
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1565 Session of
2021

INTRODUCED BY HERRIN, SHUSTERMAN, SCHLOSSBERG, HILL-EVANS,
OTTEN, SANCHEZ, ISAACSON, WEBSTER, N. NELSON, DALEY,
HOHENSTEIN, D. WILLIAMS, FRANKEL, HANBIDGE, INNAMORATO, RABB,
KRUEGER, SAPPEY, GUENST, SIMS, MADDEN AND SAMUELSON,
JULY 20, 2021

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JULY 20, 2021

AN ACT

1 Amending the act of January 8, 1960 (1959 P.L.2119, No.787),
2 entitled "An act to provide for the better protection of the
3 health, general welfare and property of the people of the
4 Commonwealth by the control, abatement, reduction and
5 prevention of the pollution of the air by smokes, dusts,
6 fumes, gases, odors, mists, vapors, pollens and similar
7 matter, or any combination thereof; imposing certain powers
8 and duties on the Department of Environmental Resources, the
9 Environmental Quality Board and the Environmental Hearing
10 Board; establishing procedures for the protection of health
11 and public safety during emergency conditions; creating a
12 stationary air contamination source permit system; providing
13 additional remedies for abating air pollution; reserving
14 powers to local political subdivisions, and defining the
15 relationship between this act and the ordinances, resolutions
16 and regulations of counties, cities, boroughs, towns and
17 townships; imposing penalties for violation of this act; and
18 providing for the power to enjoin violations of this act; and
19 conferring upon persons aggrieved certain rights and
20 remedies," further providing for definitions, for fees and
21 for disposition of fees, fines and civil penalties,
22 providing for disposition of auction proceeds from CO2 Budget
23 Trading Program, for clean air fund accounts, for the Energy
24 Communities Trust Fund and for Environmental Justice
25 Communities Trust Fund.

26 The General Assembly of the Commonwealth of Pennsylvania

27 hereby enacts as follows:

1 Section 1. Section 3 of the act of January 8, 1960 (1959
2 P.L.2119, No.787), known as the Air Pollution Control Act, is
3 amended by adding definitions to read:

4 Section 3. Definitions.--The following words and phrases,
5 when used in this act, unless the context clearly indicates
6 otherwise, shall have the meaning ascribed to them in this
7 section:

8 * * *

9 "CO2 Budget Trading Program." The regulatory program
10 established under 25 Pa. Code (relating to Environmental
11 Protection).

12 * * *

13 "Environmental justice community." A census block group in
14 which minorities represent at least thirty per centum (30%) of
15 the population or in which at least twenty per centum (20%) of
16 the residents are at or below the Federal poverty level
17 according to the most recent decennial census by the United
18 States Census Bureau.

19 * * *

20 Section 2. Sections 6.3(k) and (l) and 9.2(a) of the act are
21 amended to read:

22 Section 6.3. Fees.--* * *

23 (k) [No] Except as provided under section 9.4, no
24 administrative action shall prevent the deposit of the fees
25 established pursuant to this section in the Clean Air Fund
26 established in section 9.2 during the fiscal year in which they
27 are collected. The fees shall only be used for the purposes
28 authorized in this section and [section 9.2] sections 9.2 and
29 9.4 and shall not be transferred or diverted to any other
30 purpose by administrative action.

1 (1) [Any] Except as provided under section 9.4, fees,
2 penalties and interest owed the Commonwealth for delinquent
3 payment collected under this section shall be deposited in the
4 Clean Air Fund.

5 * * *

6 Section 9.2. Disposition of Fees, Fines and Civil
7 Penalties.--(a) Except as provided under subsection (a.1) and
8 section 9.4, all fines, civil penalties and fees collected under
9 this act shall be paid into the Treasury of the Commonwealth in
10 a special fund known as the Clean Air Fund, hereby established,
11 which, along with interest earned, shall be administered by the
12 department for use in the elimination of air pollution. The
13 department may establish such separate accounts as may be
14 necessary or appropriate to implement the requirements of this
15 act and the Clean Air Act. The board shall adopt rules and
16 regulations for the management and use of the money in the fund.

17 * * *

18 Section 3. The act is amended by adding sections to read:
19 Section 9.4. Disposition of Auction Proceeds from CO2 Budget
20 Trading Program.

21 (a) Revenue from the sale of CO2 allowances under the CO2
22 Budget Trading Program shall be allocated as follows:

23 (1) Thirty-seven and a half per centum (37.5%) of revenue
24 shall be deposited into the Energy Communities Trust Fund
25 established under section 9.6, one-third of which shall be used
26 to support projects in environmental justice communities.

27 (2) Twelve and a half per centum (12.5%) of revenue shall be
28 deposited into the Environmental Justice Communities Trust Fund
29 established under section 9.7.

30 (3) Forty-six per centum (46%) of the revenue shall be

1 deposited in the Clean Air Fund established under section 9.2(a)
2 in the following separate accounts:

3 (i) Fifty-six per centum (56%) of revenue shall be deposited
4 into the Greenhouse Gas Abatement, Energy Efficiency, Clean and
5 Renewable Energy Investments Account established under section
6 9.5.

7 (ii) Forty-four per centum (44%) of revenue shall be
8 deposited into the Commercial and Industrial Energy Efficiency
9 Account established under section 9.5.

10 (4) Four per centum (4%) of revenue shall be deposited in
11 the Clean Air Fund established under section 9.2(a) to
12 administer this section and sections 9.5, 9.6 and 9.7 and for
13 the purposes in section 9.2(a).

14 (b) Revenue from the sale of CO2 allowances may not be
15 disbursed except as provided under this section.

16 Section 9.5. Clean Air Fund Accounts.

17 (a) The Greenhouse Gas Abatement, Energy Efficiency, Clean
18 and Renewable Energy Investments Account is established in the
19 General Fund. Money deposited into the Greenhouse Gas Abatement,
20 Energy Efficiency, Clean and Renewable Energy Investments
21 Account may be used for grant programs to support projects that
22 eliminate air pollution, including, but not limited to projects
23 for:

24 (1) cost-effective carbon capture utilization and storage;

25 (2) abandoned oil and gas well plugging;

26 (3) energy efficiency;

27 (4) mass transit and electric vehicle transportation;

28 (4) agricultural conservation;

29 (5) forest stewardship;

30 (6) clean and renewable energy investments, including, but

1 not limited to, biomass, geothermal, hydropower, energy storage
2 and solar and wind technologies; and

3 (7) other projects that contribute to the reduction or
4 elimination of greenhouse gas pollution.

5 (b) The Commercial and Industrial Energy Efficiency Account
6 is established in the General Fund. Money deposited into the
7 Commercial and Industrial Energy Efficiency Account may be used
8 for grant programs to support projects that eliminate air
9 pollution, including, but not limited to, projects for:

10 (1) process electrification;

11 (2) fuel switching;

12 (3) combined heat and power;

13 (4) demand response and reduction;

14 (5) energy efficiency;

15 (6) cost-effective carbon capture utilization and storage;

16 and

17 (7) other projects that contribute to the reduction or
18 elimination of greenhouse gas pollution.

19 (d) For money awarded under subsections (b) and (c), a
20 minimum of one-third shall be used to support projects that
21 provide a direct benefit in environmental justice communities.

22 Section 9.6. The Energy Communities Trust Fund.

23 (a) The Energy Communities Trust Fund is established as a
24 special non-lapsing fund in the State Treasury for energy
25 community projects. All interest earned from the investment or
26 deposit of money accumulated in the Energy Communities Trust
27 Fund shall be deposited in the fund for the same use. All money
28 deposited into the Energy Communities Trust Fund shall be held
29 in trust, shall not be considered general revenue of the
30 Commonwealth, shall be used only to effectuate the purposes of

1 this section, as determined by the Energy Communities Trust Fund
2 Board, and shall be subject to audit by the Auditor General.

3 (b) Money deposited into the Energy Communities Trust Fund
4 may be used for grant programs to support energy community
5 projects, including projects that support workers and
6 communities affected by the closure of fossil-fuel-fired power
7 plants and other energy facilities, including, but not limited
8 to, the following:

9 (1) programs for workforce development and worker training;

10 (2) supplemental unemployment compensation for displaced
11 energy workers;

12 (3) funding to school districts or municipalities due to the
13 economic impact or loss in tax revenue from the closure of an
14 energy facility after the effective date of this section;

15 (4) economic development projects; and

16 (5) environmental cleanup projects, including projects to
17 benefit water quality and air quality.

18 (c) (1) The Energy Communities Trust Fund Board is
19 established and shall administer money in the Energy Communities
20 Trust Fund established for the purposes specified under this
21 section.

22 (2) The Energy Communities Trust Fund Board shall consist of
23 the following members:

24 (i) The Governor or a designee, who must be designated in
25 writing prior to service.

26 (ii) The Secretary of Community and Economic Development or
27 a designee, who must be an employee of the Department of
28 Community and Economic Development and designated in writing
29 prior to service.

30 (iii) The Secretary of Environmental Protection or a

1 designee, who must be an employee of the department and
2 designated in writing prior to service.

3 (iv) The Secretary of Labor and Industry or a designee, who
4 must be an employee of the Department of Labor and Industry and
5 designated in writing prior to service.

6 (v) One member appointed by the President pro tempore of the
7 Senate.

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

10 (vii) One member appointed by the Speaker of the House of
11 Representatives.

12 (viii) One member appointed by the Minority Leader of the
13 House of Representatives.

14 (ix) Five members appointed by the Governor as follows:

15 (A) Four members must be chosen from a list of candidates
16 nominated by the President of the Pennsylvania AFL-CIO, one of
17 whom shall be designated as chair.

18 (B) One member must be the executive director or a member of
19 the State Workforce Development Board.

20 (C) Initially, three members shall be appointed for terms of
21 two years and two members shall be appointed for terms of four
22 years. The terms of successors shall be four years each, except
23 that any person appointed to fill a vacancy shall serve only for
24 the unexpired term. Every member's term shall extend until the
25 member's successor is appointed and qualified. An appointed
26 member of the Energy Communities Trust Fund Board shall be
27 eligible for reappointment.

28 (3) The board shall hold its first meeting within ninety
29 (90) days of the effective date of this paragraph.

30 (4) The members of the Energy Communities Trust Fund Board

1 may not be compensated for service as members, but shall be
2 entitled to reimbursement for all necessary expenses incurred in
3 connection with the performance of their duties as members.
4 Reimbursements shall be allocated from money available from the
5 trust fund established under this section.

6 (5) The Energy Communities Trust Fund Board shall provide
7 for the holding of regular and special meetings at least
8 biannually at the call of the chair. Seven members attending
9 shall constitute a quorum for the transaction of any business
10 and a majority of the members present shall be required to adopt
11 any action.

12 (6) (i) The Energy Communities Trust Fund Board has the
13 power and duty, including, but not limited to:

14 (A) Adopt bylaws.

15 (B) Make, execute and deliver contracts and grant
16 agreements.

17 (C) Develop, within one year of its establishment and
18 biennially thereafter, a State plan for the availability and
19 distribution of money from the trust fund established under this
20 section. The Energy Communities Trust Fund Board shall make the
21 State plan available on its publicly accessible Internet
22 website.

23 (D) Administer and award Energy Communities Trust Fund
24 grants to eligible energy community projects and monitor the
25 expenditure of money in the trust fund established under this
26 section.

27 (E) Perform other operational activities necessary or
28 appropriate to further the purpose of this section.

29 (F) Submit an annual report to the General Assembly
30 detailing grant programs, activities and outcomes.

1 (ii) Administrative support for the Energy Communities Trust
2 Fund Board shall be provided by the Department of Labor and
3 Industry.

4 (7) The following acts shall apply to the Energy Communities
5 Trust Fund Board:

6 (i) The act of February 14, 2008 (P.L.6, No.3), known as the
7 Right-to-Know Law.

8 (ii) The act of July 19, 1957 (P.L.1017, No.451), known as
9 the State Adverse Interest Act.

10 (iii) The provisions of 65 Pa.C.S. Chs. 7 (relating to open
11 meetings) and 11 (relating to ethics standards and financial
12 disclosure).

13 Section 9.7. Environmental Justice Communities Trust Fund.

14 (a) The Environmental Justice Communities Trust Fund is
15 established as a special non-lapsing fund in the State Treasury
16 for environmental justice projects. All interest earned from the
17 investment or deposit of money accumulated in the Environmental
18 Justice Communities Trust Fund shall be deposited in the fund
19 for the same use. All money deposited into the fund shall be
20 held in trust, shall not be considered general revenue of the
21 Commonwealth and shall be used only to effectuate the purposes
22 of this section as determined by the Energy Communities Trust
23 Fund Board and shall be subject to audit by the Auditor General.

24 (b) The Environmental Justice Communities Trust Fund may be
25 used for projects within environmental justice communities,
26 including, but not limited to, any of the following:

27 (1) environmental cleanup projects, including projects to
28 benefit water quality and air quality;

29 (2) recreation;

30 (3) economic development projects;

- 1 (4) transportation projects;
2 (5) environmental education;
3 (6) environmental health;
4 (7) electricity bill assistance to low-income residential
5 customers;
6 (8) programs for workforce development and worker training;
7 and
8 (9) other projects that support environmental justice
9 communities.

10 (c) (1) The Environmental Justice Communities Trust Fund
11 Board is established and shall administer money in the trust
12 fund established under this section for the purposes specified
13 under this section.

14 (2) The Environmental Justice Communities Trust Fund Board
15 shall consist of the following members:

16 (i) The Governor or a designee, who must be designated in
17 writing prior to service.

18 (ii) The Secretary of Community and Economic Development or
19 a designee, who must be an employee of the Department of
20 Community and Economic Development and designated in writing
21 prior to service.

22 (iii) The Secretary of Environmental Protection or a
23 designee, who must be an employee of the department and
24 designated in writing prior to service.

25 (iv) The Secretary of Health or a designee, who must be an
26 employee of the Department of Health and designated in writing
27 prior to service.

28 (v) The Secretary of Conservation and Natural Resources or a
29 designee, who must be an employee of the Department of
30 Conservation and Natural Resources and designated in writing

1 prior to service.

2 (vi) One member appointed by the President pro tempore of
3 the Senate.

4 (vii) One member appointed by the Minority Leader of the
5 Senate.

6 (viii) One member appointed by the Speaker of the House of
7 Representatives.

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

10 (x) Six public members appointed by the Governor from a list
11 of candidates nominated by the department's Environmental
12 Justice Advisory Board representing environmental justice
13 communities in each of the department-designated regions of the
14 Commonwealth, one of whom shall be designated as chair.
15 Initially, two members shall be appointed for terms of four
16 years, two members shall be appointed for terms of three years
17 and two members shall be appointed for terms of two years. The
18 terms of all of successors shall be four years each, except that
19 a person appointed to fill a vacancy shall serve only for the
20 unexpired term. Every member's term shall extend until the
21 member's successor is appointed and qualified. An appointed
22 member of the Environmental Justice Communities Trust Fund Board
23 shall be eligible for reappointment.

24 (3) The board shall hold its first meeting within ninety
25 (90) days of the effective date of this section.

26 (4) The members of the Environmental Justice Communities
27 Trust Fund Board may not be compensated for service as members,
28 but shall be entitled to reimbursement for all necessary
29 expenses incurred in connection with the performance of their
30 duties as members. Reimbursements shall be allocated from money

1 available from the trust fund established under this section.

2 (5) The Environmental Justice Communities Trust Fund Board
3 shall provide for the holding of regular and special meetings at
4 least annually at the call of the chair. Eight members attending
5 shall constitute a quorum for the transaction of any business
6 and a majority of the members present shall be required to adopt
7 any action.

8 (6) (i) The Environmental Justice Communities Trust Fund
9 Board has the power and duty, including, but not limited to:

10 (A) Adopt bylaws.

11 (B) Make, execute and deliver contracts and grant
12 agreements.

13 (C) Develop, within one year of its establishment and
14 biennially thereafter, a plan for the availability and
15 distribution of money from the trust fund established under this
16 section. The Energy Communities Trust Fund Board shall make the
17 plan available on its publicly accessible Internet website.

18 (D) Provide for the coordination and exchange of information
19 on the establishment and maintenance of programs.

20 (E) Administer and award grants for projects within
21 environmental justice communities and monitor the expenditure of
22 money in the trust fund established under this section.

23 (F) Prepare and submit by May 1 each year an annual report
24 to the General Assembly, including recommendations for
25 legislative action if needed and appropriate.

26 (G) Perform other operational activities necessary or
27 appropriate to further the purpose of this section.

28 (ii) Administrative support for the Environmental Justice
29 Communities Trust Board shall be provided by the department.

30 (7) The following acts shall apply to the Environmental

1 Justice Communities Trust Fund Board:

2 (i) The act of February 14, 2008 (P.L.6, No.3), known as the
3 Right-to-Know Law.

4 (ii) The act of July 19, 1957 (P.L.1017, No.451), known as
5 the State Adverse Interest Act.

6 (iii) The provisions of 65 Pa.C.S. Chs. 7 (relating to open
7 meetings) and 11 (relating to ethics standards and financial
8 disclosure).

9 Section 4. This act shall take effect in 60 days.