

SENATE BILL No. 208

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-40.

Synopsis: Implementation of clean power plan. Establishes the clean power plan committee (committee). Provides for the chairpersons and ranking minority members of the standing committees of the senate and house of representatives having subject matter jurisdiction relating to environmental affairs, utilities, and health to be members of the committee. Requires the committee to consider and adopt a state plan for the implementation in Indiana of the regulatory program based on the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units of the United States Environmental Protection Agency (EPA). Requires the department of environmental management and the Indiana utility regulatory commission (referred to collectively as the "delegated agencies") to conduct public meetings and receive public comments on the nature and contents of a proposed state plan and, before July 1, 2016, to prepare and submit to the committee a proposed state plan or a recommendation that the committee request an extension of the deadline for submission of a state plan. Requires the committee, before September 6, 2016, to submit to the EPA: (1) a state plan; or (2) a request for an extension of the deadline for the submission of a state plan accompanied by the information required by the EPA in support of the request. Provides that if the committee requests an extension of the deadline and the request is granted, the delegated agencies shall submit a proposed state plan to the committee before October 1, 2017, and the committee may accept the proposed state plan as submitted or direct the delegated agencies to make revisions in the plan. Requires the committee to consider certain things in its deliberations on the state
(Continued next page)

Effective: Upon passage.

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January 6, 2016, read first time and referred to Committee on Environmental Affairs.



Digest Continued

plan and to adopt a proposed state plan and submit it to the legislative council before January 1, 2018. Authorizes the committee to meet during the 2018 regular session of the general assembly to revise and resubmit to the legislative council a state plan previously submitted to the legislative council. Provides that if the senate and the house of representatives, during the 2018 regular session of the general assembly, adopt resolutions approving a state plan submitted by the committee to the legislative council, the delegated agencies shall submit the state plan to the EPA on behalf of the state before September 6, 2018. Provides that if: (1) no state plan is submitted to the EPA before September 6, 2016; and (2) the senate and the house of representatives do not adopt resolutions during the 2018 regular session of the general assembly approving a state plan submitted by the committee to the legislative council, the governor may direct the delegated agencies to submit to the EPA on behalf of the state, before September 6, 2018, a state plan setting forth such contents as the governor chooses.



Introduced

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 208

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-5-40 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 40. Clean Power Plan Committee**
5 **Sec. 1. The general assembly finds that it is the responsibility of**
6 **the government of the state of Indiana:**
7 **(1) to ensure that a reliable supply of electric power is**
8 **generated at a level consistent with the electrical power needs**
9 **of the people, businesses, and institutions of Indiana;**
10 **(2) to provide for the protection of public health; and**
11 **(3) to provide for the protection of the environment.**

12 **Sec. 2. As used in this chapter, "clean power plan" means the**
13 **regulatory program established under Section 111(d) of the federal**
14 **Clean Air Act (42 U.S.C. 7411(d)) by the United States**
15 **Environmental Protection Agency through adoption of the final**



1 rule on Carbon Pollution Emission Guidelines for Existing
2 Stationary Sources: Electric Utility Generating Units.

3 Sec. 3. As used in this chapter, "committee" refers to the clean
4 power plan committee established by section 10 of this chapter.

5 Sec. 4. As used in this chapter, "delegated agencies" means:

6 (1) the department of environmental management established
7 by IC 13-13-1-1; and

8 (2) the Indiana utility regulatory commission established by
9 IC 8-1-1-2.

10 Sec. 5. As used in this chapter, "EGU" means an electric
11 generating unit:

12 (1) that uses a fossil fuel (including coal, oil, or natural gas) to
13 generate electricity;

14 (2) that was in operation on January 8, 2014 (or the
15 construction of which had begun by January 8, 2014); and

16 (3) that meets the threshold amounts set in the clean power
17 plan for:

18 (A) generating capacity; and

19 (B) the amount of electricity generated that is sold to the
20 electric grid;

21 for electric generating units to which the clean power plan
22 applies.

23 Sec. 6. As used in this chapter, "EPA" refers to the United
24 States Environmental Protection Agency.

25 Sec. 7. As used in this chapter, "interim period" means the part
26 of a year that:

27 (1) begins immediately after the day on which a regular
28 session of the general assembly adjourns sine die; and

29 (2) ends immediately before the day on which the next regular
30 session of the general assembly convenes.

31 Sec. 8. As used in this chapter, "standing committee" means:

32 (1) a committee established under the rules of the senate to
33 consider bills during a regular session of the general
34 assembly; or

35 (2) a committee established under the rules of the house of
36 representatives to consider bills during a regular session of
37 the general assembly.

38 Sec. 9. As used in this chapter, "state plan" means the plan to
39 reduce carbon dioxide emissions from EGUs:

40 (1) that Indiana is required to submit to the EPA:

41 (A) by September 6, 2016; or

42 (B) by September 6, 2018, if Indiana requests and is



1 granted an extension of time for submission of the plan;
 2 (2) that will provide for Indiana's EGUs, individually, in the
 3 aggregate, or in combination with other measures undertaken
 4 by the state under the state plan, to meet:

5 (A) a statewide rate based goal measured in pounds of
 6 carbon dioxide emissions per megawatt hour of electricity
 7 generated; or

8 (B) a statewide mass based goal measured in total short
 9 tons of carbon dioxide emitted;

10 that is equivalent to the carbon dioxide emission performance
 11 rates set by the EPA for existing fossil fuel fired electric steam
 12 generating units and existing natural gas combined cycle
 13 units;

14 (3) that takes:

15 (A) an emission standards approach, under which the state
 16 will directly require the EGUs located in Indiana to
 17 comply with the federally enforceable carbon dioxide
 18 emission standards; or

19 (B) a state measures approach, under which the state will
 20 seek to achieve the statewide carbon dioxide emissions
 21 goals set by the EPA by using a combination of:

22 (i) federally enforceable standards for EGUs; and

23 (ii) other elements that are enforceable against EGUs
 24 and possibly against other entities under state law, such
 25 as state renewable energy requirements or energy
 26 efficiency requirements; and

27 (4) that includes:

28 (A) a time line featuring programmatic plan milestone
 29 steps that the state will take to ensure that the state plan is
 30 in effect by January 1, 2022;

31 (B) the establishment of a process for reporting on plan
 32 implementation, progress toward achieving carbon dioxide
 33 emissions reductions, and the implementation of corrective
 34 actions if the state fails to achieve the required carbon
 35 dioxide emissions reductions in a timely fashion;

36 (C) documentation that the state has considered electric
 37 power system reliability in the development of the state
 38 plan; and

39 (D) all other components required of state plans by the
 40 clean power plan.

41 Sec. 10. (a) The clean power plan committee is established.

42 (b) Subject to subsection (c), the committee has the following



- 1 **members:**
 2 **(1) The:**
 3 **(A) chairperson; and**
 4 **(B) ranking minority member;**
 5 **of the standing committees of the senate and house of**
 6 **representatives having subject matter jurisdiction relating to**
 7 **environmental affairs.**
 8 **(2) The:**
 9 **(A) chairperson; and**
 10 **(B) ranking minority member;**
 11 **of the standing committees of the senate and house of**
 12 **representatives having subject matter jurisdiction relating to**
 13 **utilities.**
 14 **(3) The:**
 15 **(A) chairperson; and**
 16 **(B) ranking minority member;**
 17 **of the standing committees of the senate and house of**
 18 **representatives having subject matter jurisdiction relating to**
 19 **health.**
 20 **(c) If one (1) individual is the chairperson or ranking minority**
 21 **member of more than one (1) committee referred to in subsection**
 22 **(b), the leader of the caucus of the senate or house of**
 23 **representatives of which the individual is a member shall select**
 24 **another member of the caucus to serve in each of the positions on**
 25 **the committee that the individual would otherwise be entitled to fill**
 26 **under subsection (b).**
 27 **(d) If an individual who is a member of the committee ceases to**
 28 **be a member of the general assembly, the individual also ceases to**
 29 **be a member of the committee. A vacancy on the committee**
 30 **occurring under this subsection shall be filled:**
 31 **(1) by the appointment:**
 32 **(A) by the leader of the caucus of the senate or house of**
 33 **representatives of which the individual was a member; and**
 34 **(B) of another member of the caucus;**
 35 **if the vacancy occurs during an interim period; or**
 36 **(2) by the appointment of a replacement for the individual as**
 37 **chairperson or ranking minority member of the committee**
 38 **referred to in subsection (a), if the vacancy occurs during a**
 39 **regular session of the general assembly.**
 40 **A member of the senate or house of representatives appointed to**
 41 **the committee under subdivision (1) need not be a chairperson or**
 42 **ranking minority member of a committee referred to in subsection**



1 (b). However, the appointment of a member of the senate or house
2 of representatives under subdivision (1) terminates when the next
3 regular session of the general assembly begins.

4 (e) If an individual who is a chairperson or ranking minority
5 member of a committee referred to in subsection (a) ceases to be a
6 chairperson or ranking minority member of the committee
7 referred to in subsection (a) but remains a member of the general
8 assembly, the individual ceases to be a member of the committee
9 upon the appointment of a replacement for the individual as
10 chairperson or ranking minority member of the committee
11 referred to in subsection (a). Upon the appointment of a
12 replacement as chairperson or ranking minority member, the
13 replacement chairperson or ranking minority member becomes a
14 member of the committee.

15 Sec. 11. A majority of the members of the committee constitutes
16 a quorum. For the committee to take any final action, the number
17 of votes in favor of the action must at least equal the number of
18 members constituting a quorum.

19 Sec. 12. Subject to applicable statutes and policies established by
20 the legislative council, the committee, by resolution, may:

21 (1) adopt rules; and

22 (2) create subcommittees consisting of members of the
23 committee;

24 that are necessary for the proper conduct of the committee's
25 business under this chapter.

26 Sec. 13. For service during an interim period, each member of
27 the committee is entitled to receive the same per diem, mileage, and
28 travel allowances paid to individuals serving as legislative
29 members of interim study committees established by IC 2-5-1.3-4.

30 Sec. 14. The legislative services agency shall provide staff
31 support to the committee.

32 Sec. 15. Funds necessary to carry out this chapter shall be
33 allotted to the commission from funds appropriated to the
34 legislative council.

35 Sec. 16. The delegated agencies shall do the following before
36 July 1, 2016:

37 (1) Conduct public meetings under IC 5-14-1.5 and receive
38 public comments on the nature and contents of a proposed
39 state plan from all individuals and organizations interested in
40 and potentially affected by the state plan, including the
41 following:

42 (A) Owners and operators of EGUs, including investor



- 1 owned utilities, public power utilities, and cooperatives.
 2 (B) Owners of nonutility owned electricity generating units
 3 at commercial and industrial sites.
 4 (C) Natural gas utilities.
 5 (D) Consumer advocates for residential users of electric
 6 power.
 7 (E) Industrial users of electric power.
 8 (F) Environmental protection advocates.
 9 (G) Public health advocates.
 10 (H) The coal industry.
- 11 (2) Considering all comments received and the totality of
 12 considerations concerning the generation and consumption of
 13 electric power in Indiana, including community and
 14 environmental justice considerations, and attempting to
 15 achieve a fair balancing of the competing interests of the
 16 people of Indiana, prepare for consideration by the
 17 committee:
- 18 (A) a proposed state plan; or
 19 (B) a recommendation that Indiana seek an extension of
 20 the deadline for the submission of a state plan and a
 21 proposed initial submission to the EPA to accompany an
 22 extension request.
- 23 (3) Present the:
- 24 (A) proposed state plan; or
 25 (B) recommendation to seek an extension;
 26 to the committee and provide additional information as
 27 requested by the committee.
- 28 **Sec. 17. Before September 6, 2016, the committee, with the**
 29 **assistance of the delegated agencies, shall submit to the EPA:**
- 30 (1) a state plan; or
 31 (2) a request for an extension of the deadline for the
 32 submission of a state plan accompanied by the information
 33 required by the EPA in support of the request.
- 34 **Sec. 18. If the committee requests an extension of the deadline**
 35 **for the submission of a state plan under section 17(2) of this**
 36 **chapter and the request is granted:**
- 37 (1) the delegated agencies shall:
- 38 (A) submit to the committee by July 1, 2017, a draft of a
 39 progress report on the work toward completion of a state
 40 plan for submission by the committee to the EPA; and
 41 (B) submit to the committee before October 1, 2017, a
 42 proposed state plan;



- 1 (2) the committee shall submit to the EPA by September 6,
 2 2017, a progress report on the work toward completion of a
 3 state plan;
 4 (3) the committee may:
 5 (A) accept a proposed state plan submitted by the
 6 delegated agencies under subdivision (1)(B); or
 7 (B) direct the delegated agencies to:
 8 (i) revise a proposed state plan submitted under
 9 subdivision (1)(B); and
 10 (ii) submit the revised proposed state plan to the
 11 committee by a certain date; and
 12 (4) the committee shall adopt a proposed state plan submitted
 13 by the delegated agencies under subdivision (1)(B) or (3)(B)
 14 and submit the state plan to the legislative council before
 15 January 1, 2018, in an electronic format under IC 5-14-6.
- 16 **Sec. 19. In its deliberations on the state plan, the committee shall**
 17 **consider the following:**
 18 (1) Whether the state plan will involve only Indiana or will
 19 employ a partnership with one (1) or more other states.
 20 (2) Whether the state plan will take:
 21 (A) an emission standards approach, as described in
 22 section 9(3)(A) of this chapter; or
 23 (B) a state measures approach, as described in section
 24 9(3)(B) of this chapter;
 25 (3) Whether the state plan will employ emissions trading,
 26 under which EGUs can meet emission standards through
 27 emission rate credits (under a rate based standard) or
 28 emission allowances (under a mass based standard).
 29 (4) The extent of carbon dioxide emissions reductions to be
 30 required at individual EGUs.
 31 (5) The extent to which the state plan will rely upon:
 32 (A) programs to advance the use of solar power, wind
 33 power, or power derived from biomass;
 34 (B) programs to reduce residential, commercial, or
 35 industrial demand for electric power;
 36 (C) programs to improve EGU efficiency or the efficiency
 37 of electric power transmission and distribution; and
 38 (D) renewable energy standards.
 39 (6) Using fuels such as natural gas in addition to or in place of
 40 coal in EGUs.
 41 (7) The extent to which investments in infrastructure already
 42 made by utility companies may lose their value under the



- 1 state plan.
- 2 (8) The need to maintain the reliability of Indiana's electric
- 3 power systems.
- 4 (9) The effect of the state plan upon:
- 5 (A) state economic development; and
- 6 (B) the economy of local communities, including effects on
- 7 new and existing jobs, the availability and affordability of
- 8 housing, and income and employment levels of the state.
- 9 (10) Any other factors that the committee or the delegated
- 10 agencies believe should be considered in deliberations on the
- 11 state plan.
- 12 Sec. 20. (a) If the senate and the house of representatives, during
- 13 the 2018 regular session of the general assembly, adopt resolutions
- 14 approving the state plan submitted to the legislative council under
- 15 section 18(4) of this chapter, the delegated agencies shall submit
- 16 the state plan to the EPA on behalf of the state before September
- 17 6, 2018.
- 18 (b) The committee may meet during the 2018 regular session of
- 19 the general assembly to revise a state plan submitted to the
- 20 legislative council under section 18(4) of this chapter. If the
- 21 committee approves a revised state plan prepared under this
- 22 subsection, the revised state plan shall be submitted to the
- 23 legislative council in an electronic format under IC 5-14-6. If the
- 24 senate and the house of representatives adopt resolutions
- 25 approving a revised state plan submitted to the legislative council
- 26 under this subsection, the delegated agencies shall submit the
- 27 revised state plan to the EPA on behalf of the state before
- 28 September 6, 2018.
- 29 Sec. 21. If:
- 30 (1) no state plan is submitted to the EPA under section 17(1)
- 31 of this chapter; and
- 32 (2) the senate and the house of representatives do not adopt
- 33 resolutions approving a state plan under section 20(a) of this
- 34 chapter or a revised state plan under section 20(b) of this
- 35 chapter during the 2018 regular session of the general
- 36 assembly;
- 37 the governor may direct the delegated agencies to submit to the
- 38 EPA on behalf of the state, before September 6, 2018, a state plan
- 39 setting forth contents chosen by the governor.
- 40 Sec. 22. This chapter expires July 1, 2020.
- 41 SECTION 2. An emergency is declared for this act.

