

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2024 REGULAR SESSION
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Amend printed copy of **SB 349/GA**

Beginning on page 1, line 3, and continuing through page 15, line 4, delete Section 1 of the Act in its entirety and insert in lieu thereof the following:

"➔Section 1. (1) The General Assembly finds and declares that:

(a) The long-term economic health and well-being of the citizens of the Commonwealth and the United States depends upon the availability of reliable sources of energy;

(b) The Commonwealth has abundant reserves of coal, natural gas, and other natural resources to serve as fuel for the generation of electric power;

(c) The electric energy needs of the Commonwealth are best met by continuing to engage in an all-of-the-above approach to electric generation resources, including but not limited to coal, oil, natural gas, wind, solar, hydropower, nuclear, and any future emerging technologies like hydrogen power;

(d) The current economy and future economic development of the Commonwealth requires reliable, resilient, dependable, and abundant supplies of electrical power at reasonable prices;

(e) The demand for reliable, resilient, dispatchable electrical power is anticipated to significantly increase in the coming decades as the Commonwealth becomes home to additional manufacturing and other economic development projects which increase demand for electrical power;

Amendment No. HFA

Rep. Rep. Kim Banta

Committee Amendment

Signed:

Floor Amendment

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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(f) It is in the interest of the Commonwealth that it be able to generate sufficient electricity within its borders to serve its own industrial, residential, and commercial demand and to power its own economy;

(g) The electrification of the United States' economy combined with unprecedented federal regulatory pressures have the potential to create an electric generation resource crisis in the Commonwealth;

(h) Existing state and federal policies with respect to energy do not adequately address the concerns of the General Assembly or citizens of the Commonwealth such that a comprehensive Kentucky energy policy is required;

(i) Current policies at the state and federal level do not adequately assess capacity, availability, reliability, or resilience attributes of existing and new fossil fuel-fired, nuclear, renewable, or other emerging dispatchable electric generating resources;

(j) It is the policy of the Commonwealth to maintain adequate capacity of available, reliable, dispatchable, and resilient electric generation at reasonable prices to provide for the existing and reasonably projected future energy consumption needs of all wholesale and retail consumers of electricity in the Commonwealth;

(k) Unnecessary retirement, decommissioning, or demolition of fossil fuel-fired electric generating resources is not required for the protection of the environment or the health, safety, and welfare of the citizens of the Commonwealth;

(l) The health, happiness, safety, economic opportunity, and general welfare of the citizens of the Commonwealth will be promoted and protected by the operation of fossil fuel-fired electric generating resources at reasonable prices and, conversely, those interests would be harmed by the premature retirement of those generating resources;

(m) The Commonwealth can support a multitude of potential electric generating resources and energy fuel supply resources so as to be the national leader in the production of energy in all

forms;

(n) Local economic development is essential to the health, happiness, safety, and general welfare of the citizens of the Commonwealth;

(o) Local economic development requires an adequate supply of electricity to support new and expanding industries and is enhanced by robust employment in coal mining and coal transportation and at electric generating facilities, the local job multiplier effect of employment in the coal, natural gas, and electric generating industries, and state and local taxes and other forms of economic value creation for the Commonwealth; and

(p) The numerous energy policy challenges facing the Commonwealth require a comprehensive energy policy informed by the input, judgment, experience, and expertise of diverse stakeholders representing a variety of interests and energy resources, including but not limited to investor-owned and municipal utilities, electric cooperatives, the Tennessee Valley Authority, coal, oil, natural gas, nuclear, renewables, batteries and other forms of energy storage, and any future or emerging resources to achieve the best results for the citizens of the Commonwealth.

(2) The Energy Planning and Inventory Task Force is hereby established and administratively attached to the University of Kentucky Center for Applied Energy Research, but it shall otherwise be independent from the University of Kentucky and any Kentucky executive branch agency.

(3) The task force shall have the following 36 members or their designees, six of whom shall be ex officio nonvoting members:

(a) The director of the University of Kentucky Center for Applied Energy Research who shall serve as the chair;

(b) Three representatives designated by Kentucky's investor-owned electric utilities;

(c) One representative designated by each of Kentucky's two electric generation and

transmission cooperatives;

(d) One representative from each of the two regional transmission organizations with membership including a Kentucky utility, designated by the chief executive of those organizations;

(e) Two representatives of Kentucky coal producers, designated by the president of the Kentucky Coal Association;

(f) One representative designated by the Kentucky Association of Electric Cooperatives;

(g) One representative of a Kentucky municipal electric utility, designated by the executive director of the Kentucky League of Cities;

(h) One representative of Kentucky oil and gas producers, designated by the executive director of the Kentucky Oil and Gas Association;

(i) One representative of an industry or business engaged in the transportation of coal designated by the chair;

(j) One representative of a business engaged in the transportation or distribution of natural gas, designated by the president of the Kentucky Gas Association;

(k) One representative with professional experience in the purchasing or sale of fossil fuels, designated by the president of the Kentucky Coal Association;

(l) One member representing the nuclear electric generation industry, designated by the executive director of the United States Nuclear Industry Council;

(m) One member representing the interests of businesses or entities engaged in activities related to the mining, milling, conversion, enrichment, or fabrication of nuclear fuel or involved in the remediation of past enrichment of nuclear fuels in the Commonwealth designated by the chair;

(n) Two members representing commercial and industrial consumers of electrical power, one member designated by the Kentucky Industrial Utility Consumers and one member

designated by the Kentucky Association of Manufacturers;

(o) One member representing Kentucky economic interests, designated by the chief executive officer of the Kentucky Chamber of Commerce;

(p) One member representing producers of renewable energy designated by the chair;

(q) One member with experience in investment banking or utility finance, designated by the president of the Kentucky Banker's Association;

(r) One member representing residential electricity consumers, designated by the Attorney General;

(s) One member chosen by the utilities who own electric generation who has significant educational, training, and professional experience in preparing and presenting electric load forecasts;

(t) One member chosen the by the utilities who own electric generation who has significant educational, training, and professional experience in the field of electric engineering and the generation of electric power;

(u) One member to represent the interests of low-income consumers to be chosen by the chair after consultation with non-profit organizations that have substantial experience in representing the interests of such customers in commission proceedings;

(v) Three ex officio nonvoting members of the House of Representatives, two designated by the Speaker of the House of Representatives and one designated by the House Minority Floor Leader;

(w) Three ex officio nonvoting members of the Senate, two designated by the President of the Senate and one designated by the Senate Minority Floor Leader;

(x) The chief economist for the Legislative Research Commission;

(y) The secretary of the Energy and Environment Cabinet, or designee; and

(z) The secretary of the Economic Development Cabinet, or designee.

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(4) The first meeting of the Energy Planning and Inventory Task Force shall be no later than September 1, 2024, and the task force shall meet at least three times prior to the submission of the report required under subsection (6) of this section.

(5) The mission of the Energy Planning and Inventory Task Force shall be to:

(a) Identify the regulatory, financial, environmental, and social factors threatening the viability of fossil fuel-fired generation resources in the Commonwealth;

(b) Identify the costs and benefits associated with continuing to operate fossil fuel-fired generation resources in the Commonwealth, including the least cost and available replacement generation, the costs and benefits of maintaining Kentucky's energy production, and the societal and governmental costs of declining energy production in the Commonwealth;

(c) Identify any improvements in the resource adequacy planning methods or processes of Kentucky's electric utilities or the Public Service Commission's oversight of such planning;

(d) Identify the reliability attributes of various technologies for generating electricity, including the dispatchability of various technologies, the intermittent nature of certain technologies, and develop definitions for the terms dispatchable and intermittent as they relate to electricity production; and

(e) Engage in the examination and study of:

1. The adequacy of the Commonwealth's existing and anticipated future electric generation and transmission resources and the existing and anticipated future electric demand;

2. The continued operation, retirement, divestiture, or other major actions impacting any electric power generating unit, or any pollution control equipment associated with any such unit, located in the Commonwealth;

3. Issues concerning the adequacy of the Commonwealth's energy supply, including but not limited to the economic impact of energy production and consumption in the Commonwealth, the Kentucky energy grid's response to severe weather events, projected power

demand, land use impacts from power generation, local economic impacts resulting from the closure of electric generating resources, and whether least-cost alternatives to decommissioning electric generating resources exist;

4. The effect of any federal policy which may impact the availability of dispatchable power or the adequacy of energy supplies in the Commonwealth;

5. The Commonwealth's ability to participate in energy markets or in the production, transmission, or distribution of energy;

6. The Commonwealth's ability to finance or provide financing assistance to energy producers to encourage additional energy production in the Commonwealth;

7. New and emerging electric generating technologies that could supply future electric demand in the Commonwealth; and

8. Whether the Commonwealth's energy resources are sufficiently dispatchable to ensure against loss of electrical power supply in the event of extreme weather or other unexpected or catastrophic events that may challenge the ability of the Commonwealth's electrical grid to meet demand.

(6) On or before December 1, 2024, the Energy Planning and Inventory Task Force shall submit a report with recommendations, including but not limited to recommendations for statutory changes or budgetary proposals, to the Legislative Research Commission, the Governor, and the Public Service Commission concerning any of the issues examined or studied by the task force pursuant to subsection (5) of this section."; and

Beginning on page 16, line 11, and continuing through page 19, line 20, delete Sections 4 and 5 of the Act in their entirety and insert in lieu thereof the following:

"➔Section 4. KRS 278.264 is amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, the commission shall have the authority to approve or deny the retirement of an electric generating unit owned by a utility.

Prior to retiring an electric generating unit, a utility shall apply to the commission for an order approving the retirement, and shall give the commission thirty (30) days' notice of the application. The commission shall enter an order approving, approving with conditions, or denying the application within one hundred eighty (180) days of receiving an administratively complete application.

(2) There shall be a rebuttable presumption against the retirement of a fossil fuel-fired electric generating unit. **In a proceeding initiated under subsection (1) of this section for approval to retire an electric generating unit,** the commission shall not approve the retirement of ~~the~~~~[an electric generating]~~ unit, authorize a surcharge for the decommissioning of the unit, or **authorize**~~[take any other action which authorizes or allows for]~~ the recovery of costs for the retirement of an electric generating unit, including any stranded asset recovery, unless the presumption created by this section is rebutted by evidence sufficient for the commission to find that:

- (a) The utility will replace the retired electric generating unit with new electric generating capacity that:
1. Is dispatchable by either the utility or the regional transmission organization or independent system operator responsible for balancing load within the utility's service area;
 2. Maintains or improves the reliability and resilience of the electric transmission grid; and
 3. Maintains the minimum reserve capacity requirement established by the utility's reliability coordinator;
- (b) The retirement will not harm the utility's ratepayers by causing the utility to incur any net incremental costs to be recovered from ratepayers that could be avoided by continuing to operate the electric generating unit proposed for retirement in

- compliance with applicable law; and
- (c) The decision to retire the fossil fuel-fired electric generating unit is not the result of any financial incentives or benefits offered by any federal agency.
- (3) The utility shall at a minimum provide the commission with evidence of all known direct and indirect costs of retiring the electric generating unit and demonstrate that cost savings will result to customers as a result of the retirement of the electric generating unit.
- (4) The commission shall prepare and submit an annual report to the Legislative Research Commission by December 1 of each year detailing:
- (a) The number of requests by utilities to retire electric generating units in the Commonwealth, the nameplate capacity of each of those units, and whether the request was approved or denied by the commission;
- (b) The impact of any commission-approved retirement of an electric generating unit on the:
1. Commonwealth's generation fuel mix;
 2. Required capacity reserve margins for the utility;
 3. Need for capacity additions or expansions at new or existing facilities as a result of the retirement; and
 4. Need for additional purchase power or capacity reserve arrangements; and
- (c) Whether the retirement resulted in stranded costs for the ratepayer that will be recovered by the utility through a surcharge or some other separate charge on the customer bill.
- (5) Nothing in this section shall be construed as limiting a utility's right pursuant to KRS 278.180, 278.190, or any other provision of law, to request, and the commission to grant, cost recovery for depreciation expenses that align with the depreciable life of an electric generating unit for which the utility is not seeking authorization to retire, including but**

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not limited to decommissioning, removal, and salvage costs.

➔Section 5. All appointments or designations to the Energy Planning and Inventory Task Force shall be made on or before July 1, 2024. Members shall serve on the task force until the submission of the report required by subsection (6) of Section 1 of this Act."