House Bill 3470

Sponsored by Representative BARNHART

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Requires Environmental Quality Commission to adopt by rule statewide greenhouse gas emissions limits for years 2020 and 2050 and to adopt interim statewide greenhouse gas emissions limits consistent with 2050 limit every five years.

Requires commission to adopt action plan for ensuring statewide greenhouse gas emissions do not exceed limits adopted by commission.

Requires commission to adopt program to ensure statewide greenhouse gas emissions do not exceed limits adopted by commission. Requires Department of Environmental Quality to administer program.

Authorizes department to require registration and reporting by certain sources of greenhouse gas emissions.

Establishes required timeline for adopting rules under provisions of Act.


A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 3 to 9 of this 2015 Act shall be known and may be cited as the Climate Stability and Justice Act of 2015.

SECTION 2. Sections 3 to 9 of this 2015 Act shall be added to and made a part of ORS chapter 468A.

SECTION 3. The Legislative Assembly finds and declares that:

(1) The effects of global warming and ocean acidification caused by greenhouse gas emissions threaten to have significant detrimental impacts on public health and the economic vitality, natural resources and environment of this state.

(2) The diverse impacts of global warming and ocean acidification include the exacerbation of air quality problems, a reduction in the quantity and quality of water available to this state from mountain snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and food sources, degradation of the natural environment from increased severity of forest fires and pest infestations of stressed land based ecosystems, extreme weather events and an increase in the incidences of infection diseases, asthma and other human health-related problems.

(3) Global warming and ocean acidification will have detrimental effects on some of this state's most important industries, including agriculture, forestry, commercial fishing, recreation and tourism. Global warming will also strain the electricity and domestic water supplies that are necessary for economic stability and the most basic levels of human well-being and survival.

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted. New sections are in boldfaced type.

LC 3242
(4) National and international actions are necessary to fully address global warming and ocean acidification. National actions in the United States, however, are emerging too slowly to address the scope, magnitude and urgency of the problem. Because many greenhouse gases persist in the atmosphere for millennia, the costs of early policy inaction will be severe. In the absence of effective national engagement, it is the responsibility of the individual states, deemed to be the laboratories of process, to take immediate, leadership actions to address global warming and ocean acidification.

(5) By exercising a leadership role in addressing global warming and ocean acidification, the State of Oregon will position its economy, technology centers, financial institutions and businesses to benefit from the national and international efforts that must occur to reduce greenhouse gas emissions. By joining together with other neighboring leadership jurisdictions that present similar resolve to address global warming and ocean acidification, this state will play a role in encouraging more states, the federal government and the international community to act.

(6) The climate crisis is pressing. It is therefore the intent of the Legislative Assembly to obtain greenhouse gas emission reductions through legally binding regulatory mechanisms.

SECTION 4. As used in sections 3 to 9 of this 2015 Act:

(1) “Allowance” means an authorization to emit, during a specified year, up to one ton of carbon dioxide equivalent.

(2) “Alternative compliance mechanism” means a flexible compliance schedule, alternative control technology, process change, product substitution or other, similar action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as would be achieved by a direct emissions reduction.

(3) “Carbon dioxide equivalent” means the global warming potential of a greenhouse gas reflected in units of carbon dioxide.

(4) “Cost-effective” or “cost-effectiveness” means the cost per unit of reduced greenhouse gas emissions adjusted for the global warming potential of each unit of reduced greenhouse gas emissions.

(5) “Direct emissions reduction” means a greenhouse gas emission reduction action made by a source at that source.

(6) “Emissions reduction measure” means programs, measures, standards and alternative compliance mechanisms that are applicable to sources and are designed to reduce greenhouse gas emissions.

(7) “Greenhouse gas” means any gas that has contributed to anthropogenic global warming, including but not limited to carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

(8) “Responsible state agencies” means all state agencies with jurisdiction over sources of greenhouse gases, including but not limited to the Environmental Quality Commission, the Department of Environmental Quality, the Public Utilities Commission, the State Department of Energy, the Department of Transportation and the Department of Land Conservation and Development.

(9) “Source” means any source, or category of sources, of greenhouse gas emissions that emits greenhouse gases at a level of significance such that the Environmental Quality Com-
mission determines that participation by the source in the program established by rule under
section 8 of this 2015 Act will contribute to statewide greenhouse gas emissions reductions.

(10) “Statewide greenhouse gas emissions” means the total annual emissions of
greenhouse gases in this state, expressed in tons of carbon dioxide and carbon dioxide
equivalents, and all emissions of greenhouse gases from the generation of electricity gener-
ated outside this state and delivered to and consumed in this state, accounting for trans-
mission and distribution line losses.

GREENHOUSE GAS EMISSIONS LIMITS AND ACTION PLAN

SECTION 5. (1) The Department of Environmental Quality shall determine what the
statewide greenhouse gas emissions level was in 1990 and shall:
(a) Report its findings to the Governor, the Legislative Assembly and the Environmental
Quality Commission; and
(b) Post its findings on the department’s website.
(2) The commission shall treat the 1990 statewide greenhouse gas emissions level as de-
termined by the department under subsection (1) of this section as the baseline statewide
greenhouse gas emissions level for adopting rules as required under sections 7 and 8 of this
2015 Act.

SECTION 6. (1) The Environmental Quality Commission shall adopt by rule:
(a) A statewide greenhouse gas emissions limit for the year 2020 that is based on the best
available science and that limits emissions to levels that are at least 10 percent below 1990
levels; and
(b) A statewide greenhouse gas emissions limit for the year 2050 that is based on the best
available science and that limits emissions to levels that are at least 75 percent below 1990
levels.
(2) Beginning on July 1, 2017, and once every five years after that date, the commission
shall adopt an interim, five-year statewide greenhouse gas emissions limit consistent with
the greenhouse gas emissions reductions necessary to meet the greenhouse gas emissions
limit for the year 2050 adopted under this section.
(3) The commission may adjust greenhouse gas emissions limits adopted under this sec-
tion as necessary to achieve goals consistent with best available science.

SECTION 7. (1) The Environmental Quality Commission shall develop an action plan for
preventing exceedance of the statewide greenhouse gas emissions limits set forth in section
6 of this 2015 Act. The commission shall consult with all responsible state agencies in de-
veloping the action plan.
(2) The action plan shall:
(a) Identify and make recommendations on emissions reduction measures, alternative
compliance mechanisms, and market-based compliance mechanisms that sources may use to
maximize feasible and cost-effective reductions of greenhouse gas emissions.
(b) Identify potential monetary and nonmonetary incentives for sources to reduce
greenhouse gas emissions.
(c) Require cooperation, to the greatest extent feasible and cost-effective, among local
governments, state agencies, other states and the federal government in identifying and
carrying out strategic and integrated measures to reduce greenhouse gas emissions.
(d) Identify opportunities for greenhouse gas emissions reductions from all verifiable and enforceable voluntary actions, including but not limited to carbon sequestration and best management practices.

(e) Identify all state laws and programs related to greenhouse gas emissions regulation that will require adjustments in order to function in a coordinated manner to meet the goals of the action plan.

(f) Ensure that greenhouse gas emissions reduction regulations and programs are administered in a manner that, to the extent feasible and necessary, directs public and private investment toward benefitting disadvantaged communities and providing opportunities for beneficial participation by small businesses, schools, affordable housing associations and other community-based institutions.

(3) In developing the action plan, the commission shall:

(a) Consider the total potential costs and total potential economic and noneconomic benefits and risks of the action plan with relation to this state's economy, the environment and public health;

(b) Consider the relative contribution of each source to statewide greenhouse gas emissions and the potential for the adverse effects that any regulations adopted pursuant to the action plan may have on small businesses;

(c) Use the best available economic models, emissions estimation techniques and other scientific methods; and

(d) Identify de minimis thresholds for greenhouse gas emissions by certain sources below which greenhouse gas emission reduction requirements adopted pursuant to the action plan would not apply.

(4) The commission shall appoint an environmental justice advisory committee to assist in developing the action plan. The advisory committee shall have at least three members and shall include representatives from communities in this state that are at the highest risk of being negatively affected by air pollution, including but not limited to representatives from communities with minority populations or low-income populations. The commission shall receive nominations for membership on the committee from environmental justice organizations.

(5)(a) The commission shall appoint an economic and technology advancement advisory committee to assist the commission, for purposes of developing the action plan, in:

(A) Identifying new technologies, research, demonstration projects and funding opportunities for reducing greenhouse gas emissions;

(B) Developing state, national and international partnerships and technology transfer opportunities; and

(C) Identifying and assessing research and advanced technology investment and incentive opportunities that will assist in achieving greenhouse gas emissions reductions.

(b) The advisory committee appointed under this subsection may also advise the commission on state, regional, national and international economic and technological developments related to greenhouse gas emissions reductions.

(6) The commission shall review and update the action plan adopted under this section at least once every five years.

GREENHOUSE GAS EMISSIONS REDUCTION PROGRAM
SECTION 8. (1) The Environmental Quality Commission shall adopt by rule a program to carry out the actions identified in the action plan adopted under section 7 of this 2015 Act. The Department of Environmental Quality shall administer the program.

(2) A program adopted under this section may include, but need not be limited to, a system of market-based declining annual aggregate emissions limits for sources. A market-based system adopted under this subsection shall:

(a) Ensure the attainment of maximum technologically feasible and cost-effective greenhouse gas emissions reductions, in the aggregate, from all sources subject to the program.

(b) Prevent the increase in the emissions of toxic air contaminants or criteria air pollutants due to compliance with the program.

(c) Include provisions necessary to obtain and maintain reciprocity with the market-based systems of other states or countries.

(d) Be designed to address the potential for direct, indirect and cumulative emissions impacts of the program on communities adversely impacted by air pollution.

(3) In developing the program under this section, the commission shall:

(a) Design the program in a manner that is equitable, seeks to minimize costs to sources and encourages early actions to reduce greenhouse gas emissions;

(b) Endeavor to ensure that actions taken under the program do not disproportionately adversely impact low-income communities;

(c) Ensure that sources that have voluntarily reduced greenhouse gas emissions prior to implementation of the program receive credits for early voluntary reductions;

(d) Consider the cost-effectiveness of the program;

(e) Endeavor to maximize the overall societal benefits of the program, including but not limited to reductions in other air pollutants, diversification of energy sources and other benefits to the economy, environment and public health;

(f) Minimize the administrative burdens in complying with the program;

(g) Minimize reductions in greenhouse gas emissions within this state being offset by greenhouse gas emissions increases outside this state; and

(h) Consider the significance of the contributions of each source to statewide emissions of greenhouse gases.

(4) The commission shall consult with all other responsible state agencies in adopting a program under this section.

(5) The commission shall ensure that any greenhouse gas emissions reductions achieved pursuant to the program adopted under this section are real, permanent, quantifiable, verifiable and enforceable.

(6)(a) This section and the rules adopted under this section shall not be interpreted to limit the authority of any state agency to adopt and implement greenhouse gas emissions reductions measures.

(b) The requirements of this section and any rules adopted under this section are in addition to any requirements that may be imposed under federal law and shall be interpreted in a manner consistent with federal law.
SECTION 9. (1) In addition to any registration and reporting that may be required under ORS 468A.050, the Environmental Quality Commission by rule may require registration and reporting regarding greenhouse gas emissions by any source.

(2) Rules adopted under this section must:

(a) Include requirements for recordkeeping of greenhouse gas emissions to be maintained through separate ledger accounts for carbon dioxide and carbon dioxide equivalents;

(b) Require compliance monitoring by the Department of Environmental Quality;

(c) Ensure rigorous and consistent accounting of emissions and provide reporting tools and formats to ensure collection of necessary data; and

(d) Ensure that sources maintain comprehensive records of all reported greenhouse gas emissions.

(3) By rule the commission may establish a schedule of fees for persons required to register pursuant to this section or ORS 468A.050. The commission shall base the fees upon the anticipated cost of developing and implementing the programs for which the persons register, including but not limited to the costs of processing registrations, conducting compliance inspections and enforcement. A registration must be accompanied by any fee specified by the commission by rule. Subsequent annual registration fees are payable as prescribed by rule of the commission.

(4) The commission shall periodically review and update the reporting and registration requirements adopted under this section to ensure that the requirements are, to the extent feasible and appropriate, consistent with the greenhouse gas emissions reporting and registration requirements of other states, the federal government or other countries.

(5) The commission shall require the department to make emissions reporting information received pursuant to the rules adopted under this section available online to the public.

TIMELINES

SECTION 10. (1) The Environmental Quality Commission and the Department of Environmental Quality shall meet the following deadlines in complying with sections 5, 6, 7 and 8 of this 2015 Act:

(a) By July 1, 2016, the department shall make its determination and report on 1990 statewide greenhouse gas emissions levels as required by section 5 of this 2015 Act.

(b) By January 1, 2017, the commission shall:

(A) Adopt by rule the statewide greenhouse gas emissions limits as provided in section 6 of this 2015 Act; and

(B) Adopt by rule the action plan required by section 7 of this 2015 Act.

(c) By January 1, 2018, the commission shall adopt by rule the program required under section 8 of this 2015 Act.

(2) In addition to meeting the deadlines imposed by subsection (1) of this section, the commission may adopt by rule a list of early actions for greenhouse gas emissions reductions that sources may take to receive credits for early voluntary reductions under the program adopted by rule under section 8 of this 2015 Act.

REPEAL OF ORS 468A.205 AND CONFORMING AMENDMENTS
SECTION 11. ORS 468A.205 is repealed.

SECTION 12. ORS 184.889 is amended to read:

184.889. (1) The Oregon Transportation Commission, after consultation with and in cooperation with metropolitan planning organizations, other state agencies, local governments and stakeholders, as a part of the state transportation policy developed and maintained under ORS 184.618, shall adopt a statewide transportation strategy on greenhouse gas emissions to aid in achieving [the] greenhouse gas emissions [reduction goals] consistent with the limits set forth in [ORS 468A.205] section 6 of this 2015 Act. The commission shall focus on reducing greenhouse gas emissions resulting from transportation. In developing the strategy, the commission shall take into account state and federal programs, policies and incentives related to reducing greenhouse gas emissions.

(2) The commission shall actively solicit public review and comment in the development of the strategy.

SECTION 13. ORS 468A.235 is amended to read:

468A.235. The Oregon Global Warming Commission shall recommend ways to coordinate state and local efforts to reduce greenhouse gas emissions in Oregon consistent with the limits on greenhouse gas emissions [reduction goals] established by [ORS 468A.205] section 6 of this 2015 Act and shall recommend efforts to help Oregon prepare for the effects of global warming. The Office of the Governor and state agencies working on multistate and regional efforts to reduce greenhouse gas emissions shall inform the commission about these efforts and shall consider input from the commission for such efforts.

SECTION 14. ORS 468A.240 is amended to read:

468A.240. (1) In furtherance of the limits on greenhouse gas emissions [reduction goals] established by [ORS 468A.205] section 6 of this 2015 Act, the Oregon Global Warming Commission may recommend statutory and administrative changes, policy measures and other recommendations to be carried out by state and local governments, businesses, nonprofit organizations or residents. In developing its recommendations, the commission shall consider economic, environmental, health and social costs, and the risks and benefits of alternative strategies, including least-cost options. The commission shall solicit and consider public comment relating to statutory, administrative or policy recommendations.

(2) The commission shall examine greenhouse gas cap-and-trade systems, including a statewide and multistate carbon cap-and-trade system and market-based mechanisms, as a means of achieving the limits on greenhouse gas emissions [reduction goals] established by [ORS 468A.205] section 6 of this 2015 Act.

(3) The commission shall examine possible funding mechanisms to obtain low-cost greenhouse gas emissions reductions and energy efficiency enhancements, including but not limited to those in the natural gas industry.

SECTION 15. ORS 468A.250 is amended to read:

468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

(a) Economic, environmental, health and social assessments of global warming impacts on Oregon and the Pacific Northwest;

(b) Existing greenhouse gas emissions reduction policies and measures;

(c) Economic, environmental, health and social costs, and the risks and benefits of alternative strategies, including least-cost options;

(d) The physical science of global warming;

(e) Progress toward preventing exceedance of the greenhouse gas emissions [reduction goals]
limits established by [ORS 468A.205] section 6 of this 2015 Act;

(f) Greenhouse gases emitted by various sectors of the state economy, including but not limited
to industrial, transportation and utility sectors;

(g) Technological progress on sources of energy the use of which generates no or low
greenhouse gas emissions and methods for carbon sequestration;

(h) Efforts to identify the greenhouse gas emissions attributable to the residential and commer-
cial building sectors;

(i) The carbon sequestration potential of Oregon’s forests, alternative methods of forest man-
agement that can increase carbon sequestration and reduce the loss of carbon sequestration to
wildfire, changes in the mortality and distribution of tree and other plant species and the extent to
which carbon is stored in tree-based building materials;

(j) The advancement of regional, national and international policies to reduce greenhouse gas
emissions;

(k) Local and regional efforts to prepare for the effects of global warming; and

(L) Any other information, policies or analyses that the commission determines will aid in the
achievement of the greenhouse gas emissions [reduction goals] limits established by [ORS

(2) The commission shall:

(a) Work with the State Department of Energy and the Department of Environmental Quality
to evaluate all gases with the potential to be greenhouse gases and to determine a carbon dioxide
equivalency for those gases; and

(b) Use regional and national baseline studies of building performance to identify incremental
targets for the reduction of greenhouse gas emissions attributable to residential and commercial
building construction and operations.

SECTION 16. ORS 468A.260 is amended to read:

468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative As-
sembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year that de-
scribes Oregon’s progress toward [achievement] preventing exceedance of the greenhouse gas
emissions [reduction goals] limits established by [ORS 468A.205] section 6 of this 2015 Act. The
report may include relevant issues and trends of significance, including trends of greenhouse gas
emissions, emerging public policy and technological advances. The report also may discuss measures
the state may adopt to mitigate the impacts of global warming on the environment, the economy and
the residents of Oregon and to prepare for those impacts.

SECTION 17. Section 9, chapter 751, Oregon Laws 2009, is amended to read:

Sec. 9. (1) The Public Utility Commission shall develop estimates of the rate impacts for electric
companies and natural gas companies to meet the following alternative greenhouse gas emission
reduction goals for 2020:

(a) Ten percent below 1990 levels, as specified in [ORS 468A.205] section 6 of this 2015 Act;

and

(b) Fifteen percent below 2005 levels.

(2) The commission shall submit a report presenting the estimates and explaining the analysis
used to develop the estimates to the appropriate interim committee of the Legislative Assembly prior
to November 1 of each even-numbered year.

SECTION 18. The repeal of ORS 468A.205 by section 11 of this 2015 Act and the amend-
ments to ORS 184.889, 468A.235, 468A.240, 468A.250 and 468A.260 and section 9, chapter 751,

UNIT CAPTIONS

SECTION 19. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.