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ACT REQUIRING APPROVAL OF STATE PLAN TO IMPLEMENT EPA'S CARBON GUIDELINES

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JOHN EICK / 3 MONTHS AGO

ACT REQUIRING APPROVAL OF STATE PLAN TO IMPLEMENT EPA'S CARBON GUIDELINES

Act Requiring Approval of State Plan to Implement EPA's Carbon Guidelines

EPA has proposed “guidelines” to regulate carbon dioxide emissions from existing fossil fuel-fired power plants. The EPA proposal requires states to make unprecedented changes to their electricity systems and significantly reduce the consumption of electricity by consumers. The proposal is projected to cause double-digit electricity price increases in most States and threaten electric reliability. EPA intends to finalize its proposal in June 2015, and states are required to submit implementation plans to EPA as early as June 2016. The model legislation below ensures the State legislature protects the interests of the State's citizens by reviewing and approving any plan to implement EPA's guidelines before the plan is submitted to EPA.

Section 1. Purpose.

The purpose of this Act is to ensure that the {state agency} receives approval from the {state legislature} for any plan to regulate carbon dioxide emissions from existing fossil fuel-fired electric generating units under Section 111(d) of the federal Clean Air Act, prior to the {state agency} submitting any such plan to the United States Environmental Protection Agency.

Section 2. Definitions.

For purposes of this Act:

- 1) Covered Electric Generating Unit. The term “covered electric generating unit” means an existing fossil fuel-fired electric generating unit within the State that is subject to regulation under the federal emission guidelines;
- 2) The term “EPA” means the United States Environmental Protection Agency;

3) **{State Agency}**. The term “**{state agency}**” means the **{name of department or agency responsible for implementing the Section 111(d) program}**;

4) Federal Emission Guidelines. The term “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 Section 111(d) of the federal Clean Air Act.

5) The term “State” means **{the name of State or Commonwealth}**; and

6) State Plan. The term “State plan” means any plan to establish and enforce carbon dioxide emission control measures that the **{state agency}** may adopt to implement the obligations of the State under the federal emission guidelines.

Section 3. Assessing Impacts of State Plan.

In developing any State plan for regulating carbon dioxide emissions from covered electric generating units, the **{state agency}** shall prepare a report that assesses the effects of the State plan on:

1) The electric power sector, including

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

b) The type and amount of electric generating capacity within the State 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 within the State, including resource adequacy risks and transmission constraints; and

f) The amount by which retail electricity prices within the State are forecast to increase.

- 2) Electricity consumers within the State, including any disproportionate impacts of electricity and other energy price increases on middle-income and lower-income households.
- 3) Employment within the State, including direct and indirect employment effects and jobs lost within affected sectors of the State's economy;
- 4) Economic development within the State, including effects of manufacturing, commercial, and other sectors of the State's economy;
- 5) The competitive position of the State relative to neighboring States and other economic competitors; and
- 6) State and local governments, including potential impacts resulting from changes in tax revenues; and
- 7) State law, including any new laws necessary to implement the State plan.

Section 4. Submission of State Plan to EPA.

The {state agency} shall not submit to EPA any State plan until {both chambers of the state legislature} have adopted resolutions that approve the State plan in accordance with Section 5.

Section 5. Approval of State Plan by Legislature.

- 1) Transmittal to State Legislature. Not later than 15 days from the date of adoption of any State plan, the {state agency} shall transmit to {each chamber of the state legislature} a copy of the State plan and the accompanying report developed in accordance with Section 3.
- 2) Vote on State Plan. Upon receiving the State plan and accompanying report transmitted under subsection 1, {each chamber of the state legislature} shall vote on a resolution to approve the State plan after sufficient time has been provided to assess the State plan and accompanying report. The resolution shall be deemed approved by the {state legislature} if each {chamber of the state legislature} casts a majority of votes in favor of the resolution.

3) Submission of Revised State Plan. If **{either chamber of the state legislature}** fails to approve a State plan under subsection 2, the **{state agency}** may submit a revised version of the State plan, with an accompanying revised report, to the **{state legislature}** for approval in accordance with the procedures specified under this section.

Approved by the ALEC Board of Directors January 9, 2015.