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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 637 Session of  
2021

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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 AND ROWE, FEBRUARY 24, 2021

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 24, 2021

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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 Section 3. Definitions.

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

25 "Department." The Department of Environmental Protection of  
26 the Commonwealth.

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

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

4 Section 4. Regulation of greenhouse gas emissions.

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

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

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

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

28 (2) During the public comment period, the department  
29 shall conduct a minimum of four public hearings, conducted in  
30 accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings),

1 on the proposed measure or other proposed action and shall  
2 conduct the hearings in geographically dispersed locations in  
3 this Commonwealth, including locations in which regulated  
4 sources of carbon dioxide emissions would be directly  
5 economically affected by the proposal.

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

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

13 (A) the amount of carbon dioxide emitted by each  
14 of the facilities;

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

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

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

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

29 (F) an assessment of the decrease of electricity  
30 that would be exported from Pennsylvania after the

1 proposed measure or other proposed action had been  
2 fully implemented; and

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

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

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

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

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

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

27 (B) The impact of any action or measure upon the  
28 wholesale and retail price of electricity, both  
29 directly and indirectly, broken down by classes of  
30 electricity consumers, including, but not limited to,

1 residential, commercial, industrial and  
2 transportation.

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

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

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

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

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

27 (b) Legislation.--Once the public comment period has  
28 concluded and the department has submitted the report to the  
29 standing committees, the department shall submit the measure in  
30 legislative form to the standing committees and request that a

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

7 Section 6. Effective date.

8 This act shall take effect immediately.