

# HOUSE BILL REPORT

## HB 1819

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**As Reported by House Committee On:**  
Ecology & Parks  
General Government Appropriations

**Title:** An act relating to reducing greenhouse gas emissions.

**Brief Description:** Reducing greenhouse gas emissions.

**Sponsors:** Representatives Upthegrove, Dunshee, Dickerson, McCoy, Rolfes, Eddy, Hunt, White, Appleton, Carlyle, Darneille, Kagi, Pedersen, Conway, Sells, Nelson, Chase, Ormsby, Kenney and Williams; by request of Governor Gregoire.

**Brief History:**

**Committee Activity:**

Ecology & Parks: 2/3/09, 2/17/09 [DPS];

General Government Appropriations: 2/25/09, 2/26/09 [DP2S(w/o sub EPAR)].

**Brief Summary of Second Substitute Bill**

- Creates criteria for the cap of carbon emissions.
- Specifies the emissions covered in the cap.
- Requires an independent economic analysis of the impact to Washington consumers, businesses, and citizens if Washington entered into a regional or federal cap-and-trade program.
- Sets reporting requirements for fuels.

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### HOUSE COMMITTEE ON ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Chase, Dickerson, Dunshee, Eddy, Finn, Hudgins and Morris.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Kretz, Kristiansen, Orcutt and Shea.

**Staff:** Jaclyn Ford (786-7339)

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*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:**

### Greenhouse Gas Emissions Reductions.

In 2008 the Legislature required the following statewide greenhouse gases (GHG) emission reductions:

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

### Multisector Market-Based System.

The Department of Ecology (DOE), in coordination with the Western Climate Initiative (WCI), developed a design for a regional multisector market-based system to limit and reduce GHG emissions. The DOE and the Department of Community, Trade and Economic Development (DCTED) were to provide the Legislature with specific recommendations for implementing the design for the multisector market-based system in Washington.

### Reporting.

Owners or operators of a fleet of on-road motor vehicles that emit at least 2,500 metric tons of direct GHG emissions annually in the state, and a source or combination of sources that emit at least 10,000 metric tons of direct GHG emissions annually in the state, must report their total annual GHG emissions beginning in 2010 for their 2009 emissions.

### Emissions Trading.

An authority sets a limit or "cap" on the amount of a pollutant that can be emitted. Companies or other groups are issued emission permits and are required to hold an equivalent number of "allowances" or "credits" which represent the right to emit a specific amount. The total amount of allowances and credits cannot exceed the cap, limiting total emissions to that level. Companies that need to increase their emission allowance must buy credits from those who pollute less. The transfer of allowances is referred to as a "trade."

There are active trading programs in several pollutants. In the United States, there is a national market to reduce acid rain (sulfur dioxide) and several regional markets in nitrous oxide. The largest active GHG trading program is the European Union Emission Trading Scheme. In the United States, 10 Northeast and Mid-Atlantic states participate in the Regional Greenhouse Gas Initiative (RGGI). The RGGI is the first mandatory, market-based carbon dioxide emissions reduction program in the United States. The RGGI states will cap carbon dioxide emissions from the power sector, and then require a 10 percent reduction in these emissions by 2018.

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## **Summary of Substitute Bill:**

### Economic Analysis.

The Forecasting Office of the Office of Financial Management, in consultation with members of the Governor's Council of Economic Advisors must initiate an independent

economic analysis of the impact to Washington consumers, businesses, and citizens if Washington entered into a regional or federal cap-and-trade program.

The economic analysis must include:

- various economic scenarios, such as when Washington has a robust economy and when Washington is in an economic downturn;
- the economic impact sector by sector, including the impact to the forest products manufacturing sector, and Washington's port districts;
- how to address trade competition from countries and states that are not participating in a cap-and-trade program;
- how to ensure that economic benefits are available to both urban and rural communities; and
- the impact on the cost and affordability of food, housing, energy, transportation, and other routine expenses on low and moderate-income people.

The analysis must be submitted to the Legislature by December 1, 2010.

#### Covered Emissions.

Beginning in 2012, the cap must cover emissions that meet or exceed 25,000 metric tons of carbon dioxide equivalents annually from: (1) electricity that is generated or consumed within the state; (2) combustion at industrial and commercial facilities; and (3) industrial processes.

Beginning in 2015, the cap must also cover emissions that meet or exceed 25,000 metric tons of carbon dioxide equivalents annually from transportation fuel combustion within the state, residential fuel combustion within the state, and fuel delivered or sold for industrial and commercial combustion within the state.

#### Emissions Not Covered.

Carbon dioxide emissions not covered by the cap include emissions from the industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals, as long as the region's silvicultural sequestration capacity is maintained or increased. Emissions from the combustion of biofuels or the biofuel component of blended fuels is also not covered.

#### The Cap.

The cap, together with other complementary policies, must ensure that Washington meets its emission reduction requirements.

The allowance caps for each year from 2012 to 2014 must be set in advance of 2012. Allowance caps for each year after 2014 must be set at least three years in advance of the start of the next compliance period. The allowance caps must decline each year until Washington's GHG emissions meet the required reductions.

The 2012 allowance cap must be set at the expected 2012 emissions. In 2015 after the annual reduction is made to the cap, the allowance cap must be increased by the expected level of new covered emissions.

The price of an allowance may not exceed \$12 for the years 2012 and 2013.

The allowance cap may also be adjusted to account for expansion of the capped region or discovery of incorrect or inaccurate data used to determine the allowance cap.

#### Market Design Work Group.

The Director of the DOE must convene a market design work group. The Director of the DOE and the Director of the DCTED must act as co-chairs. The other members of the market design work group include:

1. the Chair of the Utilities and Transportation Commission;
2. the State Auditor;
3. the Attorney General;
4. the Director of the Department of Financial Institutions; and
5. a citizen knowledgeable about and skilled in market trading mechanisms.

The market design work group must make recommendations to the Legislature regarding:

- auction design;
- methods to ensure a functional and efficient market free from manipulation and speculation;
- issuing and retiring allowances;
- the inclusion of offsets projects;
- compliance and enforcement;
- providing consumer protection;
- strategies to coordinate with a regional or federal cap-and-trade program;
- the circumstances under which the Governor may authorize an order to delay aspects of a cap-and-trade program;
- a dedicated account for possible revenues that would provide for:
  - assisting low and moderate-income homes with energy efficiency investment;
  - reducing price impacts for consumers with incomes within 250 percent of the federal poverty level;
  - strategies to create jobs and provide for worker transition, especially in and for those communities and workers that have been disproportionately affected by economic downturns, through efforts to reduce emissions, reduce energy use, and develop clean energy supplies; and
  - recognizing early actions to reduce GHG emissions where those actions do not qualify for early reduction allowances;
- whether a cap-and-trade program should include emissions below the 25,000 metric ton threshold; and
- how to ensure any secondary market is stable and serves the purpose of fairly and economically reducing GHG emissions including:
  - maintaining transparency; and
  - equitable market access.

The market design work group must submit its preliminary recommendations to the Legislature by December 1, 2009, and its final recommendations to the Legislature by December 1, 2010.

#### Forestry Incentives and Offset Projects.

The DOE, in consultation with the Forest Practices Board, the Department of Natural Resources, and the Forest Carbon Working Group, must develop and deliver legislation to implement a financial incentives program for forestry and forest products to the Legislature by December 31, 2010, as well as a preliminary draft of the state's policy for forestry offset projects within Washington.

#### Agricultural Offset Projects.

The DOE, in consultation with Washington State University and the Washington State Department of Agriculture, must reestablish the Agriculture Carbon Working Group to develop recommendations for agricultural offset projects within Washington. A report on the progress of the Agriculture Carbon Working Group must be submitted to the Legislature for review by December 31, 2010. The final recommendations of the Agriculture Carbon Working Group must be submitted to the Legislature by July 1, 2011.

#### Tribal Consultation.

The DOE must consult with tribal governments, upon request, on any elements of a cap-and-trade program that may impact tribal governments, such as their voluntary development of offset projects.

#### Fuel Reporting Requirements.

The importer, seller, deliverer, or distributor of fuels for use in Washington where the combusted fuel delivered equals or exceeds 10,000 metric tons of GHG emissions must report their emissions to the DOE. The importer, seller, deliverer, or distributor of electricity from outside Washington for consumption in Washington must report the emissions of GHG associated with the generation of the electricity delivered into the state where the annual emissions associated with electricity equal or exceed 10,000 metric tons of GHG emissions. Reporting must begin in 2011 for GHG emissions in 2010.

#### Pollution Control Hearings Board.

Appeals of orders and penalties issued must be to the Pollution Control Hearings Board.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill deleted:

- the authorization for the DOE to create an allowance trading program (Program) for covered emissions;
- the establishment of a work group to develop and provide a recommendation to the Governor on the timing and terms of Washington's participation in the regional cap-and-trade program;
- the jurisdiction formula;
- the authorization of allowances;
- the requirement for the DOE to consult with other jurisdictions in the WCI, Washington state agencies with expertise on markets, and other states and federal agencies that have designed or implemented a market for regulating air pollutants in order to design a trading market that includes provisions to prevent market manipulation and ensure a functional and efficient market;
- the requirement for the DOE to develop the design for the auctioning of the state's allowances;

- the authorization for the Director of the DOE to enter into an agreement with representatives of other jurisdictions within the capped region for the formation of an organization that may carry out administrative functions;
  - the authorization for the DOE to compile and post annual summaries of GHG emissions for public information;
  - the creation of the Climate Protection Account;
  - the authorization for compliance periods and violations; and
  - the authorization for the DOE to set criteria for issuing and accepting credits for offset projects.
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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note on substitute bill requested on February 17, 2009.

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

**Staff Summary of Public Testimony:**

(In support) This bill will make the state competitive in the carbon constrained economy. We have to control our destiny; the most effective and fair way is to enter into this Program. This bill is planning for our future. This will help in the federal debate. If we continue business as usual, costs to the state will be high. Implementing the cap will end fuel dependence. This will gradually reduce emissions over time and create a fair and equitable program. Washington will lead the way and avoid the cost of not taking action. Washington has an opportunity to be the place for economic growth, investment, and innovation. Cap-and-trade is the best way to lead. Continued leadership on this issue is paramount. This will allow for investment and companies will be the beneficiaries of increased innovation. All legitimate scientists agree that man-made climate change is affecting us all. Washington spends so much money on foreign oil; renewable energy can be affordable and efficient. Our children's future is at stake. Making more money for companies does not trump the lives of our children. Our carbon dioxide levels keep going up. Our state's economy will suffer much more if we do nothing. This will help our economy, our health, and our environment. If we do nothing, we will lose clean energy jobs. Private businesses will reduce GHG emissions, and this bill will help with innovation and incentives. The increased price for energy is inevitable; fossil fuels are finite. Washington would become consumers and not producers. This is good for industry and good for the state. Our work will inform federal work and therefore, we need to continue. The care of creation and Earth are moral and ethical issues and the responsibility of everyone. We are all connected and humans cannot have a vibrant life if Earth has been degraded. The care of creation is about justice. The people affected by global warming are the low-income people - we must assist them. This will allow Washington to lead and provide Washington with overall benefits. Clean industries need assistance and this bill will help provide that. Climate change must be addressed to allow Washington to prosper. Washington needs to be at the table when the federal government builds a national program. Washington can be a model for others.

Washington needs to be proactive rather than sit back and watch things happen, and then react. Washington can lead the nation in the green energy boom. There should be a 100 percent auction and utilize few offsets. Solutions are at hand. This bill helps us save money, provide new green jobs, and reduce our dependency on foreign oil.

(With concerns) Transparency and administrative simplicity should be a part of the cap-and-trade program. Cost predictability is needed; this bill needs a price ceiling on allowances. Forestry is the greatest carbon sink in the state. Without a forest manufacturing sector, there is no active forestry. A stake-holder process is a good method to bring recommendations to the Legislature. There are many uncertainties and unknowns in the bill. Rulemaking should advance after a work group. The work group should address which state agency should have authority to start the rulemaking.

(Information only) Cap-and-trade is not the only way to reduce GHG emissions.

(Opposed) This bill will tie the hands of the state. This bill is not needed now; federal action is imminent. Cap-and-trade is not the best method for controlling GHG emissions, especially at a regional level. California's model is a better option, as they have a regulatory program for each industry. This bill will stifle investment for solar panels. Stability in jobs will decrease, and it will create a competitive disadvantage. Individual businesses are acting to reduce energy consumption without this bill. This is a global issue, not a regional issue. This bill will not reduce our emissions. People will be able to game the system. Accounting is complex. This bill will tax energy. Our government should work on the economy, not cap-and-trade. This bill will hinder American manufacturing and not reduce GHG emissions globally. Forestry supports cap-and-trade but only as part of a national program. Jobs and industries will be at risk. Businesses will not have enough money for capital investment. This bill fails to deliver a viable forestry offset program. This is a risky work in progress, and this bill fails to give early credit and leads to uncertainty in the system. More specifics are needed around the offset program. Climate change is not from man-made actions. Science does not support this policy. This will not provide any public benefit. Washington should make sure of the facts before moving forward. Auction and offset issues need more clarity. This bill will deny citizens basic civil right and the right to choose their own energy. There will never be enough renewable fuels to meet our demands. This is horrible timing and will lead to job cuts. This is a disincentive for business. Washington should make a program that everyone wants to do. Regulations on employment providing businesses is a roadblock. This bill raises uncertainty and may not allow upgrades from lack of funding. Producers may leave the state. Washington needs to get this right. Hydroelectric is not adequately protected. This is a blank canvas for the DOE. Smaller businesses will not be able to compete with larger companies. This bill would divert industry dollars from investment into the allowance program.

**Persons Testifying:** (In support) Jay Manning, Department of Ecology; Keith Phillips, Office of the Governor; Clifford Traisman, Washington Environmental Council and Washington Conservation Voters; Bob Doppelt, University of Oregon; Jessica Finn Coven, Ross Macfarlane, Maureen Daniek, and Joelle Robinson, Climate Solutions; David Allen, McKinstry; William Brent, Weber Shandwick; Maud Daudon, Seattle Northwest Securities; John Little, Northwest Carpenters; Sister Mimi Maloney, Sisters of the Holy Name; Tony Lee, Solid Ground; Rachel DaSilva, Sound Alliance; Chris D'Cuoto, Neah Power Systems;

Phillip Schmidt-Pathman, Green Conversion System; Tom Eckmann, Greenwood Technologies; Janet Ducey; Daniel Weise; Sara Parker; Marion Wineman, League of Women Voters of Washington; Tim Botkin, Cenerge Corp; Bernie Meyer; Tiffany Isaacs, Washington Student Public Interest Research Group; Elizabeth Willmott, King County; Doug Howell, National Wildlife Federation; Genesee Adkins, City of Seattle; Paul Birkeland; Alex Moore and Ethan Schaffer, Bainbridge Graduate Institute; Randi Gladwell; and Donna Albert, Olympia Climate Action.

(With concerns) Mark Doumit, Washington Forest Protection Association; Ken Johnson, Puget Sound Energy; Greg Hanon, Western States Petroleum Association; and Johan Hellman, Washington Public Ports Association.

(Information Only) Todd Myers, Washington Policy Institute.

(Opposed) Representative Haler; Gary Chandler, Association of Washington Business; Kyle Davis, Pacificorp; Steve Smith, Cardinal Glass Industries; Cali Dally, Northwest Food Processors Association; Bart Kale, Nucor Steel; Llewellyn Matthews, Northwest Pulp and Paper Association; Mike Mosman, Port Blakely Tree Farms; Dave McEntee, Simpson; Wes McCart, Stevens County Farm Bureau; Dick Ewing, Okanagon County Farm Bureau; John Stuhlmiller, Washington Farm Bureau; Robert Bleu, Shining Ocean; Ezekiel Lyer; Nick Sherwood; Vivian Henderson, Washington Association of Property Owners; Scott Simmons, Farm Bureau; James Woodward, United Steelworkers; Sean O’Sullivan, Association of Western Pulp and Paper Workers; Van Collins, Associated General Contractors; Vicki Austin, Washington Public Utilities District Association; Nancy Hiteshue, Washington Roundtable; Pete Chamberlain; Bruce Chattin, Washington Aggregates and Concrete Association; Tamra Smikenich; and Stephanie Turinly.

**Persons Signed In To Testify But Not Testifying:** Bernie Fischlowitz-Roberts.

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## HOUSE COMMITTEE ON GENERAL GOVERNMENT 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 Ecology & Parks. Signed by 8 members: Representatives Darneille, Chair; Dunshee, Hudgins, Kenney, Pedersen, Sells, Van De Wege and Williams.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake and Short.

**Staff:** Owen Rowe (786-7391)

### **Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Ecology & Parks:**

The second substitute bill clarifies that the Legislature does not intend for a carbon auction to take place in Washington without prior approval from the Legislature. It also changes the date for early reduction allowances from January 1, 2008, to January 1, 1990, so that



reductions in GHG emissions that occur after January 1, 1990, and before January 1, 2012, and that are approved by the DOE, are counted as early reduction allowances. The second substitute bill exempts manufacturing-related emissions from pulp and paper production from the emissions covered under the cap. The market design work group is eliminated.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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

**Staff Summary of Public Testimony:**

(In support) Global warming is a reality that affects natural resources. The current bill does not address all concerns but it's a good start to get ahead of global warming. We will support the bill as long as the interest of the state forest sector will continue to be considered. This is Governor's request legislation and is a work in progress. This Legislature has done much to deal with the effects of global warming, and now a cap on carbon emissions that is enforceable is needed. This bill clarifies that biomass emissions are not included as part of any cap on emissions. There are other externalities of global climate change such as reduced crop yields and forest fires that will have a negative effect on the financial security and economic stability of the state if this issue is not addressed.

(Neutral) It is important to wait for a complete fiscal note before this bill is acted upon. The setting of rates for auctioning of carbon offsets is being underestimated, as is the volatility of the price of carbon under a cap-and-trade system.

(Opposed) This bill penalizes firms that have already invested millions of dollars in reducing fossil fuel consumption. A bill is needed that does not punish firms for past investments in cleaner technology. The bill will have a negative effect on businesses and job creation, and does not address concerns of the business community. This will affect the competitiveness of the state and businesses will move elsewhere to avoid the added costs related to regulation of carbon emissions. There are more questions than answers on how a WCI cap-and-trade system would affect state businesses. This issue begs for a national solution, which will have a greater impact overall. Is it fiscally prudent to spend money on a regional system when a national system is coming? A third-party independent entity should be conducting the economic analysis under this bill, not an executive agency like the Office of Financial Management. The business community opposes carbon allowances. If a cap-and-trade system is enacted, the state will lose thousands of family wage jobs. Several elements in this bill are prejudicial to steel producers.

**Persons Testifying:** (In support) Clifford Traisman, Washington Environmental Council and Washington Conservation Voters; Jessica Finn Coven, Climate Solutions; Janice Adair, Department of Ecology; Tony Usibeli, Department of Community, Trade & Economic Development; Joe LaTourette, Ducks Unlimited National Wildlife Federation; and Craig Partridge, Department of Natural Resources Commissioner of Public Lands.

(Neutral) Brandon Houskeeper, Washington Policy Center.

(Opposed) Van Collins, Associated General Contractors; Anders Johnson, Woodland Truck Line, Incorporated; Dave McEntee, Simpson; Tim Boyd, Industrial Customers of Northwest Utilities, Port Blakely Tree Farms, Boise Inc. Boise Cascade, Vaagen Brothers Lumber and Washington State Potato Commission; Nancy Hiteshue, Washington Roundtable; Brad Tower, Schnitzer Steel; Llewellyn Matthews, Northwest Pulp & Paper Association; and Grant Nelson, Association of Washington Business.

**Persons Signed In To Testify But Not Testifying:** None.