
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1086 Session of
2020

INTRODUCED BY BLAKE, TARTAGLIONE AND COSTA, MARCH 25, 2020

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 25, 2020

AN ACT

1 Providing for power plant host community benefit agreements
2 between municipalities and owners of certain electric
3 generating facilities, for power plant host community impact
4 fees paid by affected facilities and fee uses; establishing
5 public participation requirements; and providing for
6 administrative fees and for duties of the Department of
7 Environmental Protection.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Power Plant
12 Host Community Benefit Agreement and Fee Act.

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Affected facility." An electric generating facility with a
18 capacity of at least 10 megawatts. The term shall not include
19 the portion of an electric generating facility that uses
20 alternative energy sources.

21 "Alternative energy sources." Energy derived from:

- 1 (1) Solar photovoltaic and solar thermal energy.
- 2 (2) Wind power.
- 3 (3) Low-impact hydropower.
- 4 (4) Geothermal energy.
- 5 (5) Biologically derived methane gas.
- 6 (6) Fuel cells.
- 7 (7) Biomass energy.
- 8 (8) Coal mine methane.

9 "Department." The Department of Environmental Protection of
10 the Commonwealth.

11 "Governing body." A board of county commissioners, city
12 council, borough or incorporated town council, commissioners of
13 a township of the first class, supervisors of a township of the
14 second class, board of school directors of a school district or
15 their successor forms of government.

16 Section 3. Plan approvals and permits.

17 The department shall not grant to the owner of an affected
18 facility a final plan approval or final operating permit
19 required under section 6.1 of the act of January 8, 1960 (1959
20 P.L.2119, No.787), known as the Air Pollution Control Act, for a
21 stationary air contamination source that is an electric
22 generating facility with a capacity of at least 10 megawatts
23 unless the owner of the affected facility is in full compliance
24 with section 4.

25 Section 4. Power plant host community benefit agreements.

26 (a) Consultation required.--The owner of an affected
27 facility and the governing body of the municipality, the county
28 and the school district in which the affected facility is
29 proposed to be located, expanded or subject to the renewal of an
30 existing permit shall enter into discussions to evaluate the

1 need for and potential terms of a power plant host community
2 benefit agreement.

3 (b) Public hearing.--Prior to negotiating the final terms of
4 a power plant host community benefit agreement, an affected
5 facility and the municipality, county and school district in
6 which the affected facility is located shall, in compliance with
7 section 8, provide a public opportunity for residents of the
8 municipality, county and school district to be heard regarding
9 the need for and potential terms of a power plant host community
10 benefit agreement.

11 (c) Notice of agreement.--If the owner of an affected
12 facility and the municipality in which the affected facility is
13 located enter into a power plant host community benefit
14 agreement, a signed and notarized copy of the agreement shall be
15 transmitted to the department. The department shall transmit the
16 agreement to the Legislative Reference Bureau for publication in
17 the Pennsylvania Bulletin.

18 (d) Agreement not reached.--If a municipality has approved
19 all necessary zoning and building permits for an affected
20 facility and the owner of the affected facility and the
21 municipality in which the affected facility is located fails to
22 enter into a power plant host community benefit agreement, the
23 following shall apply:

24 (1) The owner of the affected facility and the
25 municipality shall notify the department of the failure to
26 enter into the agreement.

27 (2) The owner of the affected facility remains subject
28 to the provisions of this act, including payment of the
29 required power plant host community impact fees under section
30 5.

1 (e) Municipal permits not approved.--If a municipality has
2 not approved all necessary zoning and building permits for an
3 affected facility, the provisions of subsection (d) do not
4 apply.

5 (f) Construction.--Nothing in this act shall be construed to
6 limit the authority of a municipality in which the affected
7 facility is located to withhold approval of any applicable
8 zoning, building or other local permits or approvals required to
9 construct or operate the affected facility in the absence of a
10 power plant host community benefit agreement.

11 Section 5. Power plant host community impact fees.

12 (a) General rule.--The owner of an affected facility that
13 begins operation under a new or expanded permit after the
14 effective date of this act shall, at a minimum, pay the amount
15 of up-front and annual power plant host community impact fees
16 specified in this section in order to operate in this
17 Commonwealth. Nothing in this act shall preclude an affected
18 facility and municipality, county and school district from
19 entering into an agreement that establishes up-front and annual
20 fees in greater amounts and provides for other financial and
21 nonfinancial terms and considerations.

22 (b) Minimum standards for power plant host community impact
23 fees.--

24 (1) The owner of each affected facility shall make an
25 up-front payment of \$1,000 per megawatt of electric
26 generating capacity to the municipality in which the affected
27 facility is located. The payment shall be made prior to the
28 generation of any electricity to be supplied to an electric
29 transmission and distribution system. The municipality shall
30 use the funds in accordance with section 6.

1 (2) The owner of each affected facility shall make an
2 up-front payment of \$200 per megawatt of electric generating
3 capacity to the county in which the affected facility is
4 located. The payment shall be made prior to the generation of
5 any electricity to be supplied to an electric transmission
6 and distribution system. Subject to section 6, the county
7 shall use the money to set up an air quality monitoring
8 program and a water quality monitoring program for the area
9 in the vicinity of the affected facility in conjunction with
10 the municipality and in consultation with the department.

11 (3) The owner of each affected facility shall make an
12 annual payment of \$700 per megawatt of electric generating
13 capacity to the municipality in which the affected facility
14 is located. The payment shall be made by December 31 of the
15 first year in which the generation of electricity commences
16 under the terms of a new or expanded permit. For each
17 succeeding year, the annual payment shall be increased by an
18 additional 2% or the percentage increase, if any, in the
19 Consumer Price Index for All Urban Consumers (CPI-U) as
20 calculated and published by the United States Department of
21 Labor for the most recent 12-month period for which figures
22 have been officially reported, whichever is greater. The
23 municipality shall use the funds in accordance with section
24 6.

25 (4) The owner of each affected facility shall make an
26 annual payment of \$500 per megawatt of electric generating
27 capacity to the school district in which the affected
28 facility is located. The payment shall be made by December 31
29 of the first year in which the generation of electricity
30 commences under the terms of a new or expanded permit. For

1 each succeeding year, the annual payment shall be increased
2 by an additional 2% or the percentage increase, if any, in
3 the Consumer Price Index for All Urban Consumers (CPI-U) as
4 calculated and published by the United States Department of
5 Labor for the most recent 12-month period for which figures
6 have been officially reported, whichever is greater. The
7 school district shall use the funds in accordance with
8 section 6.

9 (5) The owner of each affected facility shall make an
10 annual payment of \$500 per megawatt of electric generating
11 capacity to the county in which the affected facility is
12 located. The payment shall be made by December 31 of the
13 first year in which the generation of electricity commences
14 under the terms of a new or expanded permit. For each
15 succeeding year, the annual payment shall be increased by an
16 additional 2% or the percentage increase, if any, in the
17 Consumer Price Index for All Urban Consumers (CPI-U) as
18 calculated and published by the United States Department of
19 Labor for the most recent 12-month period for which figures
20 have been officially reported, whichever is greater. The
21 county shall use the funds in accordance with section 6.

22 Section 6. Uses of power plant host community impact fees.

23 (a) Counties and municipalities.--A municipality or county
24 that receives funds under section 5 shall use the funds only for
25 the following purposes associated with hosting a power plant
26 facility within the municipality or county as follows:

27 (1) Construction, reconstruction, maintenance and repair
28 of roadways, bridges and public infrastructure.

29 (2) Water, storm water and sewer systems, including
30 construction, reconstruction, maintenance and repair, and the

1 use of green infrastructure to diminish and control storm
2 water.

3 (3) Emergency preparedness and public safety, including
4 law enforcement and fire services, hazardous material
5 response, 911 service, equipment acquisition and other
6 services. At least 10% of the up-front funds received shall
7 be used for the purposes under this paragraph.

8 (4) Environmental programs, including trails, parks and
9 recreation, open space, flood plain management, conservation
10 districts and agricultural preservation.

11 (5) Preservation and reclamation of surface and
12 subsurface waters and water supplies. At least 10% of the up-
13 front and annual funds received shall be used for the
14 purposes under this paragraph.

15 (6) Tax reductions, including homestead exclusions.

16 (7) Projects to increase the availability of safe and
17 affordable housing to residents.

18 (8) Records management, geographic information systems
19 and information technology.

20 (9) The delivery of social services.

21 (10) Judicial services.

22 (11) For deposit into the municipality's or county's
23 capital reserve fund if the funds are used solely for a
24 purpose set forth in this subsection.

25 (12) Programs and projects to provide energy assistance
26 to low-income households.

27 (13) Energy conservation programs.

28 (14) Air and water quality monitoring. At least 10% of
29 the up-front and annual funds received shall be used for the
30 purposes under this paragraph.

1 (15) Local or regional planning initiatives under the
2 act of July 31, 1968 (P.L.805, No.247), known as the
3 Pennsylvania Municipalities Planning Code.

4 (b) School districts.--A school district that receives funds
5 under section 5 shall use the funds received for general
6 operating expenses to offset expected reductions in property tax
7 revenue associated with hosting a power plant facility within
8 the school district. The school district may also use its funds
9 for the construction or maintenance of parks, trails or other
10 recreational facilities that may be located on school district
11 property or elsewhere in the county hosting the affected
12 facility and for student participation in air and water quality
13 monitoring.

14 (c) Multiple counties.--Payment of up-front and annual power
15 plant host community impact funds to a municipality or school
16 district which is situate in two or more counties shall be
17 allocated based on the ratio which the population of the
18 municipality or school district within each county bears to the
19 total population of the municipality or school district as last
20 officially certified.

21 Section 7. Administrative fees.

22 The owner of an affected facility that begins operation under
23 a new or expanded permit after the effective date of this
24 section shall pay an annual administrative fee of \$300 per
25 megawatt of electric generating capacity to the department. The
26 first payment shall be made within one month of the commencement
27 of generating electricity under the terms of a new or expanded
28 permit. Payments for the following year and each successive year
29 shall be made by June 30. The department shall use the
30 administrative fee to cover its expenses in administering this

1 act and for developing air and water quality monitoring programs
2 in consultation with the municipality and county hosting the
3 affected facility.

4 Section 8. Power plant host community public participation
5 requirements.

6 (a) Requirements for owners of affected facilities.--An
7 owner of an affected facility seeking a final plan approval or
8 final permit approval from the department as described in
9 section 3 shall submit a public participation plan to the
10 department on a form prescribed by the department. The
11 department shall either approve the plan or request changes in
12 the plan.

13 (b) Contents of public participation plan.--The public
14 participation plan shall provide for the following:

15 (1) The opportunity for residents of the municipality,
16 county and school district in which the affected facility is
17 located to participate in the process by which the department
18 approves a plan or permit, including the opportunity to ask
19 questions in a public meeting or forum.

20 (2) Identification of proposed dates for at least one
21 public meeting or forum.

22 (3) The means by which the public meeting or forum shall
23 be advertised and publicized.

24 (c) Requirements for host municipalities, counties and
25 school districts.--

26 (1) The municipality, county and school district in
27 which the affected facility is proposed to be located,
28 expanded or subject to the renewal of an existing permit,
29 shall each hold at least one separate public meeting or forum
30 to evaluate the need for and potential terms of a power plant

1 host community benefit agreement. The public meeting or forum
2 shall provide members of the public the opportunity to ask
3 questions.

4 (2) The municipality, county and school district
5 holding the public meeting or forum shall advertise the
6 meeting in public newspapers and online and take reasonable
7 steps to publicize and make residents of the municipality,
8 county and school district aware of the meeting.

9 Section 9. Effective date.

10 This act shall take effect in 60 days.