SB 1530 A STAFF MEASURE SUMMARY

Senate Committee On Environment and Natural Resources

Action Date:	02/13/20
Action:	Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).
Vote:	3-2-0-0
Yeas:	3 - Dembrow, Prozanski, Roblan
Nays:	2 - Findley, Olsen
Fiscal:	Fiscal impact issued
Revenue:	Revenue impact issued
Prepared By:	Beth Patrino, LPRO Analyst
Meeting Dates:	2/4, 2/6, 2/8, 2/11, 2/13

WHAT THE MEASURE DOES:

Modifies state anthropogenic greenhouse gas (GHG) emissions reduction **goals** to: at least 45 percent below 1990 emission levels by 2035 and at least 80 percent below 1990 emission levels by 2050. Establishes the **Oregon Greenhouse Gas Reduction Board** (Board) in the Department of Environmental Quality (DEQ). Directs Governor to appoint seven voting members, subject to confirmation by the Senate. Requires members be Oregon residents well informed on energy and climate issues; one member must represent impacted communities. Establishes Board responsibilities. Establishes the **Office of Greenhouse Gas Regulation** (Office) in DEQ under the Board. Specifies Office administrator is appointed by Governor, subject to Senate confirmation. Declares purposes of the regulatory and investment portion of the Oregon Greenhouse Gas Initiative (OGGI) are to: a) achieve emission level reductions; b) promote GHG emissions sequestration and mitigation; c) promote adaptation and resilience by natural and working lands, fish and wildlife resources, communities, the economy, and the state's infrastructure in the face of climate change and ocean acidification; and d) to provide assistance to households, businesses, and workers impacted by climate change or climate change policies. Directs the Board to adopt rules necessary for the Office to implement the OGGI. Requires Board to place a **cap** on the total regulated anthropogenic GHG emissions through setting allowance budgets for 2022 through 2050 and provide a system for covered entities to buy and sell allowances and offset credits used to demonstrate compliance. Stipulates that the **annual allowance budget** for 2022 must be a number of allowances equal to baseline emissions. Requires allowances available each year to decline by constant amount necessary from 2023 through 2035 and 2036 through 2050 to accomplish reduction goals. Requires Board to adopt rules for the allowance system. Directs Office to designate specified **covered entities**. Establishes process for Office to calculate **baseline emissions** attributable to covered entities. Requires Office to **exclude** from regulation GHG emissions from the combustion of aviation, watercraft, or railroad locomotive fuel and emissions attributable to a landfill. Authorizes Office to exempt any person that imports a de minimis amount of gasoline and diesel fuel as determined by rule. Establishes process and requirements for Office to **allocate allowances**. Establishes system for retirement for certain electric system managers, electricity service suppliers, natural gas-powered electric power generation facilities, and motor vehicle fuel importers and suppliers. Establishes requirements for Office to designate trade-exposed natural gas users (TENGUs) and covered entities engaged in emissions-intensive, trade-exposed processes as **EITE entities**. Establishes system for direct distribution of allowances to electric companies, electric system managers, natural gas utilities, and EITEs. Directs Board to establish, by rule, emissions efficiency benchmarks for goods manufactured by EITE entities and specifies process for establishing such benchmarks. Requires Office to report to Legislative Assembly on benchmarks no later than September 15, 2030. Directs Office, in **2025 – 2027**, to retire from annual allowance budget on behalf of person that produces or imports liquid or gaseous fuel other than natural gas, a number of allowances equal to 100 percent of regulated emissions attributable to combustion of motor vehicle fuel that is delivered to a fuel tank used for propelling a motor vehicle at a delivery point with a zip code located outside the boundaries of specified **17 counties**; in **2028-2050**, adds **two counties and the cities of Bend and Klamath Falls**. Directs Office to conduct a study on whether amendments to section 13 of Act (application of OGGI to transportation fuel in 2025-2050) are necessary or recommended to further purposes of Act. Requires report on study submittal no later than September 15, 2022. Authorizes the electors or governing body of a county or city to, by ordinance or resolution, apply the cost of OGGI to motor vehicle fuel delivered within the boundary of the city or county. Applies cost of OGGI to entire state if the number of counties exercising option to join program meets or exceeds **23 counties**. Establishes requirements for **offset** projects. Restricts a covered entity use of offset credits to meet compliance obligation to no more than eight percent and to no more than four percent from projects that do not provide direct environmental benefits in Oregon. Authorizes Board to by rule adopt additional restrictions on the number of offset credits that may be surrendered by a covered entity that is a permitted air contamination source and that is geographically located in an impacted community under specified conditions. Establishes requirements on Board in adopting offset protocols related to forestry and agriculture and conservation on natural and working lands, and on offset consultation and reporting. Specifies Office recommends to Board, does not update, offset protocols. Allows State Forestry Department to recommend temporary adjustments to forestry protocols to address specified negative effects. Repeals forest carbon offset statutes. Requires Office to hold **auction** at least annually and establishes process and requirements for such auctions, including setting for 2022 an auction floor price, allowance price containment reserve floor price, and hard ceiling price and a schedule for prices to increase by fixed percentage over inflation each year. Establishes the Auction Proceeds Distribution Fund and distributes as follows: all money that constitutes revenues described in Article IX, section 3a, of the Oregon Constitution, must be transferred to the Transportation Decarbonization Investments Account; all money that constitutes revenues described in Article VIII, section 2 (1)(g), of the Oregon Constitution, must be transferred to the Common School Fund; an amount necessary to administer the OGGI program must be transferred to the OGGI Operating Fund; and the remainder to the Climate Investments Fund. Requires Office to prepare **annual progress report** after the close of each compliance period with specified information on allowances, holding accounts and reserves, GHG emission reductions, an estimate of the impacts of the OGGI on fuel prices and utility bills, an analysis of the state's progress toward emission reduction goals and trends in GHG emissions by sector, and an evaluation of the public health benefits and other co-benefits of GHG emission reductions. Declares intent of Legislative Assembly to implement OGGI to prevent fraud, abuse, or market manipulation while upholding the public interest in transparency in public process and government by making certain market activity information available in aggregate form. Identifies **public records** exempt from disclosure under state law unless party seeking disclosure demonstrates by clear and convincing evidence that public interest in disclosure outweighs other interests in non-disclosure. Authorizes information to be used and disclosed in aggregate form. Establishes **OGGI Operating Fund**. Establishes the Transportation Decarbonization Investments Account and uses. Establishes the Climate Investments Fund and uses. Establishes **wage and labor** provisions for use of funds. Requires no later than June 1 of each even-numbered year, Board to deliver **Biennial Climate Action Investment Plan** to Legislative Assembly and Governor. Requires plan to identify short- and long-term opportunities for uses of fund and include an analysis of how activities funded by moneys allocated by legislature would serve to effectively further OGGI purposes. Requires Board to consult with specified entities in developing plan. Requires first plan submittal no later than June 1, 2022. Directs Governor to consider plan recommendations in preparing Governor's budget. Requires no later than January 1 of each even-numbered year, Office to deliver a **Climate Investments Funds biennial report** to the Governor and Legislative Assembly. Requires Office and Oregon Department of Transportation (ODOT) to jointly select an independent third-party organization to prepare a **biennial compliance audit** of all programs, projects, or activities funded by the Climate Investments Fund and the Transportation Decarbonization Investments Account. Directs moneys available in **Transportation Decarbonization Investments Account** as follows: 10 percent used by ODOT for transportation projects selected by the Oregon Transportation Commission (OTC) pursuant to Act and 90 percent distributed by the OTC to local governments for implementation, including planning for implementation, of **metropolitan climate plans**. Requires local government be allocated a share of moneys if it has adopted a metropolitan climate plan and it has jurisdiction over an area for which a covered entity does not benefit from allowance retirement under transportation fuel provisions of measure. Requires ODOT to deliver a **Transportation Decarbonization Investments Account biennial report** to the OTC, Governor, and Legislative Assembly. Requires performance audit reports to begin in 2025 and be prepared once every five years. **Establishes Just Transition Fund**. Directs Board, in consultation with Higher Education Coordinating Commission, the State Workforce and Talent Development Board, the Employment Department, and others, to establish a **Just Transition Program** to distribute funds and a Just Transition Plan to implement program. Requires moneys distributed to support economic diversification, job creation, job training, and other employment services. Restricts use of funds to programs and activities that provide financial support for workers displaced or adversely affected by climate change or climate change policies. Requires Board to deliver Just Transition Program report each even-numbered year to Governor and Legislative Assembly. Establishes report components. Directs Public Utility Commission (PUC) to oversee use of proceeds from sale of allowances by electric company to specified benefits. Requires electric company to use proceeds from sale of allowances directly distributed at no cost for specified purposes. Directs PUC to establish trust account for the benefit of each natural gas utility regulated under OGGI. Requires utility to prepare a plan for use of money in trust account to benefit utility's sale customers and establishes portfolio of approaches for use of funds. Establishes **rate relief** provisions for trade-exposed natural gas users (TENGUs) as nonvolumetric bill credits pursuant to formula developed by PUC. Sets formula criteria. Establishes Traded Sector GHG Reduction **Revolving Loan Fund** and directs funds to Oregon Business Development Department (OBDD). Authorizes OBDD to adopt a revolving loan fund by rule to issue low- or no- interest loans to finance projects that will reduce GHG emissions. Restricts electric company and natural gas utility cost recovery from retail customers to support adoption and service of alternative forms of transportation vehicles. Requires **PUC Biennial report** to Legislative Assembly and Office on how electric companies and natural gas utilities have used proceeds from sale of certain allowances. Directs PUC to establish process for timely recovery of costs incurred by public utilities associated with OGGI compliance. Authorizes PUC to allow a rate or rate schedule of a public utility to include differential rates or to reflect amounts for programs that enable public utility to assist low-income residential customers. Revises authority of the Environmental Quality Commission (EQC) to require registration and reporting of certain GHG emissions. Repeals Energy Facility Siting Council (EFSC) carbon dioxide emissions standards. Makes legislative finding that GHG emissions from energy facilities subject to site certificates or amended site certificates are a significant threat to public health, safety or the environment. Directs EFSC to require a facility with a site certificate or amended certificate in effect on or after the effective date of Act to comply with specified sections of Act. Requires EQC to adopt by rule standards and requirements for reducing methane gas emissions from **landfills**. Exempts certain landfills. Requires EQC to adopt rules regulating use of **hydrofluorocarbons** in certain products. Abolishes the **Oregon Global Warming Commission**. Revises requirement for **ethanol content in gasoline**. Prohibits sale of **general service lamps** that do not meet certain energy efficiency standards. Directs Oregon Housing and Community Services (OHCS), in consultation with others specified, to develop a proposal for assisting households that use fuels that are not natural gas for **residential home heating**. Directs proposal give priority to assisting low- and moderate-income households or impacted communities through bill assistance, weatherization, options for upgrading to more efficient home heating equipment or systems powered by less GHG emission-intensive power sources. Requires OHCS to submit report detailing proposal to Board and legislature on or before September 15, 2021. Directs Oregon Department of Administrative Services (DAS) to adopt by rule a **model program** for local governments and special government bodies to follow in planning to procure and **procuring zero-emission vehicles**. Directs DAS to study options for accounting for GHG emissions implications of transporting goods and services to Oregon when awarding **state procurement contracts**; requires report to legislature by September 15, 2021. Directs OBDD to identify and examine policy options for addressing **barriers to capital investment by businesses to reduce GHG emissions** through vehicle fleet conversion and vehicle technology and facility upgrades; requires report to legislature no later than September 15, 2021. Directs DEQ to study opportunities for further reducing GHG emissions through **waste reduction and recycling**; requires report to legislature no later than September 15, 2021. Directs Oregon State Parks and Recreation Department to develop a proposal for a program to include and engage all Oregonians in an annual, one-day **tree planting** event on public lands; requires report to legislature on or before September 15, 2021. Declares intent of the Legislative Assembly that provisions of Act relating to receipt of moneys through the sale of allowances by an auction do not render Act a bill for raising revenue. Authorizes any person who is interested in or affected or aggrieved by or who will be affected or aggrieved by the auctions section of Act to petition for **judicial review**; confers original jurisdiction on Supreme Court to determine if Act is a bill for raising revenue subject to specified constitutional restrictions and whether specified auction and allowance sale proceeds are tax revenues subject to constitutional restrictions; establishes process for judicial review. Directs Legislative Revenue Officer, in consultation with ODOT and other appropriate state agencies, to conduct specified **economic modeling and analyses**. Requires submittal of report detailing the results to legislative committee relating to environment and Joint Committee on Transportation on or before September 15, 2022. **Appropriates** $10 million to OBDD for deposit in Traded Sector Greenhouse Gas Reduction Revolving Loan Fund. **Declares emergency, effective upon passage**.

ISSUES DISCUSSED:

- Previous climate legislation considered by legislature
- Potential cost of program to Oregonians
- Effects of program in different parts of the state
- Effects of program on agriculture and timber businesses
- Potential cost to Oregonians of not reducing greenhouse gas emissions
- Transportation phase-in
- Public records provisions
- Emergency clause

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

A cap-and-trade program is a market-based system designed to reduce greenhouse gas (GHG) emissions. Total allowed emissions are capped at a given level that decreases each year. Emitters are required to buy an allowance for each ton of greenhouse gas they emit above a specified amount, as quantified through mandatory reporting of emissions to the government. Allowances are purchased at auctions held either by the government or a contracted third party. Allowances may also be distributed for free, often to emissions-intensive, trade-exposed industries. Covered entities may also purchase offset credits to meet their compliance obligations. Offsets represent a verified emission reduction of one ton of carbon dioxide equivalent from an uncapped sector. At the end of each compliance period, emitters must remit a number of allowances equal to their emissions or face a penalty. Companies may sell surplus allowances to other companies. This type of program uses the proceeds generated from the auction of allowances for designated purposes.

Eleven states currently have cap-and-trade systems; 10 are Northeastern states that have joined together to create a common carbon market through the Regional Greenhouse Gas Initiative. California runs a separate program that began in 2012 and is linked to the Canadian province of Quebec and Nova Scotia through the Western Climate Initiative. These programs include emissions from transportation fuels, natural gas, industrial processes, and electricity generation including emissions associated with imported electricity. The linked jurisdictions participate in joint auctions of allowances, and allowances issued by one jurisdiction can be used by any compliance entity within the linked programs.

During the 2017 session, the Senate and House environment committees held a series of joint meetings focused on state and regional cap-and-trade policies and programs, leading to the introduction of Senate Bill 1070 at the end of the 2017 session. During the interim that followed, the chairs of the Senate and House environment committees convened four work groups which resulted in the introduction of two similar, but not identical, measures in 2018: House Bill 4001 and Senate Bill 1507. These bills received hearings during the 2018 session but were not enacted. House Bill 5201 was enacted by the 2018 Legislative Assembly which included a one-time appropriation of $1,435,000 to establish the Carbon Policy Office. The funding included an allotment of $650,000 for specific studies. In March 2018, the Joint Committee on Carbon Reduction was established. In 2019, House Bill 2020 would have established a cap-and-trade program in Oregon; the measure received hearings during the session but was not enacted.

Senate Bill 1530-A would modify state anthropogenic greenhouse gas (GHG) emissions reduction levels goals. The measure would also establish the Greenhouse Gas Reduction Board (Board) and the Office of Greenhouse Gas Regulation (Office) and require the Board to adopt the Oregon Greenhouse Gas Initiative (OGGI) by rule. The Act would declare that the purposes of the regulatory and investment portion of OGGI are to: a) achieve emission level reductions; b) promote GHG emissions sequestration and mitigation; c) promote adaptation and resilience by natural and working lands, fish and wildlife resources, communities, the economy, and the state's infrastructure in the face of climate change and ocean acidification; and d) to provide assistance to households, businesses, and workers impacted by climate change or climate change policies. The measure would require the Board to place a cap on the total regulated anthropogenic GHG emissions through setting allowance budgets starting in 2022 through 2050 and provide a system for covered entities to buy and sell allowances and offset credits used to demonstrate compliance.