

Senate Bill 80

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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**.

Directs Environmental Quality Commission to adopt by rule greenhouse gas cap-and-trade system to achieve greenhouse gas emissions reduction goals. Requires application of cap-and-trade system to all energy facilities. Allows suspension of state's cap-and-trade system if federal cap-and-trade system is adopted. Allows commission to require registration and reporting relating to greenhouse gas emissions and to establish registration fees.

Establishes Climate Improvement Fund. Continuously appropriates moneys in fund to Department of Environmental Quality for certain expenses related to greenhouse gas emissions.

Creates Oregon Climate Initiative Task Force. Authorizes task force to develop and present design recommendations for greenhouse gas cap-and-trade system to department. Sunsets task force on January 2, 2012.

Requires department to report on development of greenhouse gas cap-and-trade system and to submit to Seventy-sixth Legislative Assembly rules adopted by commission that implement cap-and-trade system.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to greenhouse gas emissions; creating new provisions; amending ORS 468A.210; appropriating money; and declaring an emergency.

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

DEFINITIONS

SECTION 1. As used in sections 1 to 8 of this 2009 Act:

(1) **"Allowance" means an authorization, issued by a state or province within the capped region, to emit one metric ton of a greenhouse gas as measured in carbon dioxide equivalent.**

(2) **"Capped region" means this state and provinces or other states that have obtained reciprocity to permit the trading and retirement of allowances and offsets among their greenhouse gas cap-and-trade systems.**

(3) **"Carbon dioxide equivalent" means the quantity of a given greenhouse gas multiplied by a global warming potential factor.**

(4) **"Global warming potential factor" means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.**

(5) **"Greenhouse gas" has the meaning given that term in ORS 468A.210.**

(6) **"Greenhouse gas cap-and-trade system" has the meaning given that term in ORS 468A.210.**

(7) **"Offset" means a reduction in emissions of one metric ton of a greenhouse gas, as measured in carbon dioxide equivalent, that is not subject to the greenhouse gas cap-and-**

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

1 trade system and that is used to offset greenhouse gas emissions subject to the cap-and-
2 trade system.

3
4 **GREENHOUSE GAS CAP-AND-TRADE SYSTEM**

5
6 **SECTION 2.** (1) The Environmental Quality Commission shall, after consulting with the
7 Department of Environmental Quality, adopt by rule a greenhouse gas cap-and-trade system
8 to reduce greenhouse gas emissions in an amount not to exceed the greenhouse gas emis-
9 sions reduction goals set forth in ORS 468A.205. The greenhouse gas cap-and-trade system
10 shall include, but not be limited to:

11 (a) A declining cap on total greenhouse gas emissions from:

12 (A) Air contamination sources located in this state as specified by the commission;

13 (B) The generation and transmission of electricity used within this state; and

14 (C) The combustion of fuel within this state;

15 (b) A requirement that the following persons retire allowances or offsets equal to
16 greenhouse gas emissions subject to the cap established under paragraph (a) of this sub-
17 section that the commission determines are attributable to such persons:

18 (A) The owner or operator of an air contamination source specified by the commission
19 pursuant to paragraph (a)(A) of this subsection, beginning January 1, 2012;

20 (B) The importer, seller, deliverer or distributor of electricity for use in this state, be-
21 ginning January 1, 2012; and

22 (C) The importer, seller, deliverer or distributor of fuel for use in this state, beginning
23 January 1, 2015;

24 (c) Procedures for the trading and retirement of allowances and offsets, including allow-
25 ances and offsets from other states or provinces in the capped region;

26 (d) Requirements for recordkeeping and compliance reporting;

27 (e) Requirements for third-party verification of greenhouse gas emissions;

28 (f) Procedures for the commission to issue allowances to persons listed under paragraph
29 (b) of this subsection;

30 (g) Procedures, protocols and limitations for the generation and retirement of offsets;

31 (h) Minimum standards that the greenhouse gas cap-and-trade systems of a province or
32 another state must meet to obtain reciprocity with Oregon's greenhouse gas cap-and-trade
33 system; and

34 (i) In addition to any other penalty provided by law, a requirement that any person that
35 fails to retire allowances or offsets equal to its greenhouse gas emissions pursuant to para-
36 graph (b) of this subsection must retire additional allowances for excess greenhouse gas
37 emissions.

38 (2) In adopting rules pursuant to subsection (1) of this section, the commission shall
39 consider:

40 (a) Establishing applicability thresholds, exemptions and deferrals concerning the
41 greenhouse gas cap-and-trade system;

42 (b) Adopting provisions needed to obtain and maintain reciprocity with the greenhouse
43 gas cap-and-trade system of another state or a province within the capped region;

44 (c) Including greenhouse gas emissions from the production of fuel used within this state
45 to the emissions subject to the cap under subsection (1)(a) of this section, including but not

1 limited to fuel that is produced outside of this state; and

2 (d) Adopting criteria and procedures to certify providers of third-party verification ser-
3 vices for greenhouse gas emissions.

4 (3)(a) The commission shall adopt a greenhouse gas cap-and-trade system pursuant to
5 this section no later than December 31, 2010.

6 (b) The commission shall implement the greenhouse gas cap-and-trade system no earlier
7 than July 1, 2011.

8
9 **APPLICATION OF THE GREENHOUSE GAS CAP-AND-TRADE**
10 **SYSTEM TO ENERGY FACILITIES**

11
12 **SECTION 3. The Legislative Assembly finds that:**

13 (1) Climate change poses a serious threat to the economic well-being, public health,
14 safety, natural resources and environment of this state;

15 (2) The Governor’s Climate Change Integration Group January 2008 final report deter-
16 mined that electricity consumption constituted the second largest source of greenhouse gas
17 emissions in Oregon during 2004;

18 (3) The rapidly increasing scientific understanding of climate change, and of the current
19 and future projected impacts of climate change, represents a clear showing of a significant
20 threat to the public health, safety and the environment; and

21 (4) The significant threat to the public health, safety and the environment requires ap-
22 plication of sections 1 to 8 of this 2009 Act to all energy facilities and facilities, both as de-
23 fined in ORS 469.300, operating in this state for which a site certificate was issued before the
24 effective date of this 2009 Act.

25 **SECTION 4.** (1) Notwithstanding ORS 469.401, sections 1 to 8 of this 2009 Act apply to all
26 energy facilities and facilities, both as defined in ORS 469.300, operating in Oregon.

27 (2) Pursuant to the greenhouse gas cap-and-trade system adopted by rule by the Envi-
28 ronmental Quality Commission under section 2 of this 2009 Act, a facility for which a site
29 certificate was issued before the effective date of this 2009 Act shall be issued allowances,
30 at no cost, equivalent to the carbon dioxide offsets the facility obtained pursuant to ORS
31 469.503 (2)(c)(B) and (C) if the facility is required to retire allowances or offsets pursuant to
32 the greenhouse gas cap-and-trade system. The commission shall consult with the Energy
33 Facility Siting Council to determine the amount of allowances that are equivalent to carbon
34 dioxide offsets obtained by a facility.

35 **SECTION 5.** (1) After the effective date of this 2009 Act, a proposed facility shall be found
36 in compliance with standards set forth in ORS 469.503 (2)(a) and (b) if:

37 (a) The facility is subject to the greenhouse gas cap-and-trade system adopted by rule
38 by the Environmental Quality Commission pursuant to section 2 of this 2009 Act; and

39 (b) The Energy Facility Siting Council by rule or order determines the greenhouse gas
40 cap-and-trade system provides a reduction in carbon dioxide emissions equal to or more than
41 the standards set forth in ORS 469.503 (2)(a) and (b).

42 (2) If, after the effective date of this 2009 Act, the council by rule or order determines
43 the greenhouse gas cap-and-trade system provides a reduction in carbon dioxide emissions
44 that is less than the standards set forth in ORS 469.503 (2)(a) and (b), the council may by rule
45 or order determine that compliance with the cap-and-trade system constitutes partial com-

1 **pliance with the standards set forth in ORS 469.503 (2)(a) and (b).**

2
3 **GREENHOUSE GAS EMISSIONS REGISTRATION AND REPORTING**

4
5 **SECTION 6. (1) In addition to any registration and reporting that may be required under**
6 **ORS 468A.050, the Environmental Quality Commission by rule may require registration and**
7 **reporting regarding greenhouse gas emissions by:**

8 (a) **Any person who imports, sells, delivers or distributes for use in this state electricity,**
9 **the generation of which emits greenhouse gases; and**

10 (b) **Any person who imports, sells, delivers or distributes for use in this state fuel that**
11 **generates greenhouse gases when combusted, including but not limited to fuel that is**
12 **produced outside this state.**

13 (2) **By rule the commission may establish a schedule of fees for persons required to reg-**
14 **ister pursuant to this section or ORS 468A.050. The commission shall base the fees upon the**
15 **anticipated cost of developing and implementing the programs for which the persons register,**
16 **including but not limited to the costs of processing registrations, conducting compliance in-**
17 **spections and enforcement. A registration must be accompanied by any fee specified by the**
18 **commission in rule. Subsequent annual registration fees are payable as prescribed by rule**
19 **of the commission.**

20 (3) **The implementation date specified in section 2 (3) of this 2009 Act does not apply to**
21 **registration and reporting that may be required under this section and ORS 468A.050.**

22
23 **TRANSITION TO A FEDERAL GREENHOUSE GAS CAP-AND-TRADE SYSTEM**

24
25 **SECTION 7. If a federal greenhouse gas cap-and-trade system is adopted after the effec-**
26 **tive date of this 2009 Act, the Environmental Quality Commission by rule may suspend all**
27 **or any part of Oregon’s greenhouse gas cap-and-trade system if the commission determines**
28 **that the corresponding part of the federal greenhouse gas cap-and-trade system provides:**

29 (1) **A reduction in greenhouse gas emissions in Oregon that is equal to or more than the**
30 **emissions reduced under Oregon’s greenhouse gas cap-and-trade system; or**

31 (2) **A reduction in greenhouse gas emissions in Oregon that is less than the emissions**
32 **reduced under Oregon’s greenhouse gas cap-and-trade system, provided that:**

33 (a) **The federal cap-and-trade system recognizes and values allowances issued by this**
34 **state; and**

35 (b) **Federal law allows this state to implement other programs to achieve the greenhouse**
36 **gas emissions reduction goals set forth in ORS 468A.205.**

37
38 **CLIMATE IMPROVEMENT FUND**

39
40 **SECTION 8. (1) The Climate Improvement Fund is established in the State Treasury,**
41 **separate and distinct from the General Fund. Interest earned by the Climate Improvement**
42 **Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the**
43 **Department of Environmental Quality for the purposes specified in subsection (3) of this**
44 **section.**

45 (2) **The Climate Improvement Fund consists of:**

1 (a) Funds appropriated by the Legislative Assembly; and

2 (b) Any revenues derived from gifts or grants given to the state for the purposes de-
3 scribed in subsection (3) of this section.

4 (3) The department shall use moneys in the Climate Improvement Fund to:

5 (a) Reduce or sequester greenhouse gas emissions;

6 (b) Mitigate the impacts of climate change;

7 (c) Reduce economic impacts of the greenhouse gas cap-and-trade system;

8 (d) Improve energy efficiency and conservation; and

9 (e) Administer Oregon's greenhouse gas cap-and-trade system and any other greenhouse
10 gas emissions programs implemented to achieve the greenhouse gas emissions reduction
11 goals set forth in ORS 468A.205.

12
13 OREGON CLIMATE INITIATIVE TASK FORCE
14

15 **SECTION 9.** (1) There is created the Oregon Climate Initiative Task Force that shall be
16 responsible for developing and presenting design recommendations for a greenhouse gas
17 cap-and-trade system to the Department of Environmental Quality.

18 (2) The Oregon Climate Initiative Task Force shall consist of nine members appointed
19 by the Governor. The members shall be selected based upon their ability to represent the
20 best interests of Oregon as a whole. To the extent possible, members of the task force shall
21 have general knowledge in the areas of climate change, environmental protection, public
22 health and the economy and shall represent the geographic diversity of this state.

23 (3) In addition to the public members, the Director of the Department of Environmental
24 Quality and the Director of the State Department of Energy shall be nonvoting ex officio
25 members of the task force.

26 (4)(a) In order to develop its design recommendations, the task force shall confer with:

27 (A) A broad spectrum of Oregon's public at large;

28 (B) Stakeholders, including but not limited to businesses, environmental organizations
29 and labor organizations; and

30 (C) Agencies of state government, as defined in ORS 174.111.

31 (b) To facilitate the duties of the task force in conferring with the public under this
32 subsection, the Department of Environmental Quality shall organize and conduct public
33 hearings throughout the state to solicit public testimony representative of all segments of
34 Oregon's population.

35 (5) In developing its design recommendations, the task force shall consider the Environ-
36 mental Quality Commission's mandate under section 2 of this 2009 Act to adopt by rule a
37 greenhouse gas cap-and-trade system in order to reduce greenhouse gas emissions in an
38 amount not to exceed the greenhouse gas emissions reduction goals set forth in ORS
39 468A.205.

40 (6) In developing its design recommendations, the task force shall evaluate the following:

41 (a) The potential costs and benefits of the design recommendations to the environment,
42 public health and economy of Oregon, including but not limited to the potential costs and
43 benefits of coordinating the design recommendations with the regional greenhouse gas cap-
44 and-trade system proposed by the Western Climate Initiative in its design recommendations
45 dated September 23, 2008, provided that the task force may consider revisions to the Sep-

1 tember 23, 2008, design recommendations;

2 (b) The distribution of allowances among persons subject to the design recommendations;

3 (c) The use of offsets to reduce the costs of complying with the design recommendations,
4 to encourage reductions of emissions not subject to the greenhouse gas cap-and-trade system
5 and to foster innovation in the manner in which greenhouse gas emissions may be reduced;

6 (d) The use of financial measures to reduce or sequester greenhouse gas emissions, to
7 mitigate the impacts of climate change, to reduce the economic impacts of the design rec-
8 ommendations and to improve energy efficiency and conservation; and

9 (e) Other issues, as determined by the task force, related to the design of a greenhouse
10 gas cap-and-trade system for Oregon.

11 (7) If there is a vacancy for any cause, the Governor shall make an appointment to be-
12 come effective immediately.

13 (8) The Governor shall select a chairperson and a vice chairperson from among the
14 members of the task force.

15 (9) The task force shall meet at times and places specified by the call of the chairperson
16 or by a majority of its voting members.

17 (10) A majority of the voting members of the task force constitutes a quorum for the
18 transaction of business. Official action by the task force requires the approval of a majority
19 of its voting members.

20 (11) At the request of the task force, the Department of Environmental Quality may form
21 work groups to provide information and expertise to the task force. The members of the
22 work groups may include representatives of state agencies, stakeholders and others with
23 relevant information and expertise.

24 (12) Voting members of the task force are not entitled to compensation for their partic-
25 ipation, but may be reimbursed for actual and necessary travel and other expenses incurred
26 by them in the performance of their official duties in the manner and amounts provided for
27 in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall
28 be paid out of funds appropriated to the department for that purpose.

29 (13) The department shall provide staff support to the task force.

30 (14) All agencies of state government, as defined in ORS 174.111, are directed to assist
31 the task force in the performance of its duties and, to the extent permitted by laws relating
32 to confidentiality, to furnish such information and advice as the members of the task force
33 consider necessary to perform its duties.

34 (15)(a) The task force shall present its initial design recommendations to the department
35 no later than July 1, 2010.

36 (b) The task force shall present its final design recommendations to the department no
37 later than October 1, 2010.

38
39 **REPORT TO LEGISLATIVE ASSEMBLY IN 2011**

40
41 **SECTION 10.** (1) The Department of Environmental Quality shall submit the rules
42 adopted by the Environmental Quality Commission pursuant to section 2 of this 2009 Act to
43 the Seventy-sixth Legislative Assembly no later than February 1, 2011.

44 (2) The Department of Environmental Quality shall submit to the Seventy-sixth Legisla-
45 tive Assembly, in the manner provided by ORS 192.245, by February 1, 2011, a report that sets

1 forth the bases for the significant policy choices made by the commission in the development
2 of these rules. The report must also:

3 (a) Discuss the potential costs and benefits of the greenhouse gas cap-and-trade system
4 to the environment, public health and economy of Oregon; and

5 (b) Specify how the department:

6 (A) Facilitated hearings of the Oregon Climate Initiative Task Force under section 9 (4)
7 of this 2009 Act; and

8 (B) Considered the design recommendations presented by the task force in the depart-
9 ment’s development of the greenhouse gas cap-and-trade system.

10
11 **CONFORMING AMENDMENT**

12
13 **SECTION 11.** ORS 468A.210 is amended to read:

14 468A.210. As used in ORS [352.247 and] 468A.200 to 468A.260:

15 (1) “Global warming” means an increase in the average temperature of the earth’s atmosphere
16 that is associated with the release of greenhouse gases.

17 (2) “Greenhouse gas” means any gas that contributes to anthropogenic global warming includ-
18 ing, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons
19 and sulfur hexafluoride.

20 (3) “Greenhouse gas cap-and-trade system” means a system that:

21 (a) Establishes a total cap on greenhouse gas emissions from [an] identified [group of emitters]
22 sectors;

23 (b) Establishes a market for allowances [that represent emissions] and offsets; and

24 (c) Allows trading of allowances [among greenhouse gas emitters] and offsets.

25
26 **MISCELLANEOUS**

27
28 **SECTION 12.** Sections 1 to 8 of this 2009 Act are added to and made a part of ORS
29 chapter 468A.

30 **SECTION 13.** Sections 9 and 10 of this 2009 Act are repealed on January 2, 2012.

31 **SECTION 14.** The unit captions used in this 2009 Act are provided only for the conven-
32 ience of the reader and do not become part of the statutory law of this state or express any
33 legislative intent in the enactment of this 2009 Act.

34 **SECTION 15.** This 2009 Act being necessary for the immediate preservation of the public
35 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
36 on its passage.

37 _____