

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 950 Session of 2019

INTRODUCED BY PITTMAN, YAW, ARGALL, MARTIN, MASTRIANO, GORDNER, LANGERHOLC, K. WARD, STEFANO, J. WARD, BAKER, PHILLIPS-HILL, SCAVELLO, BROOKS, MENSCH, BARTOLOTTA, REGAN, BROWNE, HUTCHINSON AND VOGEL, NOVEMBER 20, 2019

SENATOR YAW, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, SEPTEMBER 3, 2020

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.

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 Carbon Dioxide Cap and Trade Authorization Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) As a matter of Pennsylvania law, no statutory or
14 constitutional authority currently exists that authorizes a
15 State agency to regulate or impose a tax on carbon dioxide
16 emissions. Therefore, it is the responsibility of the General
17 Assembly, working together with the Department of
18 Environmental Protection, the Environmental Quality Board,

1 the Pennsylvania Public Utility Commission and other  
2 important stakeholders, to determine whether and how to  
3 regulate or impose a tax on carbon dioxide emissions.

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

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

21 (4) The premature deactivation or retirement of coal-  
22 fired and coal refuse electric generation units in  
23 Pennsylvania as a direct result of State action will result  
24 in significant direct economic hardship to the communities in  
25 which they operate and will adversely affect this  
26 Commonwealth's economy, environment and electric reliability  
27 and the general health, safety and welfare of its residents,  
28 businesses and industries.

29 (5) Given that Pennsylvania is one of the top net  
30 exporters of electricity and the third largest coal-producing

1 state in the nation, abating, controlling or limiting carbon  
2 dioxide emissions will have a significant, profound and long-  
3 lasting impact on this Commonwealth's economy and require its  
4 consumers to import electricity generated by out-of-State  
5 fossil fuel plants, canceling out any emission reductions.

6 (6) In addition to the impact on coal-fired and coal  
7 refuse electric generating facilities, as well as natural  
8 gas-fired electric generation facilities that would have to  
9 absorb a carbon tax, abating, controlling or limiting carbon  
10 dioxide emissions in Pennsylvania will have a significant  
11 negative economic impact on this Commonwealth's industrial,  
12 manufacturing and transportation sectors.

### 13 Section 3. 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 "Department." The Department of Environmental Protection of  
18 the Commonwealth.

19 "RGGI." The Regional Greenhouse Gas Initiative, which is a  
20 multistate compact that establishes or calls for the compacting  
21 states to establish a regional, multistate cap on the amount of  
22 greenhouse gases released by electric generation plants.

23 "Standing committee." The Environmental Resources and Energy  
24 Committee of the Senate and the Environmental Resources and  
25 Energy Committee of the House of Representatives.

### 26 Section 4. Regulation of greenhouse gas emissions.

27 (a) Prohibition.--Except for a measure that is required by  
28 Federal law, the department may not adopt a measure or take any  
29 other action that is designed to abate, control or limit carbon  
30 dioxide emissions, including an action to join or participate in

1 a State or regional greenhouse gas cap-and-trade program,  
2 including the RGGI, nor may the department establish a  
3 greenhouse gas cap-and-trade program, unless the General  
4 Assembly specifically authorizes such a measure or action by  
5 statute that is enacted on or after the effective date of this  
6 section.

7 (b) Submission to General Assembly.--If the department  
8 proposes a measure of action under subsection (a), the  
9 department shall submit the proposed measure or other proposed  
10 action to the General Assembly as provided under section 5.  
11 Section 5. Process for submission to General Assembly.

12 (A) DUTIES OF DEPARTMENT.--Prior to submitting a proposed <--  
13 measure or other proposed action to the General Assembly under  
14 section 4(b), the department shall do the following:

15 (1) Submit to the Legislative Reference Bureau for  
16 publication in the Pennsylvania Bulletin the proposed measure  
17 or other proposed action that is in the form of DRAFT <--  
18 legislation. The publication shall set a public comment  
19 period of no less than 180 days.

20 (2) During the public comment period, the department  
21 shall conduct a minimum of four public hearings, CONDUCTED IN <--  
22 ACCORDANCE WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS),  
23 on the proposed measure or other proposed action and shall  
24 conduct the hearings in geographically dispersed locations in  
25 this Commonwealth, including locations in which regulated  
26 sources of carbon dioxide emissions would be directly  
27 economically affected by the proposal.

28 (3) Following the public comment period, the department  
29 shall compile a report that will be submitted to both  
30 standing committees. The report shall include the following

1 information:

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

5 (A) the amount of carbon dioxide emitted by each  
6 of the facilities;

7 (B) the estimated cost that each of the  
8 facilities would incur to comply with the proposed  
9 measure or other proposed action;

10 (C) the effect that the proposed measure or  
11 other proposed action would have on the price of  
12 electricity (\$/MWh net) that each of the facilities  
13 generates;

14 (D) a list of the facilities that, under the  
15 proposed measure or other proposed action, would be  
16 unlikely to continue to operate;

17 (E) for the other electric generation  
18 facilities, an assessment of the extent to which they  
19 would be likely to operate after the proposed measure  
20 or other proposed action had been fully implemented;

21 (F) an assessment of the decrease of electricity  
22 that would be exported from Pennsylvania after the  
23 proposed measure or other proposed action had been  
24 fully implemented; and

25 (G) an assessment of the contribution to  
26 resilience and diversity in the Pennsylvania electric  
27 generation fleet from each of the affected facilities  
28 and the impacts upon the resilience and diversity in  
29 the event that any or all of the facilities are  
30 forced to close.

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

4 (iii) An estimate of the net carbon dioxide emission  
5 reductions that the proposed measure or other proposed  
6 action would engender within the PJM Interconnection  
7 region, taking into account the electricity generation in  
8 neighboring states where there is not a regulation or tax  
9 on carbon dioxide emissions.

10 (iv) A summary and justification of any provisions  
11 in the proposed measure or other proposed action that  
12 would address leakage.

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

16 (A) Direct and indirect costs to the  
17 Commonwealth and its political subdivisions and the  
18 private sector.

19 (B) The impact of any action or measure upon the  
20 wholesale and retail price of electricity, both  
21 directly and indirectly, broken down by classes of  
22 electricity consumers, including, but not limited to,  
23 residential, commercial, industrial and  
24 transportation.

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

27 (D) The nature of the reports, forms or other  
28 paperwork that would be required for implementation  
29 and administration of the action or measure and the  
30 estimated cost for individuals, businesses and

1 organizations in the public and private sectors to  
2 prepare them.

3 (E) The nature and estimated cost of legal,  
4 consulting or accounting services that the public or  
5 private sector would be required or likely to incur  
6 for implementation and administration of the action  
7 or measure.

8 (F) The impact that it would have on the public  
9 interest to exempt individuals, employers or  
10 facilities from compliance or require the  
11 individuals, employers or facilities to comply with  
12 less stringent standards when it would be lawful,  
13 desirable and feasible.

14 (vi) Whether a less costly or less intrusive  
15 alternative method of achieving the goal of the proposed  
16 measure or other proposed action has been considered for  
17 an employer or facility that would otherwise be subject  
18 to the proposed measure or proposed action.

19 (B) LEGISLATION.--ONCE THE PUBLIC COMMENT PERIOD HAS <--  
20 CONCLUDED AND THE DEPARTMENT HAS SUBMITTED THE REPORT TO THE  
21 STANDING COMMITTEES, THE DEPARTMENT SHALL SUBMIT THE MEASURE IN  
22 LEGISLATIVE FORM TO THE STANDING COMMITTEES AND REQUEST THAT A  
23 MEMBER OF THE STANDING COMMITTEES INTRODUCE THE LEGISLATION.  
24 THIS ACTION SHALL CONSTITUTE SUBMITTING THE MEASURE OR ACTION TO  
25 THE GENERAL ASSEMBLY. IF THE LEGISLATION IS INTRODUCED, THE  
26 LEGISLATION SHALL FOLLOW THE STANDARD LEGISLATIVE PROCESS AND  
27 MAY BE CONSIDERED BY A STANDING COMMITTEE IF THE LEGISLATION IS  
28 REFERRED TO THE STANDING COMMITTEE.

29 Section 6. Effective date.

30 This act shall take effect immediately.