

Senate Bill 311

By: Senators Bethel of the 54th, Shafer of the 48th, Mullis of the 53rd, Hill of the 6th, Harper of the 7th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 10 of Title 12 of the Official Code of Georgia Annotated, relating to  
2 interstate compacts and conservation and natural resources, so as to enact the Interstate  
3 Power Compact; to provide for related matters; to repeal conflicting laws; and for other  
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 10 of Title 12 of the Official Code of Georgia Annotated, relating to interstate  
8 compacts and conservation and natural resources, is amended by adding a new article to read  
9 as follows:

10 style="text-align:center">"ARTICLE 8

11 12-10-120.

12 The Interstate Power Compact is enacted into law and entered into with all other  
13 jurisdictions legally joining therein in the form substantially as follows:

14 style="text-align:center">**INTERSTATE POWER COMPACT**

15 Whereas, the separation of powers, both between the branches of the Federal government  
16 and between Federal and State authority, is essential to the preservation of individual  
17 liberty:

18 Whereas, the Constitution creates a federal government of limited and enumerated  
19 powers, and reserves to the states or to the people those powers not specifically granted  
20 to the Federal government;

21 Whereas, Article I, Section 10, Clause 3 of the Constitution provides states the power to  
22 enter into agreements or compacts with other states;

23 Whereas, on June 2, 2014, the United States Environmental Protection Act (EPA) issued  
24 proposed guidelines directing the states to limit carbon dioxide (CO2) emissions from  
25 power generation, purportedly in accordance with Section 111(d) of the federal Clean Air  
26 Act ('Section 111(d) rule') and published this proposed rule for comment in the Federal  
27 Register on June 16, 2014, 74 FR 34829;

28 Whereas, the Section 111(d) rule would not have any effect on global climate, and EPA  
29 identifies no such effect in the proposed rule;

30 Whereas, the proposed rule infringes on the states' police powers and otherwise violates  
31 federal law that has granted states the authority to regulate intrastate activities regarding  
32 electricity markets;

33 Whereas, the Section 111(d) rule would dramatically reduce the efficient operation of  
34 state and regional electricity markets, reduce the reliability of the markets, and greatly  
35 increase the cost of electricity to consumers;

36 Whereas, states may desire to have the United States Congress adopt into federal law  
37 provisions of an interstate compact that protect electricity consumers within the states  
38 from being exposed to significant rate increases due to the proposed rule without the  
39 express authority of Congress or the states' legislatures;

40 Whereas, states may desire to have the United States Congress adopt into federal law  
41 provisions of an interstate compact that protect the sovereignty of the states and their  
42 congressionally delegated authority from being undermined by the Section 111(d) rule  
43 without the express authority of Congress or the states' legislatures.

44 NOW THEREFORE, the Member States hereto resolve, and by the adoption into law  
45 under their respective State Constitutions of this Interstate Power Compact, agree, as  
46 follows:

47 **I. -DEFINITIONS**

48 "State(s)" means the several states, the Commonwealth of Puerto Rico, the District of  
49 Columbia, and all U.S. territorial possessions. Where contextually appropriate, the

50 term shall be construed to include all of its branches, departments, agencies, political  
51 subdivisions, officers, and representatives acting in their official capacity.

52 "Compact" means this "Interstate Power Compact."

53 "Member State" means a State that is a signatory to this Compact and has adopted it  
54 under the laws of that State.

## 55 **II. – STATE POWER COMPACT**

### 56 **A. PURPOSE**

57 The purpose of this compact is to protect Member States' sovereignty and the  
58 assurances granted under the Tenth Amendment. In accomplishing this, member  
59 states shall work in isolation, or with other Member States, to formulate plans for  
60 restoring the primary responsibility of States and local governments in the prevention  
61 of air pollution and the control of air pollution at its source, in accordance with 42  
62 U.S.C. §7401(a)(3) of the federal Clean Air Act. Member States agree that the Section  
63 111(d) rule lacks a statutory and constitutional foundation.

### 64 **B. PLEDGE**

65 No agency, political subdivision, or official of any Member State will submit any  
66 filing in partial or complete fulfillment of the state plan requirements under EPA's  
67 111(d) rule, unless the filing involves emission limits or budgets derived only from  
68 assumptions of what is technically achievable inside the physical boundaries of the  
69 electrical generating units using the same fuel and boiler design that is currently in  
70 place at those units consistent with the Clean Air Act, 42 U.S.C. §7401 et. seq.

71 Upon Congressional assent to this compact, the EPA shall be prohibited from  
72 imposing any measures under a federal plan with respect to a member state if such  
73 state fails to file a fully approvable state plan. Member States shall take joint and  
74 separate action to secure the consent of the United States Congress to this Compact.

### 75 **C. AMENDMENTS**

76 This compact may be amended by unanimous agreement of the Member States  
77 without prior consent or approval of Congress.

78 By consenting to this compact, the United States Congress consents to any  
79 amendment adopted under this compact unless, within one year, Congress  
80 disapproves that amendment.

81 In as much as it is probable that regulation of air and water pollution may differ  
82 between two or more states and Member States that are party hereto, this compact  
83 contains elements of a broad base common to all states, and nothing herein shall  
84 preclude any state entering into a supplementary agreement in force between states.  
85 Supplementary agreements may comprehend but shall not be limited to, provisions  
86 for the exchange of public utilities, electricity, personnel, equipment and supplies.

### 87 **III. – EFFECTIVENESS, WITHDRAWAL AND DISSOLUTION**

88 This Compact shall become effective on the date when it has been adopted by two or  
89 more Member States.

90 Any Member State may withdraw from this Compact by enacting a statute repealing  
91 the same, but no such withdrawal shall take effect until thirty days after the Governor  
92 of the withdrawing state has given notice in writing of such withdrawal to the  
93 Governors of all Member States. Such action shall not relieve the withdrawing state  
94 from obligations assumed hereunder prior to the effective date of withdrawal.

95 This compact shall be dissolved upon the withdrawal of all but one of the Member  
96 States.

### 97 **IV. – VALIDITY, CONSTRUCTION AND SEVERABILITY**

98 This Compact shall be construed to effectuate the purposes stated in Article II. If any  
99 provision of this compact is declared unconstitutional, or the applicability thereof to any  
100 person or circumstances is held to be invalid, the constitutionality of the remainder of  
101 this Compact and the applicability thereof to other persons and circumstances shall not  
102 be affected. If any provision of this Compact results in a requirement of congressional  
103 consent, the remainder of this Compact shall be effective as provided in Article III,  
104 without the need for congressional consent.

105 It is intended that the provisions of this compact shall be reasonably and liberally  
106 construed to effectuate the purposes thereof. If any part or application of this compact,  
107 or legislation enabling the compact, is held invalid, the remainder of this Compact or  
108 its application to other situations or persons shall not be affected.

109 The validity of this compact shall not be affected by any insubstantial difference in its  
110 form or language as adopted by the States."

111 **SECTION 2.**

112 All laws and parts of laws in conflict with this Act are repealed.