

SENATE FILE NO. SF0066

Retiring electric generation facilities-financial
assurance.

Sponsored by: Senator(s) Driskill, Anderson, Bebout, Boner,
Hicks and Wasserburger and Representative(s)
Barlow, Clem, Harshman, Lindholm and
MacGuire

A BILL

for

1 AN ACT relating to environmental quality and public
2 utilities; requiring deposits of financial assurance for
3 retiring facilities as specified; defining terms; making
4 conforming amendments; and providing for effective dates.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 35-11-2101, 35-11-2102 and 37-2-134
9 are created to read:

10

11

ARTICLE 21

12

FINANCIAL ASSURANCE REQUIREMENTS FOR RETIRING FACILITIES

13

14

35-11-2101. Definitions.

1

2 (a) As used in this article:

3

4 (i) "Financial assurance" means a bond,
5 federally insured certificates of deposit, government
6 securities or a cash deposit, or any combination thereof;

7

8 (ii) "Public utility" means as defined in W.S.
9 37-1-101(a)(vi);

10

11 (iii) "Retiring facility" means an electric
12 generation facility or a unit of an electric generation
13 facility that is operated by a public utility and, through
14 designation in an integrated resource plan:

15

16 (A) Is slated for closure, deactivation,
17 decommissioning, or retirement for reasons other than
18 routine maintenance; or

19

20 (B) Is closed, retired, decommissioned or
21 deactivated after July 1, 2020.

22

1 **35-11-2102. Decommissioning and financial assurance**
2 **requirements for retiring facilities.**

3
4 (a) Not later than two (2) years before a public
5 utility retires or closes a retiring facility, the public
6 utility shall provide financial assurance payable to the
7 department in a type acceptable to the director and in an
8 amount equal to one hundred percent (100%) of the total
9 costs, as determined by the director and after submission
10 of a decommissioning plan to be approved by the director,
11 of decommissioning the retiring facility, including:

12
13 (i) All remediation and reclamation associated
14 with the retiring facility itself;

15
16 (ii) All associated disposal ponds and
17 infrastructure, including diversion structures and water
18 conveyance systems;

19
20 (iii) Roads constructed by the public utility;

21
22 (iv) Ancillary infrastructure and facilities;

23

1 (v) Groundwater contamination.

2

3 (b) The director shall annually adjust the amount of
4 financial assurance required under subsection (a) of this
5 section for a retiring facility for inflation using the
6 consumer price index or its successor index of the United
7 States department of labor, bureau of labor statistics, for
8 the calendar year immediately preceding the date of
9 adjustment. The public utility shall provide additional
10 financial assurance for a retiring facility based on the
11 amount of inflation as calculated under this subsection.

12

13 (c) The financial assurance required under this
14 section shall be expended by the department only for the
15 proper closure, decommissioning and reclamation of the
16 retiring facility. The department shall not transfer funds
17 deposited under this section to any person who purchases
18 the retiring facility under W.S. 37-2-133, 37-3-117 or any
19 other provision of law. The public utility seeking to
20 retire the retiring facility shall be responsible for any
21 additional costs for the decommissioning and reclamation of
22 a retiring facility beyond those deposited with the
23 department as required under this section.

1

2 (d) When the director determines that decommissioning
3 and closure activities have been completed for the retiring
4 facility, the director shall release the financial
5 assurance or any remaining portion thereof to the public
6 utility, unless the director determines that the financial
7 assurance is necessary to assure proper performance of any
8 post-closure and decommissioning activities still required
9 of the public utility.

10

11 (e) If the financial assurance submitted under this
12 section is inadequate to cover the costs to carry out
13 necessary decommissioning and reclamation activities and
14 those costs are not paid to the department as required by
15 this section, or if the department has expended state funds
16 for decommissioning and reclamation, the attorney general
17 shall bring suit to recover the cost of performing the
18 activities where recovery is deemed reasonably possible.

19

20 (f) Before selling a retiring facility, the public
21 utility shall provide notice to all prospective purchasers
22 of the retiring facility that the retiring facility may be
23 subject to the financial assurance requirements of this

1 section. Before a facility is sold and transferred to a
2 purchaser, the public utility shall demonstrate to the
3 department and to the public service commission that the
4 public utility provided notice to the purchaser as required
5 by this subsection.

6

7 (g) Upon receipt of the financial assurance required
8 for a retiring facility, the director shall certify to the
9 public service commission that it has received the
10 financial assurance required by the department from the
11 public utility for the closure, decommissioning and
12 reclamation of the retiring facility.

13

14 **37-2-134. Retirement of electric generation**
15 **facilities; certification of financial assurance.**

16

17 (a) The commission shall not approve the
18 decommissioning, deactivation or closure of a retiring
19 facility of a public utility until it has received
20 certification from the director of the department of
21 environmental quality that the public utility has deposited
22 the required financial assurance with the department of
23 environmental quality for the closure, decommissioning and

1 reclamation of the retiring facility as required under W.S.
2 35-11-2102.

3

4 (b) As used in this section, "retiring facility"
5 means as defined in W.S. 35-11-2101(a)(iii).

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7 **Section 2.** W.S. 35-11-103(a)(xiii) is amended to
8 read:

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10 **35-11-103. Definitions.**

11

12 (a) For the purpose of this act, unless the context
13 otherwise requires:

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15 (xiii) "This act" means W.S. 35-11-101 through
16 35-11-403, 35-11-405, 35-11-406, 35-11-408 through
17 35-11-1106, 35-11-1414 through 35-11-1432, 35-11-1601
18 through 35-11-1613, 35-11-1701, 35-11-1801 through
19 35-11-1803, ~~and~~ 35-11-2001 through 35-11-2004 and
20 35-11-2101 and 35-11-2102.

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