any part
28 of the law.

29 NEW SECTION. **Sec. 14.** Sections 1 through 4 and 6 of this act are
30 each added to chapter 70.235 RCW.

31 NEW SECTION. **Sec. 15.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 16.** If specific funding for the purposes of
4 this act, referencing this act by bill or chapter number, is not
5 provided by June 30, 2009, in the omnibus appropriations act, this act
6 is null and void."

7 Correct the title.

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