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SENATE BILL NO. 21

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 21, 2016)

(Patrons Prior to Substitute—Senators Chafin and Obenshain)

A *BILL to require the Department of Environmental Quality to receive approval from the General Assembly for a state plan to regulate carbon dioxide emissions from existing stationary sources prior to submitting the state plan to the U.S. Environmental Protection Agency for approval.*

Be it enacted by the General Assembly of Virginia:

1. § 1. As used in this act:

"Covered electric generating unit" means an existing fossil fuel-fired electric generating unit within the Commonwealth that is subject to regulation under the federal emission guidelines.

"DEQ" means the Department of Environmental Quality.

"EPA" means the U.S. Environmental Protection Agency or its administrator.

"Federal emission guidelines" means any final rules, regulations, guidelines, or other requirements that the EPA may adopt for regulating carbon dioxide emissions from covered electric generating units under § 111(d) of the federal Clean Air Act.

"State plan" means any plan to establish and enforce carbon dioxide emission control measures that DEQ may prepare in order to implement the obligations of the Commonwealth under the federal emission guidelines.

§ 2. In its development of any state plan for regulating carbon dioxide emissions from covered electric generating units, DEQ, in conjunction with the State Corporation Commission, shall:

a. Prepare a report that assesses the effects of the state plan on:

(1) The electric power sector, including:

(a) The ability of the Commonwealth to provide affordable electricity through diversified sources of electricity generation;

(b) The type and amount of electric generating capacity within the Commonwealth that is likely to retire or switch to another fuel;

(c) Stranded investment in electric generating capacity and other infrastructure;

(d) The amount of investment necessary to offset retirements of electric generating capacity and maintain generation reserve margins;

(e) Potential risks to electric reliability, including resource adequacy risks and transmission constraints; and

(f) The amount by which retail electricity prices within the Commonwealth are forecast to increase;

(2) Electricity customers within the Commonwealth, including any disproportionate effects of electricity and other energy price increases on middle-income and lower-income households;

(3) Employment within the Commonwealth, including direct and indirect employment effects and jobs lost within affected sectors of the Commonwealth's economy;

(4) Economic development within the Commonwealth, including effects on manufacturing, commercial, and other sectors of the Commonwealth's economy;

(5) The competitive position of the Commonwealth relative to neighboring states and other economic competitors;

(6) State and local governments, including potential effects resulting from changes in tax revenues; and

(7) State law, including any new laws necessary to implement the state plan;

b. Consider all of the following in the development of the state plan:

(1) The findings of the report prepared pursuant to subdivision a;

(2) Whether to rely on measures the EPA used to calculate the carbon dioxide reduction goal, as well as other measures that were not part of the EPA goal-setting process;

(3) Whether the Commonwealth should participate in multistate programs that already exist or whether a new multistate carbon dioxide reduction program should be created;

(4) Whether the Commonwealth should invest in energy efficiency programs during the compliance period to assist in meeting the EPA's goal;

(5) Whether the Commonwealth should work in partnership with other states;

(6) When individual power plants must make reductions;

(7) The expansion of nonemitting sources, such as nuclear power;

(8) Market-based trading programs;

(9) Other energy conservation programs; and

(10) How best to avoid stranded investments in existing affected power plants;

60 c. Prioritize the components of the state plan based on a least-cost compliance approach to benefit
61 consumers of electricity; and

62 d. Take into consideration the necessity and value of having a diverse generation fleet to ensure
63 electric reliability in the Commonwealth.

64 § 3. Not later than 15 days following the completion of DEQ's development of a state plan, DEQ
65 shall transmit to the Senate and the House of Delegates a copy of the state plan and the accompanying
66 report developed in accordance with subdivision a of § 2. Upon receiving the state plan and
67 accompanying report, the Senate and the House of Delegates shall vote on a resolution to approve the
68 state plan after sufficient time has been provided to assess the state plan and accompanying report. The
69 resolution shall be deemed approved by the Senate and the House of Delegates if each chamber casts a
70 majority of votes in favor of the resolution.

71 § 4. If either the Senate or the House of Delegates fails to approve a state plan under § 3, DEQ may
72 submit a revised version of the state plan, with an accompanying revised report, to the Senate and the
73 House of Delegates for approval in accordance with the procedures specified under § 3.

74 § 5. DEQ shall not submit to the EPA any state plan until both the Senate and the House of
75 Delegates have adopted resolutions that approve the state plan in accordance with this act.