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## State Government & Tribal Relations Committee

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### HB 2173

**Brief Description:** Concerning executive sessions by publicly owned natural gas utilities under the open public meetings act in order to comply with the climate commitment act.

**Sponsors:** Representatives Ybarra, Dye, Fitzgibbon and Doglio.

#### Brief Summary of Bill

- Permits entities subject to the Open Public Meetings Act to enter executive session to consider greenhouse gas allowance auction bidding information.

**Hearing Date:** 1/17/24

**Staff:** Carter Gale (786-7290) and Jason Zolle (786-7124).

#### Background:

##### Open Public Meetings Act.

The meetings of many governing bodies of governmental entities are required to be open and public. Covered entities include state agencies, local governments, subagencies of such entities, and policy groups whose membership includes representatives of publicly owned utilities under certain conditions. When actions are taken in violation of this rule, those actions are null and void and members of the board may be held personally liable in civil court. As an exception to the general rule, governing bodies may enter executive session and take otherwise prohibited actions. Executive sessions are parts of a regular or special meeting of a governing body that are closed to the public. These sessions may be permitted only for discussing reasons listed in statute, such as the purchase or sale of land, the qualifications of potential appointees, and considering complaints or charges against a public official or employee.

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*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.*

### Greenhouse Gas Allowance Auctions.

The Department of Ecology (Ecology) implements a cap and invest program to reduce greenhouse gas (GHG) emissions consistent with statutory procedural and emissions limits. The cap and invest program covers 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.

Entities emitting more than the 25,000 metric tons of carbon dioxide equivalent must either reduce their emissions or obtain allowances to cover any remaining emissions. Other entities may elect to participate in the process for obtaining allowances. Both electing entities and required entities must register with Ecology to obtain allowances for GHG emissions. Some utilities and industries are issued free allowances, while other allowances are sold at auction. Ecology holds a maximum of four auctions annually, plus reserve auctions, when necessary, in the event of unanticipated high costs for compliance.

### Prohibition on Disclosing Bidding Information.

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 Bill:**

Governing bodies of public agencies are permitted to hold an executive session to consider GHG allowance auction bidding information that is prohibited from disclosure.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.