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SENATE BILL NO. 740

Offered January 14, 2015

Prefiled December 16, 2014

A *BILL to require the Department of Environmental Quality to obtain General Assembly approval before submitting a state plan for the regulation of carbon dioxide emissions to the U.S. Environmental Protection Agency.*

Patrons—Carrico and Chafin; Delegate: Cole

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. *§ 1. In accordance with the requirements of the U.S. Environmental Protection Agency (EPA) regulation of carbon dioxide emissions from existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, the Virginia Department of Environmental Quality (DEQ) shall develop and submit to the EPA a state plan for compliance with the regulation of carbon dioxide from existing power plants (the state plan).*

§ 2. *In developing the state plan, DEQ shall:*

1. *Summon and examine witnesses and compel the production and examination of documents and other evidence that may be necessary for the discharging of duties imposed by this act;*

2. *Conduct at least four public hearings in geographically dispersed locations, including locations that would be directly economically affected by the EPA's carbon dioxide emissions regulations;*

3. *Accept written testimony and consider, as part of its deliberations on the state plan, all written and oral testimony received;*

4. *Prioritize the components of the state plan based on a least-cost compliance approach to benefit consumers of electricity;*

5. *Consider the necessity and value of a diverse generation fleet to ensure electric reliability in the Commonwealth; and*

6. *Determine:*

a. *Whether DEQ shall rely on measures the EPA used to calculate the carbon dioxide emissions reduction goal, as well as other measures that were not part of the EPA goal-setting process;*

b. *Whether the Commonwealth shall participate in existing multistate programs or support the creation of a new multistate carbon dioxide reduction program;*

c. *Whether the Commonwealth shall invest in energy efficiency programs during the compliance period to assist in meeting the EPA's goal;*

d. *Whether the Commonwealth shall work in partnership with other states;*

e. *Dates by which individual power plants must meet the carbon dioxide emissions reduction goal;*

f. *How best to prevent the stranding of investments in existing affected power plants; and*

g. *The extent to which the state plan shall include (i) demand-side energy efficiency programs; (ii) renewable energy standards; (iii) efficiency improvements at existing affected power plants; (iv) cofiring or switching to natural gas; (v) transmission efficiency improvements; (vi) energy storage technologies; (vii) the retirement or deactivation of existing affected generation units or facilities; (viii) the expansion of nonemitting sources, including nuclear power; (ix) market-based trading programs; or (x) other energy conservation programs.*

§ 3. *Submission of the state plan to the EPA.*

1. *No fewer than 100 days prior to the submission of the state plan by DEQ to the EPA for approval, DEQ shall transmit the state plan to the General Assembly for approval.*

2. *Within 20 days of transmission pursuant to subdivision 1, each chamber of the General Assembly shall introduce the state plan as a resolution, place the resolution on the calendar for the next legislative day following transmission, and consider the resolution.*

3. *If each chamber adopts its resolution pursuant to subdivision 2, DEQ shall submit the state plan to the EPA. If neither chamber votes on its resolution pursuant to subdivision 2 prior to June 15, 2016, the state plan shall be deemed approved and shall be submitted to the EPA immediately.*

4. *If either chamber disapproves its resolution pursuant to subdivision 2, DEQ shall not submit the state plan to the EPA but shall (i) determine the reasons for disapproval and modify the state plan; (ii) cause the state plan to be resubmitted to the General Assembly within 60 days of the disapproval; and (iii) if necessary, request an extension of time from the EPA by submitting by June 30, 2016, an initial state plan that meets the minimum requirements for an initial state plan as specified in the state plan guidelines published by the EPA. DEQ shall transmit the following message with its submittal under this*

INTRODUCED

SB740

59 subdivision:

60 *"Be advised that the State plan submitted by the Virginia Department of Environmental Quality has*
61 *not yet met the provisions of Virginia law that require the approval of the General Assembly. It is the*
62 *intention of the Commonwealth of Virginia to submit a state plan that conforms to this rulemaking.*
63 *Under § 111(d) of the Clean Air Act, states must be given an opportunity to meet federal environmental*
64 *standards set forth by the Environmental Protection Agency. The Commonwealth of Virginia hereby*
65 *invokes the authority provided to it under § 111(d) of the Clean Air Act and, in accordance with*
66 *Virginia law, will make a further filing with the agency."*

67 *5. If either chamber fails to approve a resubmitted plan under subdivision 4 within 60 days of the*
68 *grant of the extension of time, the resubmitted plan shall be deemed approved.*

69 **2. That an emergency exists and this act is in force from its passage.**