

House Bill 2468

Sponsored by Representatives HOLVEY, BARNHART; Representatives HELM, NOSSE, POWER (Pre-session filed.)

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 certain statewide greenhouse gas emissions limits by no later than January 1, 2018.

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

Requires Department of Environmental Quality to periodically prepare reports to commission on best available climate science, to be used by commission in adopting and updating greenhouse gas emissions limits and related rules.

Repeals provision granting certain exemptions from air pollution laws. Repeals provision relating to greenhouse gas emissions goals. Makes repeals operative January 1, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to air pollution; creating new provisions; amending ORS 184.889, 468A.235, 468A.240,
3 468A.250, 468A.260, 468A.305 and 468A.605 and section 9, chapter 751, Oregon Laws 2009, and
4 section 20, chapter 28, Oregon Laws 2016; repealing ORS 468A.020 and 468A.205; and declaring
5 an emergency.

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

7 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**
8 **chapter 468A.**

9 **SECTION 2. (1) As used in this section and section 3 of this 2017 Act, "statewide**
10 **greenhouse gas emissions" means the total annual emissions of greenhouse gases in this**
11 **state, expressed in tons of carbon dioxide and carbon dioxide equivalents, and all emissions**
12 **of greenhouse gases from the generation of electricity generated outside this state and de-**
13 **livered to and consumed in this state, accounting for transmission and distribution line**
14 **losses.**

15 **(2) No later than January 1, 2018, the Environmental Quality Commission shall adopt by**
16 **rule:**

17 **(a) A statewide greenhouse gas emissions limit for the year 2020 that is based on the best**
18 **available science and that limits emissions to levels that are at least 10 percent below 1990**
19 **levels;**

20 **(b) A statewide greenhouse gas emissions limit for the year 2035 that is based on the best**
21 **available science and that limits emissions to levels that are at least 68 percent below 1990**
22 **levels; and**

23 **(c) A statewide greenhouse gas emissions limit for the year 2050 that is based on the best**
24 **available science and that limits emissions to levels that are at least 91 percent below 1990**
25 **levels.**

26 **(3) No later than January 1, 2018, the commission shall adopt temporary rules for re-**
27 **ducing statewide greenhouse gas emissions by an annual rate of eight percent. Temporary**

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 rules adopted under this subsection shall be effective until the commission adopts rules
 2 pursuant to subsection (4) of this section and section 3 of this 2017 Act.

3 (4) Beginning no later than January 1, 2019, and once every five years after that date, the
 4 commission shall adopt an interim, five-year statewide greenhouse gas emissions limit con-
 5 sistent with the greenhouse gas emissions reductions necessary to meet the greenhouse gas
 6 emissions limit for the year 2050 adopted under this section.

7 (5) The commission may adjust greenhouse gas emissions limits adopted under this sec-
 8 tion as necessary to achieve goals consistent with the best available science.

9 **SECTION 3.** (1) The Environmental Quality Commission shall, no later than January 1,
 10 2020, adopt by rule an action plan for preventing exceedance of the state greenhouse gas
 11 emissions limits set forth in section 2 of this 2017 Act. The commission shall consult with
 12 all responsible state agencies in developing the action plan.

13 (2) The action plan must:

14 (a) Be based on the most comprehensive greenhouse gas emissions inventory available.

15 (b) Identify and make recommendations on emissions reduction measures, alternative
 16 compliance mechanisms and market-based compliance mechanisms that sources may use to
 17 maximize feasible and cost-effective reductions of greenhouse gas emissions.

18 (c) Encourage early greenhouse gas emissions reductions.

19 (d) Identify opportunities for greenhouse gas emissions reductions from all verifiable and
 20 enforceable voluntary actions, including but not limited to carbon sequestration and best
 21 management practices.

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

25 (f) Ensure that greenhouse gas emissions reduction regulations and programs are ad-
 26 ministered in a manner that, to the greatest extent feasible, ensures that disadvantaged
 27 communities, rural communities, children and the elderly:

28 (A) Are protected from experiencing disproportionate levels of the harms attributable to
 29 greenhouse gas emissions;

30 (B) Benefit from public and private investments related to reducing greenhouse gas
 31 emissions; and

32 (C) Have the opportunity to serve in advisory roles and to otherwise participate in the
 33 development and implementation of the action plan.

34 (g) Prioritize the implementation of greenhouse gas emissions reduction regulations and
 35 programs that achieve the associated goal of reducing instances of air pollution conditions
 36 in this state that disproportionately impact disadvantaged communities, rural communities,
 37 children and the elderly.

38 (3) The commission may adopt rules necessary to administer and implement the action
 39 plan required by this section.

40 (4)(a) The Department of Environmental Quality shall periodically prepare and submit to
 41 the commission reports that update and describe the best available climate change science,
 42 including biological, physical and social science, as it relates both to Oregon-specific and
 43 global concerns.

44 (b) The department shall coordinate reporting under this section as necessary to ensure
 45 that the reports incorporate the most recent findings of the International Panel on Climate

1 **Change, the National Climate Assessment issued by the United States Global Change Re-**
2 **search Program, and other leading climate science analysis.**

3 **(c) The commission shall utilize the reports prepared under this subsection in adopting**
4 **and periodically amending any rules adopted pursuant to this section and section 2 of this**
5 **2017 Act.**

6 **SECTION 4. ORS 468A.020 and 468A.205 are repealed.**

7 **SECTION 5.** ORS 184.889 is amended to read:

8 184.889. (1) The Oregon Transportation Commission, after consultation with and in cooperation
9 with metropolitan planning organizations, other state agencies, local governments and stakeholders,
10 as a part of the state transportation policy developed and maintained under ORS 184.618, shall adopt
11 a statewide transportation strategy on greenhouse gas emissions to aid in achieving [*the*] greenhouse
12 gas emissions [*reduction goals set forth in ORS 468A.205*] **consistent with the limits adopted un-**
13 **der section 2 of this 2017 Act.** The commission shall focus on reducing greenhouse gas emissions
14 resulting from transportation. In developing the strategy, the commission shall take into account
15 state and federal programs, policies and incentives related to reducing greenhouse gas emissions.

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

18 **SECTION 6.** ORS 468A.235 is amended to read:

19 468A.235. The Oregon Global Warming Commission shall recommend ways to coordinate state
20 and local efforts to reduce greenhouse gas emissions in Oregon consistent with the **limits on**
21 greenhouse gas emissions [*reduction goals established by ORS 468A.205*] **adopted under section 2**
22 **of this 2017 Act** and shall recommend efforts to help Oregon prepare for the effects of global
23 warming. The Office of the Governor and state agencies working on multistate and regional efforts
24 to reduce greenhouse gas emissions shall inform the commission about these efforts and shall con-
25 sider input from the commission for such efforts.

26 **SECTION 7.** ORS 468A.240 is amended to read:

27 468A.240. (1) In furtherance of the **limits on** greenhouse gas emissions [*reduction goals estab-*
28 *lished by ORS 468A.205*] **adopted under section 2 of this 2017 Act**, the Oregon Global Warming
29 Commission may recommend statutory and administrative changes, policy measures and other rec-
30 ommendations to be carried out by state and local governments, businesses, nonprofit organizations
31 or residents. In developing its recommendations, the commission shall consider economic, environ-
32 mental, health and social costs, and the risks and benefits of alternative strategies, including least-
33 cost options. The commission shall solicit and consider public comment relating to statutory,
34 administrative or policy recommendations.

35 (2) The commission shall examine greenhouse gas cap-and-trade systems, including a statewide
36 and multistate carbon cap-and-trade system and market-based mechanisms, as a means of achieving
37 the **limits on** greenhouse gas emissions [*reduction goals established by ORS 468A.205*] **adopted un-**
38 **der section 2 of this 2017 Act.**

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

42 **SECTION 8.** ORS 468A.250 is amended to read:

43 468A.250. (1) The Oregon Global Warming Commission shall track and evaluate:

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

- 1 (b) Existing greenhouse gas emissions reduction policies and measures;
- 2 (c) Economic, environmental, health and social costs, and the risks and benefits of alternative
3 strategies, including least-cost options;
- 4 (d) The physical science of global warming;
- 5 (e) Progress toward **preventing exceedance of** the greenhouse gas emissions [*reduction goals*
6 *established by ORS 468A.205*] **limits adopted under section 2 of this 2017 Act**;
- 7 (f) Greenhouse gases emitted by various sectors of the state economy, including but not limited
8 to industrial, transportation and utility sectors;
- 9 (g) Technological progress on sources of energy the use of which generates no or low
10 greenhouse gas emissions and methods for carbon sequestration;
- 11 (h) Efforts to identify the greenhouse gas emissions attributable to the residential and commer-
12 cial building sectors;
- 13 (i) The carbon sequestration potential of Oregon’s forests, alternative methods of forest man-
14 agement that can increase carbon sequestration and reduce the loss of carbon sequestration to
15 wildfire, changes in the mortality and distribution of tree and other plant species and the extent to
16 which carbon is stored in tree-based building materials;
- 17 (j) The advancement of regional, national and international policies to reduce greenhouse gas
18 emissions;
- 19 (k) Local and regional efforts to prepare for the effects of global warming; and
- 20 (L) Any other information, policies or analyses that the commission determines will aid in the
21 achievement of the greenhouse gas emissions [*reduction goals established by ORS 468A.205*] **limits**
22 **adopted under section 2 of this 2017 Act**.
- 23 (2) The commission shall:
- 24 (a) Work with the State Department of Energy and the Department of Environmental Quality
25 to evaluate all gases with the potential to be greenhouse gases and to determine a carbon dioxide
26 equivalency for those gases; and
- 27 (b) Use regional and national baseline studies of building performance to identify incremental
28 targets for the reduction of greenhouse gas emissions attributable to residential and commercial
29 building construction and operations.
- 30 **SECTION 9.** ORS 468A.260 is amended to read:
- 31 468A.260. The Oregon Global Warming Commission shall submit a report to the Legislative As-
32 sembly, in the manner provided by ORS 192.245, by March 31 of each odd-numbered year that de-
33 scribes Oregon’s progress toward [*achievement*] **preventing exceedance** of the greenhouse gas
34 emissions [*reduction goals established by ORS 468A.205*] **limits adopted under section 2 of this**
35 **2017 Act**. The report may include relevant issues and trends of significance, including trends of
36 greenhouse gas emissions, emerging public policy and technological advances. The report also may
37 discuss measures the state may adopt to mitigate the impacts of global warming on the environment,
38 the economy and the residents of Oregon and to prepare for those impacts.
- 39 **SECTION 10.** ORS 468A.305 is amended to read:
- 40 468A.305. The Legislative Assembly declares the purpose of ORS 184.730, 184.733, 468.065,
41 [468A.020,] 468A.040, 468A.045, 468A.155, 468A.300 to 468A.330, 468A.415, 468A.420 and 468A.485 to
42 468A.515 is to:
- 43 (1) Insure that the state meets its minimum obligations under the Clean Air Act Amendments
44 of 1990.
- 45 (2) Avoid direct regulation of industrial sources of air pollution through a federal government

1 administered permit program.

2 (3) Prevent imposition of Clean Air Act sanctions which would impound federal highway funds
 3 appropriated for the state and increase emission offset requirements for new and expanding major
 4 industrial sources of air pollution.

5 (4) Provide adequate resources to fully cover the costs of the Department of Environmental
 6 Quality to develop and administer an approvable federal operating permit program in accordance
 7 with the Clean Air Act, including costs of permitting, compliance, rule development, emission in-
 8 ventorying, monitoring and modeling and related activities.

9 **SECTION 11.** ORS 468A.605 is amended to read:

10 468A.605. The Department of Environmental Quality, in coordinating efforts under ORS 468.140,
 11 468.150, [468A.020,] 468A.555 to 468A.620 and 468A.992, shall:

12 (1) Enforce all field burning rules adopted by the Environmental Quality Commission and all
 13 related statutes; and

14 (2) Monitor and prevent unlawful field burning.

15 **SECTION 12.** Section 9, chapter 751, Oregon Laws 2009, is amended to read:

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

19 (a) Ten percent below 1990 levels, as specified in [ORS 468A.205] **section 2 of this 2017 Act**;
 20 and

21 (b) Fifteen percent below 2005 levels.

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

25 **SECTION 13.** Section 20, chapter 28, Oregon Laws 2016, is amended to read:

26 **Sec. 20.** (1) As used in this section:

27 (a) “Electric company” has the meaning given that term in ORS 757.600.

28 (b) “Transportation electrification” means:

29 (A) The use of electricity from external sources to provide power to all or part of a vehicle;

30 (B) Programs related to developing the use of electricity for the purpose described in subpara-
 31 graph (A) of this paragraph; and

32 (C) Infrastructure investments related to developing the use of electricity for the purpose de-
 33 scribed in subparagraph (A) of this paragraph.

34 (c) “Vehicle” means a vehicle, vessel, train, boat or any other equipment that is mobile.

35 (2) The Legislative Assembly finds and declares that:

36 (a) Transportation electrification is necessary to reduce petroleum use, achieve optimum levels
 37 of energy efficiency and carbon reduction, meet federal and state air quality standards, [*meet this*
 38 *state’s greenhouse gas emissions reduction goals described in ORS 468A.205*] **prevent exceedance**
 39 **of the greenhouse gas emissions levels adopted under section 2 of this 2017 Act** and improve
 40 the public health and safety;

41 (b) Widespread transportation electrification requires that electric companies increase access to
 42 the use of electricity as a transportation fuel;

43 (c) Widespread transportation electrification requires that electric companies increase access to
 44 the use of electricity as a transportation fuel in low and moderate income communities;

45 (d) Widespread transportation electrification should stimulate innovation and competition, pro-

1 vide consumers with increased options in the use of charging equipment and in procuring services
2 from suppliers of electricity, attract private capital investments and create high quality jobs in this
3 state;

4 (e) Transportation electrification and the purchase and use of electric vehicles should assist in
5 managing the electrical grid, integrating generation from renewable energy resources and improving
6 electric system efficiency and operational flexibility, including the ability of an electric company to
7 integrate variable generating resources;

8 (f) Deploying transportation electrification and electric vehicles creates the opportunity for an
9 electric company to propose, to the Public Utility Commission, that a net benefit for the customers
10 of the electric company is attainable; and

11 (g) Charging electric vehicles in a manner that provides benefits to electrical grid management
12 affords fuel cost savings for vehicle drivers.

13 (3) The Public Utility Commission shall direct each electric company to file applications, in a
14 form and manner prescribed by the commission, for programs to accelerate transportation
15 electrification. A program proposed by an electric company may include prudent investments in or
16 customer rebates for electric vehicle charging and related infrastructure.

17 (4) When considering a transportation electrification program and determining cost recovery for
18 investments and other expenditures related to a program proposed by an electric company under
19 subsection (3) of this section, the commission shall consider whether the investments and other
20 expenditures:

21 (a) Are within the service territory of the electric company;

22 (b) Are prudent as determined by the commission;

23 (c) Are reasonably expected to be used and useful as determined by the commission;

24 (d) Are reasonably expected to enable the electric company to support the electric company's
25 electrical system;

26 (e) Are reasonably expected to improve the electric company's electrical system efficiency and
27 operational flexibility, including the ability of the electric company to integrate variable generating
28 resources; and

29 (f) Are reasonably expected to stimulate innovation, competition and customer choice in electric
30 vehicle charging and related infrastructure and services.

31 (5)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this section:

32 (A) May allow a return of and a return on an investment made by an electric company under
33 subsection (3) of this section; and

34 (B) Shall be recovered from all customers of an electric company in a manner that is similar to
35 the recovery of distribution system investments.

36 (b) A return on investment allowed under this subsection may be earned for a period of time
37 that does not exceed the depreciation schedule of the investment approved by the commission. When
38 an electric company's investment is fully depreciated, the commission may authorize the electric
39 company to donate the electric vehicle charging infrastructure to the owner of the property on
40 which the infrastructure is located.

41 (6) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility service
42 to the customers of an electric company.

43 (7) In authorizing programs described in subsection (3) of this section, the commission shall re-
44 view data concerning current and future adoption of electric vehicles and utilization of electric ve-
45 hicle charging infrastructure. If market barriers unrelated to the investment made by an electric

1 company prevent electric vehicles from adequately utilizing available electric vehicle charging
 2 infrastructure, the commission may not permit additional investments in transportation
 3 electrification without a reasonable showing that the investments would not result in long-term
 4 stranded costs recoverable from the customers of electric companies.

5 **SECTION 14.** (1) The repeal of ORS 468A.020 and 468A.205 by section 4 of this 2017 Act
 6 and the amendments to ORS 184.889, 468A.235, 468A.240, 468A.250, 468A.260, 468A.305 and
 7 468A.605 and section 9, chapter 751, Oregon Laws 2009, and section 20, chapter 28, Oregon
 8 Laws 2016, by sections 5 to 13 of this 2017 Act become operative on January 1, 2018.

9 (2) The Environmental Quality Commission may adopt rules and take any actions that
 10 are necessary to enable the commission and the Department of Environmental Quality to
 11 exercise, on and after the operative date specified in subsection (1) of this section, all of the
 12 duties, functions and powers conferred on the commission and the department by the repeal
 13 of ORS 468A.020 and 468A.205 by section 4 of this 2017 Act and the amendments to ORS
 14 184.889, 468A.235, 468A.240, 468A.250, 468A.260, 468A.305 and 468A.605 and section 9, chapter
 15 751, Oregon Laws 2009, and section 20, chapter 28, Oregon Laws 2016, by sections 5 to 13 of
 16 this 2017 Act.

17 **SECTION 15.** This 2017 Act being necessary for the immediate preservation of the public
 18 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
 19 on its passage.
