

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 1453 Session of  
2014

---

INTRODUCED BY SOLOBAY, KASUNIC, WHITE, ARGALL, HUTCHINSON,  
EICHELBERGER, YAW, SCARNATI AND BOSCOLA, JULY 1, 2014

---

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JULY 1, 2014

---

AN ACT

1 Requiring the Department of Environmental Protection to receive  
2 approval from the General Assembly for a State plan to  
3 regulate carbon dioxide emissions for existing stationary  
4 sources prior to submitting the State plan to the United  
5 States Environmental Protection Agency for approval.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pennsylvania  
10 Greenhouse Gas Regulation Implementation Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) Reasonably priced reliable sources of electric power  
14 generated in this Commonwealth are vital to the health,  
15 safety and welfare of the residents and to the prosperity of  
16 this Commonwealth's economy.

17 (2) It is the responsibility of the Commonwealth to  
18 ensure that a reliable supply of electric power is generated  
19 at a level consistent with the need for such electric power

1 for the protection of public health, safety and the  
2 environment.

3 (3) Coal-fired electric generation power plants are  
4 developed primarily through the free enterprise system and  
5 require a significant commitment of funds and resources from  
6 shareholders, and the potential decision to deactivate or  
7 retire coal-fired electric generation power plants will have  
8 a long-term impact on this Commonwealth's economy.

9 (4) Commonwealth coal-fired electric generation power  
10 plants that sell into the wholesale power markets strengthen  
11 competition and enhance the reliability of the bulk power and  
12 transmission systems and are vital to public interest.

13 (5) The premature deactivation or retirement of coal-  
14 fired electric generation facilities significantly affects  
15 this Commonwealth's economy, environment, electric  
16 reliability and the general health, safety and welfare of  
17 this Commonwealth's residents, businesses and industries.

18 (6) All electric power generators, but primarily coal-  
19 fired electric generation facilities, have been subjected to  
20 ongoing and unmitigated negative market conditions that have  
21 resulted in the premature deactivation and retirement of high  
22 capacity resources in this Commonwealth.

23 (7) Over the past seven years, the Federal Environmental  
24 Protection Agency, the Ozone Transportation Commission and  
25 the Department of Environmental Protection have promulgated a  
26 myriad of environmental rules that have significantly  
27 increased costs to coal-fired electric generation facilities,  
28 making them less competitive in the wholesale power markets.

29 (8) The United States Environmental Protection Agency  
30 recently announced another rule governing carbon dioxide

emissions from coal-fired electric generation facilities.

(9) Since this Commonwealth is the second largest electricity producing state in the nation, the top net exporter of electricity and the fourth largest coal producing state, the United States Environmental Protection Agency's new greenhouse gas rule will have a significant, profound and long-lasting impact on the economy of this Commonwealth.

(10) The United States Environmental Protection Agency's greenhouse gas rule will also affect those communities that host coal-fired power plants, the employees at those facilities and residential, commercial and industrial consumers in this Commonwealth who depend upon the reliable provisioning of electricity at an economic price.

(11) Under the preliminary United States Environmental Protection Agency greenhouse gas rule, the Commonwealth has the authority to develop and submit to the United States Environmental Protection Agency a plan for how the Commonwealth will meet the United States Environmental Protection Agency's goals of reducing carbon dioxide emissions.

(12) Due to the extraordinary impact that the United States Environmental Protection Agency's greenhouse gas rule will have on this Commonwealth, it is the responsibility of the General Assembly, working together with the Department of Environmental Protection, the Pennsylvania Public Utility Commission and other important stakeholders, to be directly involved in the development of the Commonwealth's plan.

### Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Department." The Department of Environmental Protection of  
3 the Commonwealth.

4 "Environmental Protection Agency" or "EPA." The United  
5 States Environmental Protection Agency or the Administrator of  
6 the United States Environmental Protection Agency.

7 "State plan." The state plan authorized by the Environmental  
8 Protection Agency under docket EPA-HQ-OAR-2013-0602.

9 Section 4. State plan development.

10 (a) Development of State plan.--In accordance with the  
11 requirements of the EPA's regulation of carbon dioxide emissions  
12 for existing stationary sources, as published under docket EPA-  
13 HQ-OAR-2013-0602, the department shall develop and submit to the  
14 EPA a State plan for compliance with the regulation of carbon  
15 dioxide from existing power plants. In developing the State  
16 plan, the department shall do all of the following:

17 (1) Summon and examine witnesses and compel the  
18 production and examination of documents and other evidence  
19 that may be necessary for the discharging of duties imposed  
20 under this act.

21 (2) Conduct at least four public hearings in  
22 geographically dispersed locations in this Commonwealth,  
23 including locations that would be directly economically  
24 affected by the EPA's carbon dioxide regulation.

25 (3) Accept written testimony and consider, as part of  
26 the deliberations on the State plan, all written and oral  
27 testimony provided.

28 (4) Consider all of the following in the development of  
29 the State plan:

30 (i) Whether to rely on measures the EPA used to

1 calculate the carbon dioxide reduction goal, as well as  
2 other measures that were not part of the EPA goal-setting  
3 process.

4 (ii) Whether the Commonwealth should participate in  
5 multistate programs that already exist, or whether a new  
6 multistate carbon dioxide reduction program should be  
7 created.

8 (iii) Whether the Commonwealth should invest in  
9 energy efficiency programs during the compliance period  
10 to assist in meeting the EPA's goal.

11 (iv) Whether the Commonwealth should work in  
12 partnership with other states.

13 (v) When individual power plants must make  
14 reductions.

15 (vi) The extent to which any of the following should  
16 be included in the State plan:

17 (A) Demand-side energy efficiency programs.

18 (B) Renewable energy standards.

19 (C) Efficiency improvements at existing affected  
20 power plants.

21 (D) Cofiring or switching to natural gas.

22 (E) Transmission efficiency improvements.

23 (F) Energy storage technologies.

24 (G) The retirement or deactivation of existing  
25 affected generation units or facilities.

26 (H) The expansion of nonemitting sources, such  
27 as nuclear power.

28 (I) Market-based trading programs.

29 (J) Other energy conservation programs.

30 (vii) How best to avoid stranded investments in

1 existing affected power plants.

2 (5) Prioritize the components of the State plan based on  
3 a least-cost compliance approach to benefit consumers of  
4 electricity.

5 (6) Take into consideration the necessity and value to  
6 having a diverse generation fleet to ensure electric  
7 reliability in this Commonwealth.

8 Section 5. Submission of the State plan.

9 (a) Submission for approval to the General Assembly.--No  
10 less than 100 days prior to the department submitting the State  
11 plan to the EPA for approval, the department shall transmit the  
12 plan to the General Assembly for approval.

13 (b) General Assembly duties.--The General Assembly shall  
14 expeditiously consider the State plan developed by the  
15 department under this section as a special order of business. No  
16 more than 20 days after receiving the State plan from the  
17 department, the President pro tempore of the Senate and the  
18 Majority Leader of the House of Representatives shall place a  
19 concurrent resolution on the calendar summarizing the State plan  
20 and the members of each chamber of the General Assembly shall  
21 vote upon the concurrent resolution.

22 (c) Approval.--If both chambers of the General Assembly  
23 adopt the concurrent resolution under subsection (b), the  
24 department may submit the State plan to the EPA for  
25 consideration.

26 (d) Disapproval.--If either chamber of the General Assembly  
27 disapproves the concurrent resolution under subsection (b), the  
28 department may not submit the State plan to the EPA for  
29 consideration. The department shall do all of the following:

30 (1) Determine the reasons for disapproval and modify the

1 State plan.

2 (2) Cause the State plan to be resubmitted to the  
3 General Assembly utilizing the process delineated under  
4 subsection (b) within 60 days of the disapproval.

5 (3) If necessary, request an extension of time from the  
6 EPA by submitting an initial State plan by June 30, 2016,  
7 that meets the minimum requirements for an initial State  
8 plan, as specified in the plan guidelines published by the  
9 EPA. The department shall transmit the following message with  
10 its submittal under this paragraph:

11 Be advised that the State plan submitted by the  
12 Pennsylvania Department of Environmental Protection has  
13 not yet met the requirements of the Pennsylvania  
14 Greenhouse Gas Regulation Implementation Act requiring  
15 affirmative approval of the General Assembly. It is the  
16 intention of the Commonwealth of Pennsylvania to submit a  
17 State plan which conforms to this rulemaking. Under  
18 section 111(d) of the Clean Air Act, states must be given  
19 an opportunity to meet Federal environmental standards  
20 set forth by the Environmental Protection Agency. The  
21 Commonwealth of Pennsylvania hereby invokes the authority  
22 provided to it under section 111(d) of the Clean Air Act,  
23 and, in accordance with the Pennsylvania Greenhouse Gas  
24 Implementation Act, will be making a further filing with  
25 the agency.

26 (e) Default approval.--If no vote is taken by either chamber  
27 of the General Assembly to approve or disapprove the concurrent  
28 resolution before 15 days of the June 30, 2016, deadline, the  
29 State plan shall be deemed approved and shall be submitted to  
30 the EPA immediately.

1       (f) Default approval after time to cure.--If either chamber  
2 of the General Assembly fails to approve a resubmitted plan  
3 under subsection (d)(2), within 60 days of the extension  
4 deadline, the resubmitted plan shall be deemed approved.

5 Section 6. Effective date.

6       This act shall take effect immediately.