**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3707**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Putnam

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Companion/Similar bill(s): 3570

Introduced in the House on February 24, 2015

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Clean Air Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/24/2015 House Introduced and read first time ([House Journal‑page 16](file:///h:\HJ%20Archive\2015\02-24-15.docx))

2/24/2015 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 16](file:///h:\HJ%20Archive\2015\02-24-15.docx))

2/25/2015 Scrivener's error corrected

3/4/2015 House Recalled from Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 64](file:///h:\HJ%20Archive\2015\03-04-15.docx))

3/4/2015 House Recommitted to Committee on **Labor, Commerce and Industry** ([House Journal‑page 64](file:///h:\HJ%20Archive\2015\03-04-15.docx))

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**VERSIONS OF THIS BILL**

[2/24/2015](file:///p:\pprever\2015-16\3707_20150224.docx)

[2/25/2015](file:///p:\pprever\2015-16\3707_20150225.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 3‑7‑200 SO AS TO ADOPT POLICIES THAT PRESERVE ENVIRONMENTAL QUALITY UNDER THE CLEAN AIR ACT WHILE REFUSING TO IMPLEMENT A CLEAN POWER STATE IMPLEMENTATION PLAN BEFORE A CLEAN AIR ACT SECTION 111(D) REGULATION UNDERGOING FULL AND COMPLETE JUDICIAL REVIEW, AND THE PUBLIC SERVICE COMMISSION SHALL CAP RATE INCREASES ASSOCIATED WITH GREENHOUSE GAS REGULATIONS AT ONE AND ONE-HALF PERCENT.

Whereas, a reliable and affordable electricity supply is vital to the nation’s and each state’s economic growth, jobs, and the overall well‑being of its citizens; and

Whereas, under its sovereignty and the protections of the 10th Amendment, it is the sole authority of each state to regulate as necessary to ensure a reliable and affordable supply of electricity for its citizens; and

Whereas, environmental regulations should be based on sound science and a transparent and comprehensive program that addresses environmental issues, the nation’s broader economic prosperity, and the long‑term energy affordability for citizens; and

Whereas, the regulation of retail electricity sales and local distribution of electricity is a sovereign state function that federal agencies have a legal obligation to respect and preserve; and

Whereas, on June 25, 2013, the President issued a memorandum to the Administrator of the U.S. Environmental Protection Agency (EPA) directing the EPA to develop guidelines to control greenhouse gas emissions from existing fossil fuel‑fired power plants under Section 111(d) of the federal Clean Air Act and to seek input from states; and

Whereas, on June 2, 2014, the EPA issued proposed guidelines limiting carbon dioxide(CO2) emissions from existing fossil fuel‑fired power plants under Section 111(d) of the federal Clean

Air Act and published them for comment in the Federal Register on June 16, 2014; and

Whereas, the EPA, under the Clean Air Act (CAA), claims authority to regulate greenhouse gases by utilizing Section 111(d) to regulate carbon dioxide performance standards for Existing Generating Units (EGUs) when those plants are already regulated under Section 112 of the Clean Air Act’s air toxics program; and

Whereas, the EPA has admitted that its interpretation of the CAA conflicts with a literal reading of the law and acknowledged that this application of the CAA “‘would have been unrecognizable to the Congress that designed’ the governing statutory framework” and that this proposed rule will not measurably alter any impacts of climate change; and

Whereas, the Clean Air Act does not authorize the EPA to mandate implementation of “outside of the fence” elements of a state’s Clean Power Plan with respect to retirement or operation of coal fired electricity generating units, the reliance on generation of electricity from natural gas, the reliance on renewable energy sources, or the energy efficiency or demand management of end users, each of these exclusively within the police powers of the State; and

Whereas, the proposed guidelines are based on the EPA’s assessment of each state’s ability to improve the efficiency of coal‑fired electric generating units, retire or operate differently coal‑fired electric generating units, substantially increase the generation of electricity from natural gas, significantly increase reliance on renewable energy sources, and substantially reduce the use of electricity by consumers, all in a plan and on a schedule that is not achievable and workable; and

Whereas, the proposed guidelines and plan, by the EPA’s own estimates have a major impact on the economy of each state and significant consequences for how electricity is generated, transmitted, distributed, and used within the State and would effectively amount to a federal takeover of the electricity system of the United States. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 7, Title 3 of the 1976 Code is amended by adding:

“Section 3‑7‑200. (A) No state agency shall prepare, draft, submit, or implement a state plan pursuant to a Clean Air Act Section 111(d) regulation for existing power plants until the regulation has undergone judicial review and is fully resolved following the exhaustion of any and all appeals. The South Carolina Department of Health and Environmental Control may examine the implications of preparing and implementing the regulations, but may take no further action.

(B) The South Carolina Public Service Commission may not approve a proposal or issue any order that allows electric generating units to be retired before the end of their engineering lifetime if the unit is necessary to maintain the grid reliability specified by the Federal Energy Regulatory Commission (FERC) in its reliability standards and the Public Service Commission shall require that existing electric generating units be operated in accordance with their design parameters and in such a manner as to ensure operation consistent with the initial design life of the unit at the time of its Public Service Commission approval.

(C) The Public Service Commission shall condition decisions related to electricity generation and distribution on least‑cost proposals that comply with Clean Air Act regulations and the State Implementation Plan for which Air Quality Criteria have been published or for which regulations have been promulgated under Section 112 of the Clean Air Act. The Public Service Commission shall cap rate increases associated with greenhouse gas regulations at one and one‑half percent.”

SECTION 2. This act takes effect upon approval by the Governor.

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