

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2354 Session of 2014

INTRODUCED BY SNYDER, OBERLANDER, KORTZ, KOTIK, SANKEY, NEUMAN, JAMES, TOPPER, HARHAI, GOODMAN, GIBBONS, LUCAS, HANNA, KULA, AUMENT, D. COSTA, CARROLL, EVERETT, CLYMER, READSHAW, P. DALEY, MARSHALL AND MAHONEY, JUNE 18, 2014

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 29, 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.~~

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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~~

1 ~~at a level consistent with the need for such electric power~~
2 ~~for the protection of public health, safety and the~~
3 ~~environment.~~

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

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

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

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

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

30 ~~(8) The United States Environmental Protection Agency~~

1 ~~recently announced another rule governing carbon dioxide~~
2 ~~emissions from coal fired electric generation facilities.~~

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

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

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

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

29 Section 3 2. Definitions.

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30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

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

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

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

10 Section ~~4~~ 3. State plan development. <--

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

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

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

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

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

1 (i) Whether to rely on measures the EPA used to
2 calculate the carbon dioxide reduction goal, as well as
3 other measures that were not part of the EPA goal-setting
4 process.

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

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

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

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

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

18 (A) Demand-side energy efficiency programs.

19 (B) Renewable energy standards.

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

22 (D) Cofiring or switching to natural gas.

23 (E) Transmission efficiency improvements.

24 (F) Energy storage technologies.

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

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

29 (I) Market-based trading programs.

30 (J) Other energy conservation programs.

1 (vii) How best to avoid stranded investments in
2 existing affected power plants.

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

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

9 Section 5 4. Submission of the State plan. <--

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

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

23 (B) CONSIDERATION BY GENERAL ASSEMBLY.--UPON TRANSMISSION <--
24 UNDER SUBSECTION (A), THE STATE PLAN SHALL BE:

25 (1) PROPOSED AS A RESOLUTION IN EACH CHAMBER;

26 (2) PLACED ON THE CALENDAR OF EACH CHAMBER FOR THE NEXT
27 LEGISLATIVE DAY FOLLOWING TRANSMISSION; AND

28 (3) CONSIDERED BY EACH CHAMBER WITHIN 20 DAYS AFTER
29 TRANSMISSION.

30 (c) Approval.--If ~~both chambers~~ EACH CHAMBER of the General <--

1 Assembly ~~adopt the concurrent~~ ADOPTS THE resolution under <--
2 subsection (b), the department may submit the State plan to the
3 EPA for consideration.

4 (d) Disapproval.--If either chamber of the General Assembly
5 disapproves the ~~concurrent~~ resolution under subsection (b), the <--
6 department may not submit the State plan to the EPA for
7 consideration. The department shall do all of the following:

8 (1) Determine the reasons for disapproval and modify the
9 State plan.

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

13 (3) If necessary, request an extension of time from the
14 EPA by submitting an initial State plan by June 30, 2016,
15 that meets the minimum requirements for an initial State
16 plan, as specified in the plan guidelines published by the
17 EPA. The department shall transmit the following message with
18 its submittal under this paragraph:

19 Be advised that the State plan submitted by the
20 Pennsylvania Department of Environmental Protection has
21 not yet met the requirements of the Pennsylvania
22 Greenhouse Gas Regulation Implementation Act requiring
23 affirmative approval of the General Assembly. It is the
24 intention of the Commonwealth of Pennsylvania to submit a
25 State plan which conforms to this rulemaking. Under
26 section 111(d) of the Clean Air Act, states must be given
27 an opportunity to meet Federal environmental standards
28 set forth by the Environmental Protection Agency. The
29 Commonwealth of Pennsylvania hereby invokes the authority
30 provided to it under section 111(d) of the Clean Air Act,

1 and, in accordance with the Pennsylvania Greenhouse Gas
2 Implementation Act, will be making a further filing with
3 the agency.

4 (e) Default approval.--If no vote is taken by either chamber
5 of the General Assembly to approve or disapprove the ~~concurrent~~ <--
6 resolution UNDER SUBSECTION (B) before ~~15 days of the June 30~~ <--
7 ~~15, 2016, deadline,~~ the State plan shall be deemed approved and <--
8 shall be submitted to the EPA immediately.

9 (f) Default approval after time to cure.--If either chamber
10 of the General Assembly fails to approve a resubmitted plan
11 under subsection (d)(2), within 60 days of the extension
12 ~~deadline,~~ the resubmitted plan shall be deemed approved. <--
13 Section ~~6~~ 5. Effective date. <--

14 This act shall take effect immediately.