

SENATE BILL REPORT

SB 6092

As Reported by Senate Committee On:
Environment, Energy & Technology, January 30, 2024
Ways & Means, February 5, 2024

Title: An act relating to disclosure of greenhouse gas emissions.

Brief Description: Concerning disclosure of greenhouse gas emissions.

Sponsors: Senators Shewmake and Nguyen.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/17/24, 1/30/24 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/03/24, 2/05/24 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Requires the Washington State Department of Ecology to research and deliver a report on the Security and Exchange Commission's (SEC) proposed climate disclosure requirements due to the Legislature by July 1, 2025.
- The report must make recommendations for how Washington may align its own reporting requirements with the SEC's and whether they will be sufficient for purposes of complying with Washington's climate related policy goals.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6092 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

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.

Minority Report: Do not pass.

Signed by Senators MacEwen, Ranking Member; Short.

Minority Report: That it be referred without recommendation.

Signed by Senator Boehnke.

Staff: Adam Brunmeier (786-7357)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6092 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Randall, Saldaña, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Muzzall, Torres and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Warnick, Assistant Ranking Member, Capital; Boehnke and Braun.

Staff: Wendy Brown (786-7359)

Background: Greenhouse Gas Protocol. The Greenhouse Gas (GHG) Protocol is a standardized framework used by governmental bodies and private entities to measure and manage greenhouse gas emissions. The protocol creates three categories of emissions: scope 1—direct emissions from activities and sources under an entity's control; scope 2—indirect emissions from an entity's energy consumption; and scope 3—the indirect emissions arising out of the entities activities such as the supply chain, employee activities, or emissions from consumption of the entity's products.

California's Corporate Data Accountability Act requires the California Air Resource Board to create emission reporting guidelines based on the greenhouse gas protocol. Entities doing business in California with annual revenues exceeding \$1 billion are required to begin reporting on all three categories of emissions by 2027.

Greenhouse Gas Reporting Requirements. Under the Clean Air Act facilities that emit the equivalent of at least 10,000 metric tons of carbon dioxide per year are required to report their emissions to the Washington State Department of Ecology (Ecology). Under the Climate Commitment Act entities with emissions equivalent to 25,000 metric tons may be required to participate in the cap-and-invest program. Ecology uses data from reports to

monitor and assess performance of obligations under the cap-and-invest program.

The current standards set by Ecology designate specific sources of emissions which must be reported on. They also provide guidelines for the measuring and reporting of emissions generated by a reporting entity's specific activities. The current reporting requirements do not address scope 3 emissions as set out in the greenhouse gas protocols.

Securities and Exchange Commission Proposed Rule. The Securities and Exchange Commission (SEC) requires business that offer and sell securities to file disclosures related to their financial activity and operations to provide transparency and identify risks for investors. This includes climate-related disclosures and the SEC is currently considering a proposed rule (87 FR 21334), that creates new climate-related disclosure requirements.

The reporting framework established under the proposed rule are based on the GHG Protocol and would require certain disclosures related to scope 1, scope 2, and scope 3 emissions as well as disclosures relating to other climate-related risks affecting the registrant's operations.

Summary of Bill (Second Substitute): Climate-Related Disclosure Recommendations. Ecology is directed to develop policy recommendations to address climate-related disclosure requirements in Washington. Ecology must research and deliver a report on the climate-related disclosure requirements administered by the SEC, including those contemplated under the proposed rule 87 Fed. Reg. 21,334 (proposed rule).

By July 1, 2025 Ecology must deliver a report to the legislature that contains their findings and recommendations including:

- how Washington law can align with the climate-related disclosure requirements administered by the SEC and described in the proposed rule;
- how disclosures are filed, accepted, and made available to the public, including the possibility for acceptance of disclosures filed under other federal or state programs;
- determinations on whether the disclosures required under the SEC's proposed rule are sufficient to track emissions for the purposes of compliance with Washington climate policies; and
- special consideration is to be given to determining whether the scope 1, scope 2, and scope 3 emissions are adequately tracked, and which entities should be obligated to report in Washington.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Changes the deadline of the legislative report from January 1, 2025 to July 1, 2025.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Removes the greenhouse gas emission reporting requirements and related language under the original bill.
- Directs Ecology to research and deliver a report to the legislature on the SEC's climate-related disclosures, specifically the rule proposed under 87 Fed. Reg. 21,334 (April 11, 2022). The report must be delivered by January 1, 2025 and address several topics including:
 1. how Washington can align its own climate-related reporting requirements to the program described in the SEC's proposed rule;
 2. how disclosures should be filed, accepted, and published, including the possible acceptance of disclosures under other state or federal programs; and
 3. whether the SEC's climate-related disclosures will be sufficient for purposes of complying with Washington's climate-related policies, with special consideration for the adequacy of reporting related to scope 1, scope 2, and scope 3 emissions, and determining which entities must be obligated to report.
- Defines climate-related disclosure.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Summary of Public Testimony on Original Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: A small number of large entities contribute a large proportion of total emissions in Washington. This bill is geared towards those large entities, who are likely covered under the California bill or similar reporting requirements due to their presence in other markets. We need this information to conduct a more complete inventory of carbon emissions in Washington. It is also important to make this information available to investors to help guide their decision-making.

CON: The bill should not go into effect until after California's Air Resource Board has completed its rulemaking process to minimize the burden on reporting entities. The bill may have a chilling effect on entities in the resource market and may discourage them from doing business in Washington. The bill should clarify that participation in energy markets does not subject an entity to the requirements. There are additional concerns regarding duplicative requirements under other Washington reporting schemes such as the CCA. The bill has far-reaching implications for businesses, it will be costly and complex without actually reducing emissions. It will impact smaller businesses and require information and data from entities in other markets and jurisdictions.

OTHER: This bill may be helpful for understanding the impact of other entities in the world

economy. This bill should do more to actually address the emissions of entities in the global economy. Concerns are expressed as to whether healthcare entities are intended to be captured in the bill. It will be very challenging for hospitals to comply with the requirements. Request hospitals be excluded from coverage.

Persons Testifying (Environment, Energy & Technology): PRO: Donna Albert, P.E. (retired); Joe Nguyen.

CON: Jay Balasbas , PacifiCorp ; Peter Godlewski , Association of Washington Business ; Brandon Houskeeper, Alliance of Western Energy Consumers.

OTHER: John Worthington; Remy Kerr, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on Second Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* OTHER: The bill should define transportation to include shipping emissions. Port cities do not want to disclose and include shipping emissions coming in from China and other countries. Ecology should be required to reel in these free pollutions. Data from Ecology that doesn't include shipping emissions does not include the reality of environmental damage.

Persons Testifying (Ways & Means): OTHER: John Worthington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.