

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S4/1/19

A Bill

SENATE BILL 555

5 By: Senator B. Ballinger
6 By: Representative Gonzales
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAW REGARDING STATE EMISSION
10 PLANS FOR FOSSIL FUEL-FIRED ELECTRIC GENERATING
11 UNITS; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND ARKANSAS LAW REGARDING STATE
16 EMISSION PLANS FOR FOSSIL FUEL-FIRED
17 ELECTRIC GENERATING UNITS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. DO NOT CODIFY. Legislative purpose.

23 The purpose of this act is to:

24 (1) Create a means to waive procedures for legislative review
25 and approval of state plans when final emission guidelines are promulgated by
26 the United States Environmental Protection Agency under § 111(d) of the Clean
27 Air Act, 42 U.S.C. § 7411(d), for electric generating units when those
28 emission guidelines are determined to not require any one (1) or more of the
29 following:

30 (A) Shifting electricity generation from one fuel type to
31 another;

32 (B) Closing any fossil fuel-fired electric generating
33 unit; or

34 (C) Imposing statewide greenhouse gas goals or other
35 statewide greenhouse gas emission limitations; and

36 (2) Revise the requirements under § 8-3-201 et seq. pertaining



1 to a state plan to ensure consistency with the Clean Air Act and to avoid the
2 imposition of a federal plan.

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4 SECTION 2. Arkansas Code § 8-3-205(a), as amended by Acts 2019, No.
5 315 and concerning assessment of the effects of a state plan for regulating
6 carbon dioxide emissions from covered electric generating units, is amended
7 to read as follows:

8 (a) ~~Before preparing a petition to initiate rulemaking for the~~
9 ~~development of rules implementing~~ completing a state plan for regulating
10 carbon dioxide emissions from covered electric generating units, the Arkansas
11 Department of Environmental Quality shall prepare a report that takes into
12 account the factors specified in § 8-4-312 and the Clean Air Act, 42 U.S.C. §
13 7401 et seq., as applicable.

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15 SECTION 3. Arkansas Code § 8-3-207(a), concerning procedures for
16 approval of the state plan, is amended to read as follows:

17 (a) ~~Not later than fifteen (15) days after adopting a state plan~~
18 Before transmitting a state plan to the Governor for submission of the state
19 plan to the United States Environmental Protection Agency, the Arkansas
20 Department of Environmental Quality shall transmit to the cochairs of the
21 Legislative Council a copy of the state plan and the accompanying report
22 developed under § 8-3-205.

23
24 SECTION 4. Arkansas Code § 8-3-207(d), concerning procedures for
25 approval of the state plan, is amended to read as follows:

26 (d) Notwithstanding the provisions of this subchapter, in the absence
27 of legislative approval under subsection (b) of this section, the Governor
28 may direct the submission of a state plan to the United States Environmental
29 Protection Agency if, in his or her judgment:

30 (1) Sufficient time has passed for the Legislative Council to
31 consider a state plan submitted by the department for legislative approval;

32 (2) Further delay would result in the failure to submit a state
33 plan by the relevant deadline for submission; and

34 (3) Failure to submit a state plan would likely result in the
35 imposition of a federal implementation plan.

36

1 SECTION 5. Arkansas Code § 8-3-208 is amended to read as follows:

2 8-3-208. Rate and reliability safety valve.

3 ~~(a) If a state plan approved under this subchapter would result in a~~
4 ~~significant increase in the total electric or natural gas bill annually for~~
5 ~~any customer class as determined by the Arkansas Public Service Commission,~~
6 ~~the Arkansas Department of Environmental Quality shall ~~reopen the proceeding~~~~
7 ~~under § 8-3-204 and, after the opportunity for a hearing, revise the state~~
8 ~~plan to satisfy § 8-3-206(a)(1) and transmit the revised state plan to the~~
9 ~~cochairs of the Legislative Council for approval under § 8-3-207 prepare a~~
10 ~~feasibility study to determine whether:~~

11 ~~(1) An alternative approach is consistent with the Clean Air~~
12 ~~Act; or~~

13 ~~(2) The pursuit of implementing an alternative approach is~~
14 ~~likely to result in the imposition of a federal plan.~~

15 ~~(b)(1) Each year the department shall evaluate the impact of~~
16 ~~electricity rate increases on the energy-intensive trade-exposed~~
17 ~~manufacturers and the resulting greenhouse gas leakage.~~

18 ~~(2) If increased electric rates are found to be contributing to~~
19 ~~increased manufacturing greenhouse gas leakage, the department shall reopen~~
20 ~~the proceeding under § 8-3-204 and, after the opportunity for a hearing,~~
21 ~~revise the state plan to avoid manufacturing greenhouse gas leakage and~~
22 ~~transmit the revised state plan to the cochairs of the Legislative Council~~
23 ~~for approval under § 8-3-207.~~

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25 SECTION 6. Arkansas Code Title 8, Chapter 3, Subchapter 2, is amended
26 to add an additional section to read as follows:

27 8-3-209. Waiver of review and approval procedures for emissions plans.

28 (a) The Arkansas Department of Environmental Quality may seek a waiver
29 of review and approval procedures for emissions plans from the Legislative
30 Council if the department determines that final federal emission guidelines
31 do not require any one (1) or more of the following:

32 (1) Shifting generation from electric generating units powered
33 by one fuel type to another fuel type;

34 (2) Closing any fossil fuel-fired electric generating unit; or

35 (3) Imposing a statewide greenhouse gas goal or other statewide
36 greenhouse gas emissions limitation.

1 (b) A request to the Legislative Council under subsection (a) of this
2 section shall include an explanation of how the final emission guidelines for
3 the regulation of carbon dioxide emissions from existing fossil fuel-fired
4 electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. §
5 7411, do not require any of the factors in subsection (a) of this section.

6 (c) The department shall not seek a waiver under subsection (a) of
7 this section until the United States Environmental Protection Agency
8 promulgates emission guidelines for the regulation of carbon dioxide
9 emissions from existing fossil fuel-fired electric generating units under §
10 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d).

11 (d) An affirmative majority vote of the Legislative Council is
12 required to grant a waiver of review and approval procedures for a state
13 plan.

14 (e) If the Legislative Council grants a waiver under this section,
15 then all requirements in §§ 8-3-203 and 8-3-205 – 8-3-207 are waived.

16 (f) If the Legislative Council grants a waiver under this section, the
17 department may submit a state plan to the United States Environmental
18 Protection Agency.

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20 SECTION 7. DO NOT CODIFY. TEMPORARY LANGUAGE. If legislation
21 concerning the transformation of the Arkansas Department of Environmental
22 Quality is enacted during this Regular Session of the General Assembly, the
23 Arkansas Code Revisor and the Arkansas Code Revision Commission shall correct
24 the references to the Arkansas Department of Environmental Quality consistent
25 with those laws.

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27
28 /s/B. Ballinger

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31 **APPROVED: 4/12/19**