

SENATE BILL REPORT

SSB 6047

As Amended by House, February 28, 2024

Title: An act relating to executive sessions under the open public meetings act in order to comply with the climate commitment act.

Brief Description: Concerning executive sessions under the open public meetings act in order to comply with the climate commitment act.

Sponsors: Senate Committee on State Government & Elections (originally sponsored by Senators Warnick, Boehnke and Short).

Brief History:

Committee Activity: State Government & Elections: 1/26/24, 1/30/24 [DPS].

Floor Activity: Passed Senate: 2/6/24, 49-0.

Passed House: 2/28/24, 92-2.

Brief Summary of First Substitute Bill

- Permits governing bodies subject to the Open Public Meetings Act to hold an executive session to consider greenhouse gas allowance auction bidding information that is prohibited from disclosure under the Climate Commitment Act.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6047 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Wilson, J., Ranking Member; Dozier, Fortunato, Hasegawa and Kuderer.

Staff: Greg Vogel (786-7413)

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.

Background: Open Public Meetings Act. The Open Public Meetings Act (OPMA) requires that all meetings of governing bodies of public agencies, including state agencies and local governments, be open to the public. The OPMA establishes basic procedural and notice requirements for public agency meetings. A meeting under the OPMA occurs when a quorum of a governing body, such as a city council or board of county commissioners, gathers with the collective intent of transacting the governing body's business. In order to be valid, ordinances, resolutions, rules, regulations, orders, and directives must be adopted at meetings conducted in compliance with the OPMA.

Any action taken at a meeting held in violation of the OPMA is null and void, and violators may be subject to civil penalties.

Members of a governing body may also meet in executive session during an open public meeting, but only for reasons specified in state law, including discussions related to the purchase or sale of land, the qualifications of potential appointees, or to consider complaints or charges against a public official or employee.

Executive sessions are parts of a regular or special meeting that are closed to the public.

Climate Commitment Act. Under the Climate Commitment Act (CCA), enacted in 2021, the Department of Ecology (Ecology) must implement a cap on greenhouse gas (GHG) emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments, with the program commencing by January 1, 2023. Covered entities include industrial facilities, certain fuel suppliers, in-state electricity generators, electricity importers, and natural gas distributors with annual GHG emissions above 25,000 metric tons of carbon dioxide equivalent.

The program must consist of, among other things, annual allowance budgets that limit emissions from covered entities, and periodic auctions of those allowances that may be used for program compliance. Receipts from the sale of emissions allowances are deposited in state accounts, to be used for clean energy, transportation, and climate resilience investments.

Covered entities registered with Ecology to participate in allowance auctions may not release or disclose any bidding information including:

- intent to participate or refrain from participation;
- auction approval status;
- intent to bid;
- bidding strategy;
- bid price or bid quantity; or
- information on the bid guarantee provided to the financial services administrator.

Ecology may also adopt provisions to guard against bidder collusion and market manipulation. If a registered entity violates the prohibition or other rules, Ecology may

cancel or restrict previously approved auction participation applications and may reject new applications.

Summary of First Substitute Bill: Governing bodies of publicly owned natural gas or electric utilities, or other public agencies are permitted to hold an executive session to consider GHG allowance auction bidding information that is prohibited from release or disclosure under the CCA.

Appropriation: None.

Fiscal Note: Not requested.

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

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: There is a conflict with the requirement not to disclose bidding information under the CCA, where utilities are caught with the inability to obey current law under the OPMA, so they've been put in the middle of two different laws. Utilities are making bid guarantees and substantial investments but are prohibited from sharing the information publicly with the city council. This bill bridges the gap between the OPMA and CCA. It allows us to comply and keep our elected officials informed as best we can.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Heidi Behrends Cerniwey, City of Ellensburg; Buddy Stanavich, City of Ellensburg.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Removes redundant terms regarding the applicability of the Open Public Meetings Act.