

HB 1538 -- MISSOURI CLIMATE COMMITMENT ACT

SPONSOR: Ellebracht

This bill creates the Missouri Climate Commitment Act. In its main provisions, the bill:

- (1) Requires the Department of Natural Resources (DNR) to:
 - (a) Identify overburdened communities, as defined in the bill, through the process established in the bill to identify such communities;
 - (b) Deploy an air monitoring network in overburdened communities to collect sufficient air quality data for review of criteria pollutant reductions; and
 - (c) Within overburdened communities, analyze and determine which sources are the greatest contributors of criteria pollutants and develop a high priority list of significant emitters. Prior to listing any source as a high priority emitter, DNR must provide certain notice to the source;
 - (d) Beginning January 1, 2025, and every two years after, conduct a review, as specified in the bill, to determine levels of criteria pollutants and greenhouse gas emissions in overburdened communities. After a review determines the levels of criteria pollutants in a community, the department, in consultation with local air pollution authorities, must establish air quality targets to achieve air quality protective of human health, identify sources that are the greatest contributors of emissions, achieve reduction targets through emission control strategies; adopt stricter standards or limitations to reduce criteria pollutants, and issue an enforceable order to comply with the stricter standards or limitations;
- (2) Requires eligible facilities that receive allowances to mitigate increases in the facility's emissions of particulate matter in overburdened communities;
- (3) Requires DNR to create and adopt a supplement to its community engagement plan that describes how it will engage with overburdened communities and vulnerable populations for specified purposes. The plan should include methods for communications with individuals who face barriers to participation;
- (4) Specifies that when allocating moneys from the funds created in the Missouri Climate Commitment Act, departments must conduct an environmental justice assessment and establish a minimum of at

least 35% and a goal of 40% of total investments that provide direct and meaningful benefits within the boundaries of overburdened communities. The bill also specifies that funding must be allocated following certain principles;

(5) Creates certain requirements for state departments allocating funding under the provisions of the bill, including:

(a) Reporting certain information annually to the Environmental Justice Council;

(b) Considering recommendations of the Council; and

(c) If not already required to do so, creating and adopting a community engagement plan;

(6) Requires a covered department to conduct an environmental justice assessment, in accordance with the requirements specified in the bill, when considering a significant department action initiated after July 1, 2025. After July 1, 2025, each covered department must publish on its website the types of department actions that the department has determined require an environmental justice assessment, provide notification of the determination of the types of significant department actions in the Missouri Register, and prepare an environmental justice assessment when considering a listed action after publication of the list;

(7) Requires each covered department, based on the environmental justice assessment, to seek to reduce or eliminate the environmental harms and maximize the environmental benefits created by the significant department action on overburdened communities and vulnerable populations. The bill specifies the methods for reducing environmental harms or equitably distributing environmental benefits each department may use;

(8) Requires each covered department to incorporate environmental justice principles into its decision processes for budget development, making expenditures, and granting or withholding environmental benefits and to equitably distribute funding and expenditures related to programs that address or may cause environmental harms or provide environmental benefits towards overburdened communities and vulnerable populations;

(9) Requires that each covered department, no later than July 1, 2025, where practicable, take certain actions when making expenditure decisions or developing budget requests for programs that address or may cause environmental harms or provide environmental benefits;

(10) Specifies that a covered department must prioritize taking significant department actions, if the department, due to the breadth of its programs and funding opportunities, determines it is not practicable to take the required actions. No later than July 1, 2025, each department must publish on its website the types of decision processes for budget development, making expenditures, and granting or withholding environmental benefits for which the department will take the actions;

(11) Requires that no later than January 1, 2025, each covered department include an environmental justice implementation plan, as specified in the bill, within its strategic plan. The department may additionally incorporate an environmental justice implementation plan into other significant agency planning documents. The plan will describe how the department plans to apply the principles of environmental justice to its activities and will guide the department in its implementation;

(12) Requires that no later than July 1, 2024, each covered department create and adopt a community engagement plan, as specified in the bill, that describes how the department will engage with overburdened communities and vulnerable populations as the department evaluates new and existing activities and programs. A department must consider any guidance developed by the Environmental Justice Council when developing and updating its plan;

(13) Specifies that beginning in 2026, as part of a department's annual update to the Environmental Justice Council, each department must include updates on the department's implementation of environmental justice assessments and no later than September 1, 2026, each department must publish or update a dashboard report on the Office of Administration's (OA) website related to environmental justice assessments;

(14) Requires OA to prepare a list of all filings received from departments each week, post it on its website, and make it available to any interested parties. The list of filings must include a brief description of the significant department action and the methods for providing public comment for department consideration as part of the environmental justice assessment;

(15) Requires DNR, in consultation with the Environmental Justice Council and other parties specified in the bill, to develop and maintain an environmental health disparities map with the most current available information necessary to identify cumulative environmental health impacts and overburdened communities;

(16) Requires DNR to request that, no later than November 1,

2024, the University of Missouri's Institute for Public Policy conduct a technical review of the measures and methods used in the environmental health disparities map. The bill specifies the elements required in the review. No later than November 1, 2024, DNR shall submit the Institutes report to the Office of the Governor, the appropriate committees of the General Assembly, and the Environmental Justice Council;

(17) Creates the Environmental Justice Council to advise covered departments on incorporating environmental justice into their activities. The Council is made up of 14 members and has powers and duties as specified in the bill;

(18) Specifies steps the Department of Health and Senior Services must take to coordinate the duties of the Council;

(19) Requires the Governor to establish a structure to implement the state's climate commitment, as specified in the bill, to provide accountability for achieving any greenhouse gas limits, to establish a coordinated and strategic statewide approach to climate resilience, to build an equitable and inclusive clean energy economy, and to ensure that the state provides clear policy and requirements, financial tools, and other mechanisms to support achieving such limits;

(20) Requires DNR to implement a cap on greenhouse gas emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments. Program requirements are specified in the bill;

(21) Specifies that DNR must consider opportunities to implement the program in a manner that allows linking the state's program with those of other jurisdictions by evaluating whether such linkage will provide for a more cost-effective means for covered entities to meet their compliance obligations in this state while recognizing the special characteristics of the state's economy, communities, and industries. DNR may enter into a linkage agreement with another jurisdiction after conducting an environmental justice assessment and after formal notice and opportunity for a public hearing;

(22) Requires DNR to bring forth a legislation request, no later than January 31, 2030, that outlines a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through the end of the year 2065;

(23) Requires DNR, no later than December 1, 2029, and at least every four years thereafter, to submit to the General Assembly and

the Environmental Justice Council a report that includes a comprehensive review of the implementation of the program to date;

(24) Sets limits for anthropogenic emissions of greenhouse gases to achieve specified reductions starting in the year 2035 and ending in year 2065;

(25) Requires DNR to submit a greenhouse gas reduction plan no later December 1, 2023, for review and approval to the General Assembly;

(26) Requires the state to achieve net zero greenhouse gas emissions no later than the end of the year 2065, and specifies actions DNR must take to achieve this goal;

(27) Requires DNR and the Department of Commerce and Insurance (DCI), no later than December 31st of each even-numbered year beginning in the year 2026, to report to the Governor and the appropriate committees of the Senate and House of Representatives certain information related to the greenhouse gases for the preceding two years;

(28) Requires DNR to begin the program no later January 1, 2025, by determining an emissions baseline establishing the proportionate share that the total greenhouse gas emissions of covered entities for the first compliance period bears to the total anthropogenic greenhouse gas emissions in the state during the years 2025 to 2029. No later than October 1, 2024, the department must adopt annual allowance budgets for the years 2025 to 2028;

(29) Requires that, no later than October 1, 2028, DNR add to its emissions baseline by incorporating the proportionate share that the total greenhouse gas emissions of new covered entities in the second compliance period bear to the total anthropogenic greenhouse gas emissions in the state during the years 2025 to 2029;

(30) On or before October 1, 2030, the department shall adopt by rule the annual allowance budgets for the years 2046 to 2055;

(31) Requires DNR to complete an evaluation no later than December 31, 2029, and no later than December 31, 2037, of the performance of the program, including its performance in reducing greenhouse gases and specifies actions based on the results of the evaluation;

(32) Specifies that a person is a covered entity if the person reported certain emissions for the years 2025 through 2029, or if additional data provided indicates that emissions for any of such calendar years equaled or exceeded any of the specified thresholds, or if the person is a first jurisdictional deliverer and imports

electricity into the state during the compliance period;

(33) Specifies requirements for people who supply fossil fuel and from that fuel 25,000 metric tons or more of carbon dioxide equivalent emissions would result from the full combustion or oxidation;

(34) Specifies when a person is a covered entity if the person owns or operates a facility related to solid waste disposal;

(35) Specifies that when a covered entity reports, during a compliance period, emissions from a facility that are below certain thresholds, the covered entity continues to have a compliance obligation through the current compliance period. When a covered entity reports emissions below the threshold for each year during an entire compliance period, or has ceased all processes at the facility, the entity is no longer a covered entity as of the beginning of the subsequent compliance period, except for in the specified circumstances;

(36) Specifies emissions that are exempt from the program and that DNR may not require multiple covered entities to have a compliance obligation for the same emissions.;

(37) Establishes requirements for when conducting a life-cycle analysis, if required, for new or expanded facilities that require review under the state's environmental policy;

(38) Specifies that covered emissions from an entity may not be the basis for denial of a permit for a new or expanded facility;

(39) Specifies requirements for all covered entities that participate in the program and allows a person responsible for greenhouse gas emissions that is not a covered entity to voluntarily participate in the program as specified in the bill;

(40) Requires DNR to use an online electronic tracking system, as specified in the bill, to implement the program;

(41) Requires DNR to distribute allowances through auctions as provided in the bill and in rules adopted by the department. An allowance is not a property right;

(42) Specifies how auction proceeds must be distributed by the financial services administrator and the State Treasurer;

(43) Specifies steps DNR must take to guard against bidder collusion and minimize the potential for market manipulation;

(44) Requires DNR to design allowance auctions to allow linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program has entered into a linkage agreement with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with linked jurisdictions;

(45) Specifies that certain facilities owned or operated by a covered entity shall receive an allocation of allowances for the covered emissions at no cost if the operations of the facility are classified as emissions-intensive and trade-exposed. The process for allocating such no cost allowance and record keeping requirements are set forth in the bill;

(46) Requires DNR to adopt rules, in consultation with the Department of Commerce and Insurance and the Public Service Commission, establishing the methods and procedures for allocating allowances for consumer-owned and investor-owned electric utilities and to adopt allocation schedules for the each compliance period for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities, as specified in the bill;

(47) Requires DNR to adopt rules, in consultation with DCI and the Public Service Commission, establishing the methods and procedures for allocating allowances for to natural gas utilities and to adopt allocation schedules for the each compliance period for the provision of allowances at no cost to natural gas utilities, as specified in the bill;

(48) Requires DNR to establish an emissions containment reserve and set an emissions containment reserve trigger price by rule. DNR must set the trigger price as specified in the bill;

(49) Requires DNR to establish an auction floor price and a schedule for the floor price to increase by a predetermined amount every year as specified in the bill;

(50) Requires DNR to establish a price ceiling to provide cost protection for facilities obligated to comply with the program. DNR must set the price ceiling as specified in the bill;

(51) Requires DNR to establish protocols for creating offset projects and securing offset credits that may be used to meet a portion of a covered or opt-in entity's compliance obligation. The bill sets requirements to be included in the protocols adopted by DNR;

(52) Requires DNR to contract with an eligible entity, as defined in the bill, capable of providing public value to the state through

the establishment and implementation of a small forestland owner work group to identify possible carbon market opportunities and other incentive-based greenhouse gas reduction programs that landowners may be able to access to achieve carbon reductions. The work group must transmit a final report to DNR by December 1, 2024, and DNR must submit the final report to the General Assembly by December 31, 2024;

(53) Specifies that a covered or opt-in entity has a compliance obligation for its emissions during each four-year compliance period, with the first compliance period beginning January 1, 2025, except when the first compliance period begins at a later date in order to coordinate and synchronize the cap and invest program with other transportation-related investments. The compliance requirements do not become effective until a separate additive transportation revenue act, as defined in the bill, becomes law, at which time the Department of Revenue shall provide written notice to the Chief Clerk of the House of Representatives, the Secretary of the Senate, and the Revisor of Statutes;

(54) Requires all covered and opt-in entities to submit compliance instruments in a timely manner to meet the entities' compliance obligations and comply with all requirements for monitoring, reporting, holding, and transferring emission allowances. If a covered or opt-in entity fails to meet these requirements, it shall be subject to the penalties specified in the bill;

(55) Requires DNR to seek to enter into linkage agreements, as specified in the bill, with other jurisdictions with external greenhouse gas emissions trading programs;

(56) Requires the State to develop a process by which to evaluate the impacts of the investments under the program, work across state departments to develop and track priorities across the different eligible funding categories, and work with the Environmental Justice Council;

(57) Prohibits expenditures from the carbon emissions reduction fund, the climate investment fund, or the air quality and health disparities improvement fund, unless, within two years after the effective date of the bill, request legislation, as defined in the bill, is enacted into law;

(58) Creates the "Carbon Emissions Reduction Fund", "the Climate Investment Fund", and the "Air Quality and Health Disparities Improvement Fund" for the purposes specified in the bill;

(59) Authorizes DNR to classify air contaminant sources by rule that in its judgment may cause or contribute to air pollution,

according to levels and types of emissions and other characteristics that cause or contribute to air pollution, and require registration or reporting or both for any such class or classes. Classifications may be made as specified in the bill;

(60) Requires DNR or a local air authority to issue an enforceable order unto all permitted or registered sources operating in overburdened communities when DNR determines that criteria pollutants are not being reduced in an overburdened community and the department or local air authority adopts stricter air quality standards, emissions standards, or emissions limitations on criteria pollutants;

(60) Specifies that the state, state departments, and political subdivisions of the state, in implementing duties and authorities established under other provisions of law, can only consider any greenhouse gas limits adopted in this state in a manner that recognizes, where applicable, that the siting and placement of new or expanded best-in-class facilities with lower carbon emitting processes is in the economic and environmental interests of this state;

(61) Specifies that the enforcement of the program, and any rules adopted by DNR to implement the program , must be suspended five years after DNR determines that any final overall emissions of greenhouse gases limits have been met for two or more consecutive years;

(62) Requires DNR to prepare, post on its website, and submit to the appropriate committees of the General Assembly an annual report that identifies all distributions of moneys from the funds created in the bill; and

(63) Specifies that the provisions of the bill become effective on January 1, 2023.