

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 637 Session of 2021

INTRODUCED BY STRUZZI, OBERLANDER, SNYDER, METCALFE, LEWIS DELROSSO, CAUSER, ROTHMAN, PICKETT, COOK, HAMM, SCHMITT, KAUFFMAN, DUNBAR, JAMES, MILLARD, ZIMMERMAN, SAYLOR, MOUL, HEFFLEY, SANKEY, FRITZ, SAINATO, ROWE, SMITH, BURNS, ARMANINI, MUSTELLO, E. NELSON AND MAJOR, FEBRUARY 24, 2021

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 30, 2022

AN ACT

1 Authorizing the Department of Environmental Protection to
2 conduct a public comment process on and submit to the General
3 Assembly a measure or action intended to abate, control or
4 limit carbon dioxide emissions by imposing a revenue-
5 generating tax or fee on carbon dioxide emissions; AND MAKING <--
6 AN APPROPRIATION.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the ~~Pennsylvania~~ <--
11 ~~Carbon Dioxide Cap and Trade Authorization~~ ENERGY SUSTAINABILITY <--
12 AND INVESTMENT Act.

13 Section 2. Declaration of policy.

14 The General Assembly finds and declares as follows:

15 (1) As a matter of Pennsylvania law, no statutory or
16 constitutional authority currently exists that authorizes a
17 State agency to regulate or impose a tax on carbon dioxide
18 emissions. Therefore, it is the responsibility of the General

1 Assembly, working together with the Department of
2 Environmental Protection, the Environmental Quality Board,
3 the Pennsylvania Public Utility Commission and other
4 important stakeholders, to determine whether and how to
5 regulate or impose a tax on carbon dioxide emissions.

6 (2) The General Assembly recognizes that no statute,
7 including the act of January 8, 1960 (1959 P.L.2119, No.787),
8 known as the Air Pollution Control Act, the act of February
9 17, 1972 (P.L.64, No.20), known as the Uniform Interstate Air
10 Pollution Agreements Act, the act of July 9, 2008 (P.L.935,
11 No.70), known as the Pennsylvania Climate Change Act, or the
12 Pennsylvania Constitution, authorizes the Governor, the
13 Environmental Quality Board, the Department of Environmental
14 Protection or any other agency or official to adopt
15 regulations, implement a policy or take any other action to
16 authorize the Commonwealth to join or participate in a State
17 or regional greenhouse gas cap-and-trade program or establish
18 a greenhouse gas cap-and-trade program.

19 (3) Affordable, reliable and resilient sources of
20 electric power generated in Pennsylvania are vital to the
21 health, safety and welfare of this Commonwealth's residents
22 and to the prosperity of its economy.

23 Section 3. Definitions.

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

27 "Department." The Department of Environmental Protection of
28 the Commonwealth.

29 "RGGI." The Regional Greenhouse Gas Initiative, which is a
30 multistate compact that establishes or calls for the compacting

1 states to establish a regional, multistate cap on the amount of
2 greenhouse gases released by electric generation plants.

3 "Standing committee." The Environmental Resources and Energy
4 Committee of the Senate and the Environmental Resources and
5 Energy Committee of the House of Representatives.

6 Section 4. Regulation of greenhouse gas emissions.

7 (a) Prohibition.--Except for a measure that is required by
8 Federal law, the department may not adopt a measure or take any
9 other action that is designed to abate, control or limit carbon
10 dioxide emissions, including an action to join or participate in
11 a State or regional greenhouse gas cap-and-trade program,
12 including the RGGI, nor may the department establish a
13 greenhouse gas cap-and-trade program, unless the General
14 Assembly specifically authorizes such a measure or action by
15 statute that is enacted on or after the effective date of this
16 section.

17 (b) Submission to General Assembly.--If the department
18 proposes a measure of action under subsection (a), the
19 department shall submit the proposed measure or other proposed
20 action to the General Assembly as provided under section 5.

21 Section 5. Process for submission to General Assembly.

22 (a) Duties of department.--Prior to submitting a proposed
23 measure or other proposed action to the General Assembly under
24 section 4(b), the department shall do the following:

25 (1) Submit to the Legislative Reference Bureau for
26 publication in the Pennsylvania Bulletin the proposed measure
27 or other proposed action that is in the form of draft
28 legislation. The publication shall set a public comment
29 period of no less than 180 days.

30 (2) During the public comment period, the department

1 shall conduct a minimum of four public hearings, conducted in
2 accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings),
3 on the proposed measure or other proposed action and shall
4 conduct the hearings in geographically dispersed locations in
5 this Commonwealth, including locations in which regulated
6 sources of carbon dioxide emissions would be directly
7 economically affected by the proposal.

8 (3) Following the public comment period, the department
9 shall compile a report that will be submitted to both
10 standing committees. The report shall include the following
11 information:

12 (i) A list of all individual facilities, by county,
13 that would be subject to the proposed measure or other
14 proposed action, along with:

15 (A) the amount of carbon dioxide emitted by each
16 of the facilities;

17 (B) the estimated cost that each of the
18 facilities would incur to comply with the proposed
19 measure or other proposed action;

20 (C) the effect that the proposed measure or
21 other proposed action would have on the price of
22 electricity (\$/MWh net) that each of the facilities
23 generates;

24 (D) a list of the facilities that, under the
25 proposed measure or other proposed action, would be
26 unlikely to continue to operate;

27 (E) for the other electric generation
28 facilities, an assessment of the extent to which they
29 would be likely to operate after the proposed measure
30 or other proposed action had been fully implemented;

1 (F) an assessment of the decrease of electricity
2 that would be exported from Pennsylvania after the
3 proposed measure or other proposed action had been
4 fully implemented; and

5 (G) an assessment of the contribution to
6 resilience and diversity in the Pennsylvania electric
7 generation fleet from each of the affected facilities
8 and the impacts upon the resilience and diversity in
9 the event that any or all of the facilities are
10 forced to close.

11 (ii) A summary of the impacts on all industries
12 whose public testimony or comments were received by the
13 department during the public comment period.

14 (iii) An estimate of the net carbon dioxide emission
15 reductions that the proposed measure or other proposed
16 action would engender within the PJM Interconnection
17 region, taking into account the electricity generation in
18 neighboring states where there is not a regulation or tax
19 on carbon dioxide emissions.

20 (iv) A summary and justification of any provisions
21 in the proposed measure or other proposed action that
22 would address leakage.

23 (v) A description of the economic and fiscal impacts
24 that would result from the proposed measure or other
25 proposed action, including the following impacts:

26 (A) Direct and indirect costs to the
27 Commonwealth and its political subdivisions and the
28 private sector.

29 (B) The impact of any action or measure upon the
30 wholesale and retail price of electricity, both

1 directly and indirectly, broken down by classes of
2 electricity consumers, including, but not limited to,
3 residential, commercial, industrial and
4 transportation.

5 (C) Adverse effects on prices of goods and
6 services, productivity or competition.

7 (D) The nature of the reports, forms or other
8 paperwork that would be required for implementation
9 and administration of the action or measure and the
10 estimated cost for individuals, businesses and
11 organizations in the public and private sectors to
12 prepare them.

13 (E) The nature and estimated cost of legal,
14 consulting or accounting services that the public or
15 private sector would be required or likely to incur
16 for implementation and administration of the action
17 or measure.

18 (F) The impact that it would have on the public
19 interest to exempt individuals, employers or
20 facilities from compliance or require the
21 individuals, employers or facilities to comply with
22 less stringent standards when it would be lawful,
23 desirable and feasible.

24 (vi) Whether a less costly or less intrusive
25 alternative method of achieving the goal of the proposed
26 measure or other proposed action has been considered for
27 an employer or facility that would otherwise be subject
28 to the proposed measure or proposed action.

29 (b) Legislation.--Once the public comment period has
30 concluded and the department has submitted the report to the

1 standing committees, the department shall submit the measure in
2 legislative form to the standing committees and request that a
3 member of the standing committees introduce the legislation.
4 This action shall constitute submitting the measure or action to
5 the General Assembly. If the legislation is introduced, the
6 legislation shall follow the standard legislative process and
7 may be considered by a standing committee if the legislation is
8 referred to the standing committee.

9 SECTION 6. ENERGY SUSTAINABILITY AND INVESTMENT PROJECTS. <--

10 (A) APPROPRIATION OF FEDERAL FUNDS.--FOR FISCAL YEAR 2022-
11 2023, \$250,000,000 FROM THE COVID-19 RESPONSE RESTRICTED ACCOUNT
12 IS APPROPRIATED FOR TRANSFER TO THE COMMONWEALTH FINANCING
13 AUTHORITY AND IS ALLOCATED AS FOLLOWS:

14 (1) THE SUM OF \$125,000,000 IS ALLOCATED FOR THE PURPOSE
15 OF RESEARCH, DEVELOPMENT, CONSTRUCTION OR SITE DEVELOPMENT OF
16 CARBON DIOXIDE AND METHANE REDUCTION TECHNOLOGIES FOR
17 ELECTRIC GENERATION AND MANUFACTURING, INCLUDING, BUT NOT
18 LIMITED TO, MICRO-GRID NUCLEAR POWER PLANTS, CARBON CAPTURE
19 UTILIZATION AND SEQUESTRATION, DEVELOPMENT OF HYDROGEN FUEL
20 PROJECTS, SECURING FEDERAL FUNDS FOR A REGIONAL HYDROGEN HUB
21 AND BATTERY STORAGE. AT LEAST \$12,500,000 OF THIS ALLOCATION
22 SHALL BE USED FOR METHANE ABATEMENT PROJECTS FROM PLUGGING
23 ABANDONED NATURAL GAS WELLS.

24 (2) THE SUM OF \$62,500,000 IS ALLOCATED FOR THE PURPOSE
25 OF SEWER AND WATER INFRASTRUCTURE AND STORM WATER MITIGATION
26 PROJECTS, INCLUDING RIPARIAN PLANTING FOR CARBON DIOXIDE
27 REDUCTION, STREAM BUFFERING AND STREAMBANK RESTORATION.

28 (3) THE SUM OF \$62,500,000 IS ALLOCATED FOR THE PURPOSE
29 OF ASSISTING WORKERS AND COMMUNITIES IMPACTED BY ELECTRIC
30 GENERATION OR MANUFACTURING PLANT CLOSURES, INCLUDING, BUT

1 NOT LIMITED TO, APPRENTICESHIP AND TRAINING PROJECTS,
2 EXTENSIONS OF UNEMPLOYMENT COMPENSATION BENEFITS AND
3 INVESTMENTS IN PROJECTS TO REDEVELOP THE CLOSED PLANT SITES.

4 (B) APPLICABILITY OF PREVAILING WAGES.--A CAPITAL PROJECT
5 THAT DIRECTLY OR INDIRECTLY RECEIVES MONEY APPROPRIATED UNDER
6 THIS SECTION SHALL BE SUBJECT TO THE ACT OF AUGUST 15, 1961
7 (P.L.987, NO.442), KNOWN AS THE PENNSYLVANIA PREVAILING WAGE
8 ACT.

9 (C) NONLAPSING APPROPRIATION.--MONEY APPROPRIATED UNDER THIS
10 SECTION SHALL NOT LAPSE.

11 (D) APPLICABILITY.--THE PROVISIONS OF SECTION 111-C(G) OF
12 THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL
13 CODE, SHALL NOT APPLY TO THE AMOUNT APPROPRIATED UNDER THIS
14 SECTION.

15 SECTION 7. APPLICABILITY.

16 THE DEPARTMENT SHALL PROCEED THROUGH THE PROCESS DESCRIBED
17 UNDER SECTIONS 4 AND 5 FOR A MEASURE OR ACTION TAKEN BY THE
18 DEPARTMENT DESIGNED TO ABATE, CONTROL OR LIMIT CARBON DIOXIDE
19 EMISSIONS OR TO ESTABLISH A GREENHOUSE GAS CAP-AND-TRADE
20 PROGRAM, EVEN IF THE MEASURE OR ACTION IS IN EFFECT ON THE
21 EFFECTIVE DATE OF THIS SECTION. A MEASURE OR ACTION TAKEN BY THE
22 DEPARTMENT OR THE ENVIRONMENTAL QUALITY BOARD ON BEHALF OF THE
23 DEPARTMENT THAT DOES NOT PROCEED THROUGH THE PROCESS IS
24 ABROGATED TO THE EXTENT OF ANY INCONSISTENCY WITH THIS ACT.

25 Section ~~6~~ 8. Effective date.

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26 This act shall take effect immediately.