
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1191 Session of
2024

INTRODUCED BY COMITTA, COSTA, STREET, SANTARSIERO, FONTANA,
MILLER, KEARNEY, CAPPELLETTI, SCHWANK, HAYWOOD AND COLLETT,
MAY 28, 2024

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 28, 2024

AN ACT

1 Establishing the Pennsylvania Climate Emissions Reduction
2 Program; imposing powers and duties on the Environmental
3 Quality Board, the Pennsylvania Public Utility Commission and
4 the Department of Environmental Protection; and establishing
5 the Consumer Protection Account, the Pennsylvania Energy
6 Transformation Account, the Workforce Enhancement Fund, the
7 Workforce Enhancement Fund Board and the Low-Income Support
8 Account.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Pennsylvania
13 Climate Emissions Reduction Act.

14 Section 2. Findings and purpose.

15 The General Assembly finds and declares as follows:

16 (1) The Governor established a working group in April
17 2023 to evaluate the merits of Pennsylvania's membership in
18 the Regional Greenhouse Gas Initiative and to consider
19 proposed alternatives to that membership.

20 (2) The working group was comprised of representatives

1 of organized labor, environmental stakeholders and the energy
2 industry, including fuel production, electric utilities,
3 fossil fuel and nuclear generation and consumer advocates.

4 (3) The working group was charged with ensuring that any
5 recommendation be developed to protect and create energy
6 jobs, take real action to address climate change and ensure
7 reliable, affordable power for Pennsylvania's consumers over
8 the long term.

9 (4) The working group found that:

10 (i) Reducing greenhouse gas emissions in this
11 Commonwealth is necessary.

12 (ii) A cap-and-invest carbon regulation for the
13 power sector that generates revenue to support this
14 Commonwealth's energy transition would be the optimal
15 approach for this Commonwealth.

16 (iii) A cap-and-invest program should include
17 policies and investment strategies which help avoid any
18 potential emissions leakage, higher localized pollution,
19 increased energy costs and job loss.

20 (5) The purpose of this act is to establish this
21 Commonwealth as an energy leader by authorizing a
22 Pennsylvania-run cap-and-invest program.

23 (6) Upon the establishment of a Pennsylvania-run cap-
24 and-invest program, this Commonwealth shall not participate
25 in any other carbon auction addressing emissions from the
26 electric generation sector unless specifically authorized by
27 act of the General Assembly.

28 Section 3. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Board." The Environmental Quality Board.

3 "Commission." The Pennsylvania Public Utility Commission.

4 "Department." The Department of Environmental Protection of
5 the Commonwealth.

6 "Environmental justice area." A geographic area
7 characterized by increased pollution burden, and sensitive or
8 vulnerable populations based on demographic and environmental
9 data as identified by the department.

10 "PACER." The Pennsylvania Climate Emissions Reduction
11 Program established under this act.

12 "Regulatory Review Act." The act of June 25, 1982 (P.L.633,
13 No.181), known as the Regulatory Review Act.

14 Section 4. Pennsylvania Climate Emissions Reduction Program.

15 (a) Establishment.--The Pennsylvania Climate Emissions
16 Reduction Program is established within the department for the
17 purpose of implementing a Pennsylvania-run CO₂ Budget Trading
18 Program.

19 (b) Pennsylvania-run auction.--Notwithstanding 25 Pa. Code §
20 145.401(a) (relating to auction of CO₂ allowances), the
21 department shall conduct a Pennsylvania-run auction in
22 accordance with 25 Pa. Code § 145.401(b).

23 (c) Implementation and administrative support.--The
24 department may delegate implementation and administrative
25 support functions for any CO₂ allowance auction conducted under
26 25 Pa. Code §§ 145.401 through 145.409 (relating to approval of
27 auction results) to an agent qualified to conduct auctions
28 provided that the agent performs all functions under the
29 direction and oversight of the department.

30 (d) Compliance.--Notwithstanding subsection (c), the

1 department shall:

2 (1) Retain its authority to enforce compliance with 25
3 Pa. Code Ch. 145 Subch. E (relating to CO₂ Budget Trading
4 Program) except as otherwise provided in this act.

5 (2) Retain control over the proceeds associated with the
6 sale of Pennsylvania CO₂ allowances.

7 (3) Deposit the proceeds in accordance with section 7.

8 (e) Other states.--

9 (1) Allowances issued by the Pennsylvania-run auction
10 conducted in accordance with subsection (b) may be offered
11 for compliance purposes in another state if permitted by the
12 laws of that state.

13 (2) Allowances issued by another cap-and-invest program
14 shall be accepted by the department for compliance with PACER
15 if the department determines that the CO₂ emissions
16 represented by an allowance issued by another program are
17 approximately equal to or greater than the CO₂ emissions
18 represented by an allowance issued by PACER.

19 (f) Auction participation and monitoring.--

20 (1) Notwithstanding any other provision of law, only the
21 following categories of parties shall be eligible to
22 participate in Pennsylvania-run auctions conducted under this
23 act:

24 (i) The owner or operator of an electricity
25 generator with a nameplate capacity equal to or greater
26 than 25 megawatts electrical.

27 (ii) A broker.

28 (iii) A financial or investment institution.

29 (iv) A market participant as specified in the notice
30 of a Pennsylvania-run auction.

1 (2) A nonprofit entity shall be ineligible to
2 participate in Pennsylvania-run auctions.

3 (3) The department shall select an independent market
4 monitor, such as a certified public accounting firm or
5 similar entity, to observe the conduct and outcome of each
6 auction and the independent market monitor shall issue a
7 report to the department in accordance with professional
8 auditing standards addressing whether the auction was
9 conducted in accordance with all statutory and regulatory
10 requirements and whether there was any indication of
11 collusive behavior among auction participants or attempts at
12 market manipulation that impacted the results of the auction.

13 (4) The department may prohibit an otherwise qualified
14 party from participating in a Pennsylvania-run auction under
15 this act if the department determines that conduct by the
16 party could compromise the integrity of the Pennsylvania-run
17 auction.

18 Section 5. PACER emissions budget.

19 (a) Review.--

20 (1) Within 120 days of the effective date of this
21 paragraph, the department shall review the Pennsylvania CO₂
22 Budget Trading Program base budget established in 25 Pa. Code
23 § 145.341 (relating to Pennsylvania CO₂ Budget Trading
24 Program budget base) and consider the impact of the base
25 budget on jobs, consumers and the environment to determine
26 whether revisions to the base budget are needed.

27 (2) In evaluating the impact of the base budget on jobs,
28 the department shall consider available studies regarding the
29 impact of a PACER emission budget on energy-related
30 employment and shall consult with representatives of

1 organized labor.

2 (3) In evaluating the impact of the base budget on
3 consumers, the department shall consider available economic
4 modeling regarding the impact of a PACER emission budget on
5 costs, if any, passed on to consumers, and shall consult with
6 the Consumer Advocate of the Commonwealth and advocates for
7 low-income Pennsylvanians and representatives of large energy
8 users.

9 (4) In evaluating the impact of the base budget on the
10 environment, the department shall consider available studies
11 and modeling regarding the impact of a PACER emission budget
12 on emissions and compliance with existing and proposed
13 Federal regulations of new and existing power plants, as well
14 as the impacts on vulnerable communities, and shall consult
15 with representatives of environmental nonprofit
16 organizations, environmental justice advocates, academic
17 institutions and the electric industry.

18 (b) Revisions.--If the department determines that revisions
19 to the base budget are needed, the department shall recommend a
20 revised PACER emissions budget to the board.

21 (c) Final omitted regulation.--The board may promulgate a
22 final-omitted regulation under the Regulatory Review Act to
23 amend 25 Pa. Code § 145.341 and adopt a PACER emissions budget
24 as recommended by the department under this section.

25 (d) Set-aside allocations.--The department shall retain
26 allowance set-aside allocations, including the waste coal
27 allowance set-aside, and the combined heat and power allowance
28 set-aside, in no less than the amounts specified in 25 Pa. Code
29 § 145.342 (relating to CO₂ allowance allocations).

30 Section 6. Prohibition.

1 Notwithstanding any other provision of law, after the
2 effective date of the regulation adopting a PACER emissions
3 budget in accordance with section 5, the department is
4 prohibited from joining or participating in a CO₂ allowance
5 auction addressing emissions from the electric generation sector
6 other than the Pennsylvania-run program established by this act,
7 unless an act of the General Assembly enacted after the
8 effective date of this section specifically authorizes such
9 joinder or participation.

10 Section 7. Deposit of auction proceeds from PACER.

11 (a) General rule.--The auction proceeds authorized and
12 collected under section 4 shall be deposited into the State
13 Treasury as follows and may not be expended except as provided
14 in this section:

15 (1) Seventy percent of the auction proceeds shall be
16 deposited into the Consumer Protection Account established
17 under subsection (b).

18 (2) Ten percent of the auction proceeds shall be
19 deposited into the Pennsylvania Energy Transformation Account
20 established under subsection (c).

21 (3) Ten percent of the auction proceeds shall be
22 deposited into the Workforce Enhancement Fund established
23 under subsection (d).

24 (4) The balance of the auction proceeds shall be
25 deposited into the Low-Income Support Account established
26 under subsection (e).

27 (b) Consumer Protection Account.--

28 (1) The Consumer Protection Account is established in
29 the General Fund. The money in the Consumer Protection
30 Account is appropriated on a continuing basis to the

1 commission for the purpose of paying rebates to electric
2 ratepayers calculated on a per-kilowatt-hour basis.

3 (2) The commission shall promulgate a final-omitted
4 regulation under the Regulatory Review Act to establish a
5 system under which money from the Consumer Protection Account
6 is payable to electric ratepayers, including customers of
7 electric cooperative corporations, as direct credits on their
8 electric bills.

9 (3) The commission shall require that entities receiving
10 payment from the Consumer Protection Account on behalf of
11 ratepayers provide the amount of the direct credit on a line
12 on each customer's bill with the title "PACER Bill Credit."

13 (c) Pennsylvania Energy Transformation Account.--

14 (1) The Pennsylvania Energy Transformation Account is
15 established in the General Fund. The money in the
16 Pennsylvania Energy Transformation Account is appropriated on
17 a continuing basis to the department for administering PACER
18 and for grant programs to support projects that eliminate air
19 pollution and for other purposes authorized under this
20 subsection. No less than 40% of money in the account shall be
21 allocated to projects located in environmental justice areas.

22 (2) Eligible projects for the grant program shall
23 include:

24 (i) Cost-effective carbon capture utilization and
25 storage.

26 (ii) Abandoned oil and gas well plugging.

27 (iii) Mass transit and electric vehicle
28 transportation.

29 (iv) Agricultural conservation.

30 (v) Forest stewardship.

1 (vi) Process electrification.

2 (vii) Fuel switching.

3 (viii) Combined heat and power.

4 (ix) Demand response and reduction.

5 (x) Energy efficiency, including HVAC and building
6 envelope improvements.

7 (xi) Cost-effective carbon capture utilization and
8 storage.

9 (xii) Clean and renewable energy investments,
10 including, but not limited to, biomass, geothermal,
11 hydropower, energy storage and solar and wind
12 technologies.

13 (xiii) Projects that contribute to the reduction or
14 elimination of greenhouse gas pollution.

15 (3) The department may enter into a memorandum of
16 understanding with the Department of Community and Economic
17 Development to allocate money available under this subsection
18 to the State Weatherization Assistance Program.

19 (4) Up to 5% of the unencumbered and uncommitted balance
20 of the account may be used for the department's costs to
21 administer PACER. The department shall submit to the Governor
22 each fiscal year, for approval or disapproval, estimates of
23 the amount of money to be expended from the account for
24 administration of PACER as part of the department's annual
25 budget request in accordance with Article VI of the act of
26 April 9, 1929 (P.L.177, No.175), known as The Administrative
27 Code of 1929.

28 (5) The State Treasurer may not issue a warrant for
29 payment from the account for the purpose described in
30 paragraph (4) in excess of the amount approved by the

1 Governor under paragraph (4).

2 (6) The department shall submit an annual report to the
3 General Assembly related to the projects under this
4 subsection, including information on the projects located in
5 environmental justice areas and the percentage of the account
6 used for the projects.

7 (d) Workforce Enhancement Fund.--

8 (1) The Workforce Enhancement Fund is established as a
9 nonlapsing fund in the State Treasury for energy projects.
10 All interest earned from the investment or deposit of money
11 accumulated in the Workforce Enhancement Fund shall be
12 deposited into the fund for the same use. All money deposited
13 into the Workforce Enhancement Fund shall be held in trust,
14 shall not be considered general revenue of the Commonwealth,
15 shall be used only to effectuate the purposes of this
16 subsection, as determined by the Workforce Enhancement Fund
17 Board, and shall be subject to audit by the Auditor General.
18 The money in the fund is appropriated on a continuing basis
19 to the department.

20 (2) A grantee awarded money under this subsection must
21 pay at least the prevailing wage rate for workers on the
22 project.

23 (3) No less than 40% of money in the fund shall be
24 allocated to projects located in environmental justice areas.

25 (4) The money in the fund may be used for grant programs
26 to support energy investments, including, but not limited to,
27 the following:

28 (i) Projects to identify new uses for legacy coal
29 and natural gas sites such as small modular reactor
30 development and construction, geothermal, battery

1 storage, natural gas with carbon capture and
2 manufacturing.

3 (ii) Projects to advance carbon capture utilization
4 and storage technology, including development and
5 deployment at existing facilities and sites.

6 (iii) Clean hydrogen production, consumption and
7 electric generation project development.

8 (iv) Solar projects, particularly rooftop solar, on
9 schools and warehouses and community solar.

10 (v) Methane well capping and capture projects.

11 (vi) Establishment of training programs to ensure
12 workers are local and plugging is done to fully mitigate
13 emissions.

14 (vii) Projects to improve compliance with Federal
15 and State environmental requirements at existing
16 generating units, including control technology to reduce
17 air emissions.

18 (5) The Workforce Enhancement Fund Board is established
19 and shall administer the fund for the purposes specified
20 under this subsection.

21 (6) The Workforce Enhancement Fund Board shall consist
22 of the following members:

23 (i) The Governor or a designee, who must be
24 designated in writing prior to serving as designee.

25 (ii) The Secretary of Community and Economic
26 Development or a designee who must be an employee of the
27 Department of Community and Economic Development and
28 designated in writing prior to serving as designee.

29 (iii) The Secretary of Environmental Protection or a
30 designee who must be an employee of the department and

1 designated in writing prior to serving as designee.

2 (iv) The Secretary of Labor and Industry or a
3 designee who must be an employee of the Department of
4 Labor and Industry and designated in writing prior to
5 serving as designee.

6 (v) Five members appointed by the Governor as
7 follows:

8 (A) Four of which members must be chosen from a
9 list of candidates recommended by the president of
10 the Pennsylvania Building and Construction Trades
11 Council and one of whom shall be designated as chair.

12 (B) One of which member must be the executive
13 director or a member of the State Workforce
14 Development Board.

15 (vi) One member appointed by the President pro
16 tempore of the Senate.

17 (vii) One member appointed by the Minority Leader of
18 the Senate.

19 (viii) One member appointed by the Speaker of the
20 House of Representatives.

21 (ix) One member appointed by the Minority Leader of
22 the House of Representatives.

23 (7) Initially, the appointees under paragraph (6) (v),
24 three members shall be appointed for terms of two years and
25 two members shall be appointed for terms of four years. The
26 terms of their successors shall be four years each, except
27 that any person appointed to fill a vacancy shall serve only
28 for the unexpired term. A member's term shall extend until
29 the member's successor is appointed and qualified. An
30 appointed member of the board shall be eligible for

1 reappointment.

2 (8) The board shall hold its first meeting within 90
3 days of the effective date of this paragraph.

4 (9) The members of the board may not be compensated for
5 service as members but shall be entitled to reimbursement for
6 all necessary expenses incurred in connection with the
7 performance of their duties as members. Reimbursements shall
8 be allocated from money available from the fund established
9 under this subsection.

10 (10) The board shall provide for the holding of regular
11 and special meetings at least biannually at the call of the
12 chair. Seven members shall constitute a quorum for the
13 transaction of any business and a majority of the members
14 present shall be required to adopt any action.

15 (11) The board has the power and duty, including, but
16 not limited to:

17 (i) Adopt bylaws, if necessary.

18 (ii) Make, execute and deliver contracts and grant
19 agreements.

20 (iii) Develop, within one year of its establishment
21 and biennially thereafter, a State plan for the
22 availability and distribution of money from the fund
23 established under this section. The board shall make the
24 State plan available on its publicly accessible Internet
25 website.

26 (iv) Administer and award grants from the fund to
27 eligible energy community projects and monitor the
28 expenditure of money in the fund.

29 (v) Perform other operational activities necessary
30 or appropriate to further the purpose of this section.

1 (vi) Submit an annual report to the General Assembly
2 detailing grant programs, activities and outcomes. The
3 annual report shall include information on the projects
4 located in environmental justice areas, including the
5 percentage of the fund used for such projects.

6 (12) Administrative support for the board shall be
7 provided by the Department of Labor and Industry.

8 (13) The following acts shall apply to the board:

9 (i) The act of July 19, 1957 (P.L.1017, No.451),
10 known as the State Adverse Interest Act.

11 (ii) The act of February 14, 2008 (P.L.6, No.3),
12 known as the Right-to-Know Law.

13 (iii) The provisions of 65 Pa.C.S. Chs. 7 (relating
14 to open meetings) and 11 (relating to ethics standards
15 and financial disclosure).

16 (e) Low-Income Support Account.--The Low-Income Support
17 Account is established in the General Fund. Money deposited into
18 the Low-Income Support Account shall be used, in accordance with
19 law, to supplement Low Income Home Energy Assistance Program
20 (LIHEAP) grants or other grants that provide cooling assistance
21 for eligible customers who seek financial resources to cover
22 cooling expenses.

23 Section 8. Effective date.

24 This act shall take effect immediately.