
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 989 Session of
2021

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STURLA AND ZABEL, MARCH 22, 2021

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 22, 2021

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
18 electricity market rules that favor gas have driven a massive

1 increase in gas-fired generation.

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

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

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

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

1 a CO2 Budget Trading Program to reduce carbon pollution from
2 the electric power sector through the year 2030 and enable
3 this Commonwealth to participate in the Regional Greenhouse
4 Gas Initiative beginning in the year 2022.

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

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

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

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

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

30 Section 3. Definitions.

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

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

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

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

11 "Commission." The Pennsylvania Public Utility Commission.

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

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

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

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

23 (1) The department.

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

26 (3) The Department of Human Services.

27 (4) The Department of Labor and Industry.

28 (5) The commission.

29 "Environmental justice community." A census block group in
30 which minorities represent at least 30% of the population or in

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

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

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

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

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

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

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

21 Section 4. CO2 Budget Trading Program.

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

30 (b) Review.--Implementation of the regulation promulgated

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

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

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

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

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

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

24 Section 5. Powers and duties of department.

25 The following apply:

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

29 (2) The department may delegate the implementation and
30 administrative support functions for any CO2 allowance

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

5 Section 6. Energy Transition Fund.

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

14 Section 7. Revenue from sale of carbon allowances.

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

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

23 Section 8. Energy Transition Board.

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

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

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

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

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

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

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

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

13 (i) Environmental justice communities.

14 (ii) Labor organizations.

15 (iii) Renewable energy companies.

16 (iv) Energy efficiency companies.

17 (v) Environmental organizations.

18 (vi) Energy-intensive industries.

19 (vii) Organizations representing low-income

20 Pennsylvanians.

21 Section 9. Disbursements from fund.

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

28 (1) Fifteen percent of the money in the fund shall be
29 used to provide electricity bill assistance to low-income
30 residential customers. The money used under this paragraph

1 shall be in addition to any existing funding for electricity
2 bill assistance programs.

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

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

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

18 (b) Administrative costs.--

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

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

25 Section 10. Energy transition plan.

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

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

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

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

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

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

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

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

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

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

1 Section 11. Regional cooperation.

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

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

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

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

19 Section 12. Prohibition.

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

23 Section 13. Effective date.

24 This act shall take effect in 60 days.