

Department of Planning and Budget 2019 Fiscal Impact Statement

1. **Bill Number:** SB1355

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Wagner

3. **Committee:** Passed both Houses.

4. **Title:** Coal combustion residuals impoundment; closure.

5. **Summary:** Requires the owner or operator of any coal combustion residuals (CCR) unit, defined in the bill to include a coal ash pond or landfill, that is located within the Chesapeake Bay watershed at the Bremo Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station to close such CCR unit by removing all of the CCR for (i) recycling, known as encapsulated beneficial use, or (ii) deposition in a permitted and lined landfill that meets certain federal standards. Any owner or operator that disposes of CCR in such a landfill is required to beneficially reuse a total of no less than 6.8 million cubic yards in aggregate of such removed CCR. Such a closure project shall be completed within 15 years of its initiation and shall be accompanied by water testing or an offer to provide a connection to a municipal water supply for every residence within one-half mile.

The bill provides that if the owner or operator moves CCR off-site, it shall develop and make publicly available a transportation plan in consultation with any locality within two miles of the CCR units. The bill requires the owner or operator of a CCR unit to accept and review sufficiently detailed proposals to beneficially reuse any CCR that are not already subject to a removal contract every four years beginning July 1, 2022. The bill requires that any entity conducting the closure work identify options for utilizing local workers in consult with the Commonwealth's Chief Workforce Development Officer. The bill requires the CCR unit owner or operator to submit at least two reports no later than October 1, 2022, and biennially thereafter, continuing until closure of all of its CCR units is complete. One report describes closure plans, progress, water monitoring results, and other aspects of the closure process; the other report contains the beneficial reuse proposals that the owner or operator has received and analysis of such proposals.

The bill provides that costs associated with any permit for closure shall be recoverable by the utility through a rate adjustment clause authorized by the State Corporation Commission (SCC), to be included in customer bills beginning July 1, 2021, and allocated to all customers of the utility irrespective of the generation supplier of any particular customer. The bill allows any electric public utility subject to the requirements of this section to petition the SCC for approval of a plan for CCR unit closure, including proposals to beneficially reuse no less than 6.8 million cubic yards of CCR in aggregate from no fewer than two of the listed sites. The SCC shall determine whether any such petition is reasonable and prudent. Additionally, this measure provides that cost recovery by an owner or operator shall not be

authorized for any fines or civil penalties resulting from violations of federal and state law or regulation, and that this measure shall not be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such reuse results in a net increase in truck traffic on public roads in the locality in which the facility is located as compared to such traffic during calendar year 2018.

- 6. Budget Amendment Necessary:** No.
- 7. Fiscal Impact Estimates:** Final. See #8.
- 8. Fiscal Implications:** This bill establishes requirements the owner or operator of a CCR unit located in the Chesapeake Bay watershed that stopped accepting CCR before July 1, 2019, must follow in closing the unit. Included in the requirements are two biennial reports the CCR owner or operator must submit to the Governor, Secretary of Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the Chairman of the Senate Committee on Commerce and Labor, the Chairman of the House Committee on Commerce and Labor, and the Department of Environmental Quality. It is anticipated that the Department of Environmental Quality, and the State Corporation Commission can absorb any fiscal impact that results from this bill within existing resources. Potential impact to the office of the Chief Workforce Development Officer is indeterminate.
- 9. Specific Agency or Political Subdivisions Affected:** Department of Environmental Quality; State Corporation Commission; Chief Workforce Development Officer.
- 10. Technical Amendment Necessary:** No.
- 11. Other Comments:** This bill is the companion to HB2786.