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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2312 Session of  
2020

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INTRODUCED BY MULLINS, YOUNGBLOOD, KINSEY, HILL-EVANS AND  
McCLINTON, FEBRUARY 24, 2020

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 24, 2020

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AN ACT

1 Providing for power plant host community benefit agreements  
2 between municipalities and owners of certain electric  
3 generating facilities, for power plant host community impact  
4 fees paid by affected facilities and fee uses; establishing  
5 public participation requirements; and providing for  
6 administrative fees and for duties of the Department of  
7 Environmental Protection.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the Power Plant  
12 Host Community Benefit Agreement and Fee Act.

13 Section 2. Definitions.

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

17 "Affected facility." An electric generating facility with a  
18 capacity of at least 10 megawatts. The term shall not include  
19 the portion of an electric generating facility that uses  
20 alternative energy sources.

1 "Alternative energy sources." Energy derived from:

2 (1) Solar photovoltaic and solar thermal energy.

3 (2) Wind power.

4 (3) Low-impact hydropower.

5 (4) Geothermal energy.

6 (5) Biologically derived methane gas.

7 (6) Fuel cells.

8 (7) Biomass energy.

9 (8) Coal mine methane.

10 "Department." The Department of Environmental Protection of  
11 the Commonwealth.

12 "Governing body." A board of county commissioners, city  
13 council, borough or incorporated town council, commissioners of  
14 a township of the first class, supervisors of a township of the  
15 second class, board of school directors of a school district or  
16 their successor forms of government.

17 Section 3. Plan approvals and permits.

18 The department shall not grant to the owner of an affected  
19 facility a final plan approval or final operating permit  
20 required under section 6.1 of the act of January 8, 1960 (1959  
21 P.L.2119, No.787), known as the Air Pollution Control Act, for a  
22 stationary air contamination source that is an electric  
23 generating facility with a capacity of at least 10 megawatts  
24 unless the owner of the affected facility is in full compliance  
25 with section 4.

26 Section 4. Power plant host community benefit agreements.

27 (a) Consultation required.--The owner of an affected  
28 facility and the governing body of the municipality, the county  
29 and the school district in which the affected facility is  
30 proposed to be located, expanded or subject to the renewal of an

1 existing permit shall enter into discussions to evaluate the  
2 need for and potential terms of a power plant host community  
3 benefit agreement.

4 (b) Public hearing.--Prior to negotiating the final terms of  
5 a power plant host community benefit agreement, an affected  
6 facility and the municipality, county and school district in  
7 which the affected facility is located shall, in compliance with  
8 section 8, provide a public opportunity for residents of the  
9 municipality, county and school district to be heard regarding  
10 the need for and potential terms of a power plant host community  
11 benefit agreement.

12 (c) Notice of agreement.--If the owner of an affected  
13 facility and the municipality in which the affected facility is  
14 located enter into a power plant host community benefit  
15 agreement, a signed and notarized copy of the agreement shall be  
16 transmitted to the department. The department shall transmit the  
17 agreement to the Legislative Reference Bureau for publication in  
18 the Pennsylvania Bulletin.

19 (d) Agreement not reached.--If a municipality has approved  
20 all necessary zoning and building permits for an affected  
21 facility and the owner of the affected facility and the  
22 municipality in which the affected facility is located fails to  
23 enter into a power plant host community benefit agreement, the  
24 following shall apply:

25 (1) The owner of the affected facility and the  
26 municipality shall notify the department of the failure to  
27 enter into the agreement.

28 (2) The owner of the affected facility remains subject  
29 to the provisions of this act, including payment of the  
30 required power plant host community impact fees under section

1 5.

2 (e) Municipal permits not approved.--If a municipality has  
3 not approved all necessary zoning and building permits for an  
4 affected facility, the provisions of subsection (d) do not  
5 apply.

6 (f) Construction.--Nothing in this act shall be construed to  
7 limit the authority of a municipality in which the affected  
8 facility is located to withhold approval of any applicable  
9 zoning, building or other local permits or approvals required to  
10 construct or operate the affected facility in the absence of a  
11 power plant host community benefit agreement.

12 Section 5. Power plant host community impact fees.

13 (a) General rule.--The owner of an affected facility that  
14 begins operation under a new or expanded permit after the  
15 effective date of this act shall, at a minimum, pay the amount  
16 of up-front and annual power plant host community impact fees  
17 specified in this section in order to operate in this  
18 Commonwealth. Nothing in this act shall preclude an affected  
19 facility and municipality, county and school district from  
20 entering into an agreement that establishes up-front and annual  
21 fees in greater amounts and provides for other financial and  
22 nonfinancial terms and considerations.

23 (b) Minimum standards for power plant host community impact  
24 fees.--

25 (1) The owner of each affected facility shall make an  
26 up-front payment of \$1,000 per megawatt of electric  
27 generating capacity to the municipality in which the affected  
28 facility is located. The payment shall be made prior to the  
29 generation of any electricity to be supplied to an electric  
30 transmission and distribution system. The municipality shall

1 use the funds in accordance with section 6.

2 (2) The owner of each affected facility shall make an  
3 up-front payment of \$200 per megawatt of electric generating  
4 capacity to the county in which the affected facility is  
5 located. The payment shall be made prior to the generation of  
6 any electricity to be supplied to an electric transmission  
7 and distribution system. Subject to section 6, the county  
8 shall use the money to set up an air quality monitoring  
9 program and a water quality monitoring program for the area  
10 in the vicinity of the affected facility in conjunction with  
11 the municipality and in consultation with the department.

12 (3) The owner of each affected facility shall make an  
13 annual payment of \$700 per megawatt of electric generating  
14 capacity to the municipality in which the affected facility  
15 is located. The payment shall be made by December 31 of the  
16 first year in which the generation of electricity commences  
17 under the terms of a new or expanded permit. For each  
18 succeeding year, the annual payment shall be increased by an  
19 additional 2% or the percentage increase, if any, in the  
20 Consumer Price Index for All Urban Consumers (CPI-U) as  
21 calculated and published by the United States Department of  
22 Labor for the most recent 12-month period for which figures  
23 have been officially reported, whichever is greater. The  
24 municipality shall use the funds in accordance with section  
25 6.

26 (4) The owner of each affected facility shall make an  
27 annual payment of \$500 per megawatt of electric generating  
28 capacity to the school district in which the affected  
29 facility is located. The payment shall be made by December 31  
30 of the first year in which the generation of electricity

1 commences under the terms of a new or expanded permit. For  
2 each succeeding year, the annual payment shall be increased  
3 by an additional 2% or the percentage increase, if any, in  
4 the Consumer Price Index for All Urban Consumers (CPI-U) as  
5 calculated and published by the United States Department of  
6 Labor for the most recent 12-month period for which figures  
7 have been officially reported, whichever is greater. The  
8 school district shall use the funds in accordance with  
9 section 6.

10 (5) The owner of each affected facility shall make an  
11 annual payment of \$500 per megawatt of electric generating  
12 capacity to the county in which the affected facility is  
13 located. The payment shall be made by December 31 of the  
14 first year in which the generation of electricity commences  
15 under the terms of a new or expanded permit. For each  
16 succeeding year, the annual payment shall be increased by an  
17 additional 2% or the percentage increase, if any, in the  
18 Consumer Price Index for All Urban Consumers (CPI-U) as  
19 calculated and published by the United States Department of  
20 Labor for the most recent 12-month period for which figures  
21 have been officially reported, whichever is greater. The  
22 county shall use the funds in accordance with section 6.

23 Section 6. Uses of power plant host community impact fees.

24 (a) Counties and municipalities.--A municipality or county  
25 that receives funds under section 5 shall use the funds only for  
26 the following purposes associated with hosting a power plant  
27 facility within the municipality or county as follows:

28 (1) Construction, reconstruction, maintenance and repair  
29 of roadways, bridges and public infrastructure.

30 (2) Water, storm water and sewer systems, including

1 construction, reconstruction, maintenance and repair, and the  
2 use of green infrastructure to diminish and control storm  
3 water.

4 (3) Emergency preparedness and public safety, including  
5 law enforcement and fire services, hazardous material  
6 response, 911 service, equipment acquisition and other  
7 services. At least 10% of the up-front funds received shall  
8 be used for the purposes under this paragraph.

9 (4) Environmental programs, including trails, parks and  
10 recreation, open space, flood plain management, conservation  
11 districts and agricultural preservation.

12 (5) Preservation and reclamation of surface and  
13 subsurface waters and water supplies. At least 10% of the up-  
14 front and annual funds received shall be used for the  
15 purposes under this paragraph.

16 (6) Tax reductions, including homestead exclusions.

17 (7) Projects to increase the availability of safe and  
18 affordable housing to residents.

19 (8) Records management, geographic information systems  
20 and information technology.

21 (9) The delivery of social services.

22 (10) Judicial services.

23 (11) For deposit into the municipality's or county's  
24 capital reserve fund if the funds are used solely for a  
25 purpose set forth in this subsection.

26 (12) Programs and projects to provide energy assistance  
27 to low-income households.

28 (13) Energy conservation programs.

29 (14) Air and water quality monitoring. At least 10% of  
30 the up-front and annual funds received shall be used for the

1 purposes under this paragraph.

2 (15) Local or regional planning initiatives under the  
3 act of July 31, 1968 (P.L.805, No.247), known as the  
4 Pennsylvania Municipalities Planning Code.

5 (b) School districts.--A school district that receives funds  
6 under section 5 shall use the funds received for general  
7 operating expenses to offset expected reductions in property tax  
8 revenue associated with hosting a power plant facility within  
9 the school district. The school district may also use its funds  
10 for the construction or maintenance of parks, trails or other  
11 recreational facilities that may be located on school district  
12 property or elsewhere in the county hosting the affected  
13 facility and for student participation in air and water quality  
14 monitoring.

15 (c) Multiple counties.--Payment of up-front and annual power  
16 plant host community impact funds to a municipality or school  
17 district which is situate in two or more counties shall be  
18 allocated based on the ratio which the population of the  
19 municipality or school district within each county bears to the  
20 total population of the municipality or school district as last  
21 officially certified.

22 Section 7. Administrative fees.

23 The owner of an affected facility that begins operation under  
24 a new or expanded permit after the effective date of this  
25 section shall pay an annual administrative fee of \$300 per  
26 megawatt of electric generating capacity to the department. The  
27 first payment shall be made within one month of the commencement  
28 of generating electricity under the terms of a new or expanded  
29 permit. Payments for the following year and each successive year  
30 shall be made by June 30. The department shall use the



1 administrative fee to cover its expenses in administering this  
2 act and for developing air and water quality monitoring programs  
3 in consultation with the municipality and county hosting the  
4 affected facility.

5 Section 8. Power plant host community public participation  
6 requirements.

7 (a) Requirements for owners of affected facilities.--An  
8 owner of an affected facility seeking a final plan approval or  
9 final permit approval from the department as described in  
10 section 3 shall submit a public participation plan to the  
11 department on a form prescribed by the department. The  
12 department shall either approve the plan or request changes in  
13 the plan.

14 (b) Contents of public participation plan.--The public  
15 participation plan shall provide for the following:

16 (1) The opportunity for residents of the municipality,  
17 county and school district in which the affected facility is  
18 located to participate in the process by which the department  
19 approves a plan or permit, including the opportunity to ask  
20 questions in a public meeting or forum.

21 (2) Identification of proposed dates for at least one  
22 public meeting or forum.

23 (3) The means by which the public meeting or forum shall  
24 be advertised and publicized.

25 (c) Requirements for host municipalities, counties and  
26 school districts.--

27 (1) The municipality, county and school district in  
28 which the affected facility is proposed to be located,  
29 expanded or subject to the renewal of an existing permit,  
30 shall each hold at least one separate public meeting or forum

1 to evaluate the need for and potential terms of a power plant  
2 host community benefit agreement. The public meeting or forum  
3 shall provide members of the public the opportunity to ask  
4 questions.

5 (2) The municipality, county and school district  
6 holding the public meeting or forum shall advertise the  
7 meeting in public newspapers and online and take reasonable  
8 steps to publicize and make residents of the municipality,  
9 county and school district aware of the meeting.

10 Section 9. Effective date.

11 This act shall take effect in 60 days.