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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2856 Session of  
2020

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INTRODUCED BY COMITTA, McCARTER, FREEMAN, HOHENSTEIN,  
SHUSTERMAN, VITALI, LEE, CALTAGIRONE, WILLIAMS, HILL-EVANS,  
FRANKEL, SANCHEZ, ULLMAN, RAVENSTAHL, BRIGGS, SAPPEY,  
JOHNSON-HARRELL, DALEY, HANBIDGE, KIM, McNEILL, McCLINTON,  
FITZGERALD, HOWARD, BURGOS, ROEBUCK, STURLA, WARREN, WEBSTER  
AND SCHLOSSBERG, SEPTEMBER 9, 2020

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
SEPTEMBER 9, 2020

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AN ACT

1 Establishing the CO2 Budget Trading Program; providing for  
2 powers and duties of department; establishing the Energy  
3 Transition Fund; providing for revenue from sale of carbon  
4 allowances; establishing the Energy Transition Board; and  
5 providing for energy transition plan.

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 Energy  
10 Transition and Recovery Act.

11 Section 2. Findings and declarations.

12 The General Assembly finds and declares as follows:

13 (1) This Commonwealth's electric power sector is  
14 experiencing a rapid and unprecedented transition. Until  
15 recently, this Commonwealth produced nearly all of its  
16 electricity from coal-fired and nuclear power plants.

17 However, since 2011, low natural gas prices and wholesale

1 electricity market rules that favor gas have driven a massive  
2 increase in gas-fired generation.

3 (2) Over the last decade, the replacement of coal plants  
4 with gas plants has led to lower carbon dioxide emissions  
5 from this Commonwealth's electric power sector, which is  
6 responsible for approximately one-third of this  
7 Commonwealth's overall greenhouse gas emissions and is the  
8 largest source of carbon pollution in this Commonwealth.  
9 However, gas plants are currently threatening to replace this  
10 Commonwealth's nuclear plants and lock in high pollution  
11 levels for decades.

12 (3) Emissions of carbon dioxide and other greenhouse  
13 gases pose a significant threat to the health and well-being  
14 of the residents of this Commonwealth and to this  
15 Commonwealth's economy. The most comprehensive scientific  
16 analysis has determined that to avoid the worst impacts of  
17 climate change, the United States must reduce its greenhouse  
18 gas emissions from all sectors of its economy to a net zero  
19 by the year 2050. To achieve the reductions, this  
20 Commonwealth must ensure that greenhouse gas emissions are  
21 eliminated from its electric power sector before the year  
22 2050.

23 (4) To ensure continuing reductions of carbon pollution,  
24 this Commonwealth needs to regulate carbon pollution, as well  
25 as drive investments in energy efficiency, renewable energy,  
26 battery storage and other clean energy technologies.

27 (5) In accordance with Executive Order 2019-07 issued by  
28 Governor Wolf on October 3, 2019, the Department of  
29 Environmental Protection has developed a proposed rulemaking  
30 under the act of January 8, 1960 (1959 P.L.2119, No.787),

1 known as the Air Pollution Control Act, that would establish  
2 a CO2 Budget Trading Program to reduce carbon pollution from  
3 the electric power sector through the year 2030 and enable  
4 this Commonwealth to participate in the Regional Greenhouse  
5 Gas Initiative beginning in the year 2022.

6 (6) Consistent with the Department of Environmental  
7 Protection's existing statutory authority, the proceeds from  
8 carbon allowances sold at auction through the Regional  
9 Greenhouse Gas Initiative would be deposited into the Clean  
10 Air Fund administered by the Department of Environmental  
11 Protection for use in the elimination of air pollution.

12 (7) This act deposits one-fourth of the proceeds from  
13 carbon allowances sold at auction through the Regional  
14 Greenhouse Gas Initiative into the Clean Air Fund and  
15 deposits three-fourths of the proceeds into a newly  
16 established Energy Transition Fund.

17 (8) The Energy Transition Fund serves a broader set of  
18 social and economic purposes than the Clean Air Fund,  
19 including electricity bill reductions for low-income  
20 residents of this Commonwealth, additional investments in  
21 environmental justice communities and transition assistance  
22 for workers and communities affected by the closure of power  
23 plants and other energy infrastructure.

24 (9) Enhanced investments in these areas are critical to  
25 reduce air pollution as this Commonwealth addresses the  
26 impacts of the COVID-19 pandemic, the ongoing transition of  
27 this Commonwealth's electric power sector and climate change.

28 (10) Furthermore, this act requires that carbon dioxide  
29 emissions from this Commonwealth's power sector be reduced to  
30 zero before the year 2050.

1 Section 3. Definitions.

2 The following words and phrases when used in this act shall  
3 have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Air Pollution Control Act." The act of January 8, 1960  
6 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

7 "Board." The Environmental Quality Board of the  
8 Commonwealth.

9 "Climate change action plan." The plan required under  
10 section 7 of the act of July 9, 2008 (P.L.935, No.70), known as  
11 the Pennsylvania Climate Change Act.

12 "Commission." The Pennsylvania Public Utility Commission.

13 "Department." The Department of Environmental Protection of  
14 the Commonwealth.

15 "Electric power sector." The generation of electricity from  
16 power plants in this Commonwealth with nameplate capacity of 15  
17 megawatts or greater.

18 "Emissions leakage." Incremental carbon dioxide emissions  
19 that result from the shift of power generation from this  
20 Commonwealth to a jurisdiction that has no limits on carbon  
21 dioxide emissions or that has limits less stringent than the  
22 limits adopted by regulation.

23 "Energy transition agencies." All of the following:

24 (1) The department.

25 (2) The Department of Community and Economic  
26 Development.

27 (3) The Department of Human Services.

28 (4) The Department of Labor and Industry.

29 (5) The commission.

30 "Environmental justice community." A census block group in

1 which minorities represent at least 30% of the population or in  
2 which 20% of the residents are at or below the Federal poverty  
3 level according to the most recent decennial census by the  
4 United States Census Bureau.

5 "Executive Order." Executive Order No. 2019-07 issued by  
6 Governor Tom Wolf on October 3, 2019.

7 "Fund." The Energy Transition Fund established under section  
8 6.

9 "Greenhouse gases." Carbon dioxide and other gases that  
10 absorb and re-emit infrared radiation when in the earth's  
11 atmosphere.

12 "Low-income residential customers." A residential electric  
13 utility customer with a household income below 150% of the  
14 Federal poverty level.

15 "Moderate-income residential customers." A residential  
16 electric utility customer with a household income between 151%  
17 and 250% of the Federal poverty level.

18 "PJM." The regional transmission organization, or its  
19 successor, that coordinates the movement of wholesale  
20 electricity in a multistate region that includes this  
21 Commonwealth.

22 Section 4. CO2 Budget Trading Program.

23 (a) Emissions reduction.--In accordance with the Executive  
24 Order, the board shall promulgate a regulation to establish a  
25 CO2 Budget Trading Program for the electric power sector. The  
26 regulation shall include an annually declining carbon budget and  
27 shall enable this Commonwealth to participate in the Regional  
28 Greenhouse Gas Initiative beginning January 1, 2022. The  
29 regulation may include measures that mitigate emissions leakage  
30 to other jurisdictions.

1 (b) Review.--Implementation of the regulation promulgated  
2 under subsection (a) shall be evaluated by the department on a  
3 triennial basis in the climate change action plan. The  
4 department's review shall include, but may not be limited to:

5 (1) An assessment of the electric power sector's  
6 progress toward the emission reduction required under  
7 subsection (a).

8 (2) An analysis of whether the regulation has resulted  
9 in emissions leakage.

10 (3) A determination of what revisions to the regulation  
11 are necessary to reduce emissions from the electric power  
12 sector to net zero by the year 2050.

13 (4) An assessment of the impacts of the regulation on  
14 environmental justice communities.

15 (c) Revision.--The department's review under subsection (b)  
16 shall propose any changes necessary to ensure that the  
17 regulation reduces emissions in the electric power sector to  
18 zero no later than the year 2050. If the department's review  
19 under subsection (b) determines that the regulation has resulted  
20 in emissions leakage or any negative economic or environmental  
21 impacts on environmental justice communities, low-income  
22 residential customers or moderate-income residential customers,  
23 the department shall recommend and propose changes to the  
24 regulation to fully mitigate the identified negative impacts.

25 Section 5. Powers and duties of department.

26 The following apply:

27 (1) The department shall have the power and duty to  
28 implement and enforce regulations promulgated by the board  
29 under this act.

30 (2) The department may delegate the implementation and

1 administrative support functions for any CO2 allowance  
2 auction conducted under the CO2 Budget Trading Program to an  
3 agent qualified to conduct auctions, including a regional  
4 entity, if the agent performs all functions under the  
5 direction and oversight of the department.

6 Section 6. Energy Transition Fund.

7 The Energy Transition Fund is established as a special  
8 nonlapsing fund in the State Treasury to support energy  
9 affordability, energy efficiency, renewable energy and a just  
10 and equitable transition to a decarbonized economy for  
11 environmental justice communities and workers and communities  
12 affected by the closure of power plants and other energy  
13 facilities. The fund shall be administered as a trust for the  
14 purposes specified under this section.

15 Section 7. Revenue from sale of carbon allowances.

16 (a) Energy Transition Fund.--Three-fourths of the revenue  
17 from the sale, allocation, exchange or conveyance of carbon  
18 allowances under this act shall be deposited into the fund.

19 (b) Clean Air Fund.--One-fourth of the revenue from the  
20 sale, allocation, exchange or conveyance of carbon allowances  
21 under this act shall be deposited into the Clean Air Fund and  
22 shall be disbursed in accordance with the Air Pollution Control  
23 Act.

24 Section 8. Energy Transition Board.

25 The Energy Transition Board is established and shall consist  
26 of the following members:

- 27 (1) The Secretary of Community and Economic Development.
- 28 (2) The Secretary of Environmental Protection.
- 29 (3) The Secretary of Human Services.
- 30 (4) The Secretary of Labor and Industry.

1 (5) The chair of the commission.

2 (6) The Director of the Office of Environmental Justice  
3 within the department.

4 (7) One member appointed by the President pro tempore of  
5 the Senate.

6 (8) One member appointed by the Speaker of the House of  
7 Representatives.

8 (9) One member appointed by the Minority Leader of the  
9 Senate.

10 (10) One member appointed by the Minority Leader of the  
11 House of Representatives.

12 (11) Seven members appointed by the Governor, which  
13 shall be representatives of each of the following:

14 (i) Environmental justice communities.

15 (ii) Labor organizations.

16 (iii) Renewable energy companies.

17 (iv) Energy efficiency companies.

18 (v) Environmental organizations.

19 (vi) Energy-intensive industries.

20 (vii) Organizations representing low-income  
21 Pennsylvanians.

22 Section 9. Disbursements from fund.

23 (a) Disbursement.--Money in the fund shall be disbursed  
24 annually by the State Treasurer in accordance with an energy  
25 transition plan developed by the energy transition agencies and  
26 approved by the Energy Transition Board. After the payment of  
27 administrative costs as authorized under subsection (b)(2), the  
28 money in the fund shall be used as follows:

29 (1) Fifteen percent of the money in the fund shall be  
30 used to provide electricity bill assistance to low-income

1 residential customers. The money used under this paragraph  
2 shall be in addition to any existing funding for electricity  
3 bill assistance programs.

4 (2) Twenty percent of the money in the fund and any  
5 unexpended funds under paragraph (1) at the end of each  
6 fiscal year shall be used to supplement Federal funding for  
7 the Weatherization Assistance Program.

8 (3) Thirty percent of the money in the fund shall be  
9 invested in distributed solar generation programs, energy  
10 demand reduction programs and projects and energy efficiency  
11 programs and projects, not including the Weatherization  
12 Assistance Program, with a priority given directly to benefit  
13 environmental justice communities, low-income residential  
14 customers and moderate-income residential customers.

15 (4) Thirty-five percent of the money in the fund shall  
16 be used for programs and projects that support workers and  
17 communities impacted by the closure of energy facilities or  
18 support environmental justice communities.

19 (b) Administrative costs.--

20 (1) Administrative costs incurred by the department  
21 shall be paid from the Clean Air Fund.

22 (2) Administrative costs incurred by the State Treasurer  
23 and the energy transition agencies under this act shall be  
24 paid from the fund and capped at 2.5% of the available  
25 proceeds in the fund as determined on an annual basis.

26 Section 10. Energy transition plan.

27 (a) Development.--An energy transition plan shall be  
28 developed through a Statewide public input process conducted by  
29 the energy transition agencies. The energy transition agencies  
30 shall jointly submit a draft energy transition plan and the

1 final energy transition plan to the Legislative Reference Bureau  
2 for publication in the Pennsylvania Bulletin and post the draft  
3 plan and final plan on the publicly accessible Internet websites  
4 of the energy transition agencies. The Statewide public input  
5 process shall include all of the following:

6 (1) At least five public hearings in the fossil fuel  
7 producing regions of this Commonwealth.

8 (2) At least five public hearings in environmental  
9 justice communities.

10 (3) The opportunity for public comment after the draft  
11 plan is made available in the Pennsylvania Bulletin and on  
12 the publicly accessible Internet websites of the energy  
13 transition agencies.

14 (b) Public input.--During the Statewide public input process  
15 under subsection (a), the energy transition agencies shall  
16 specifically seek input from organized labor, environmental  
17 justice organizations, local elected officials, local and  
18 regional economic development organizations and educational and  
19 workforce development service providers.

20 (c) Criteria.--The energy transition agencies shall  
21 establish criteria for the purpose of identifying the  
22 communities impacted by the closure of energy facilities under  
23 section 9(a)(4), including, but not limited to, the following:

24 (1) If a community experienced the closure of a power  
25 plant in the last 15 years.

26 (2) If a community experienced the loss of other major  
27 fossil fuel infrastructure in the last 15 years.

28 (d) Existing structures.--The energy transition agencies  
29 shall design the energy transition plan to maximize  
30 disbursements to existing State and local agency programs that

1 serve the purposes of the fund.

2 Section 11. Regional cooperation.

3 The commission and the department shall do all of the  
4 following:

5 (1) Consult with PJM to maximize regional cooperation  
6 and consistency throughout the PJM region with respect to  
7 greenhouse gas emissions reduction goals, mitigation of  
8 emissions leakage, grid modernization and resiliency,  
9 deployment of renewable energy generation and storage and  
10 consumer costs.

11 (2) Request that PJM work with the Commonwealth and  
12 other states served by PJM to reduce greenhouse gas  
13 emissions, including adopting such market mechanisms or  
14 frameworks as may be necessary to avoid market distortions  
15 and minimize emissions leakage during the implementation of  
16 this act.

17 (3) Request from PJM any information that may be  
18 necessary or useful to the commission and the department in  
19 implementing this act and minimizing emissions leakage.

20 Section 12. Prohibition.

21 Revenue from the sale, allocation, exchange or conveyance of  
22 carbon allowances may not be used or disbursed except as  
23 provided under this act.

24 Section 13. Effective date.

25 This act shall take effect in 60 days.