



*Transcending Boundaries*

# **COAL LEGISLATION IN THE UNITED STATES**

**PASSED AND PENDING LEGISLATION**



**MAY 2020**

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*At the time of publication, many legislatures were temporarily suspended due to COVID-19 precautions.*



## Georgia

SB 123

*Passed Senate 2/24/20*

Eliminates the coal ash surcharge imposed by host local governments regarding municipal solid waste disposal facilities operated by private enterprise.

HB 93

*Passed House 3/12/20*

Relates to the control of water pollution and surface-water use, so as to provide notice to local governing authorities prior to the dewatering of coal combustion residual surface impoundments.

HB 756 / SB 297

*Introduced 1/15/20*

Provides conditions for the issuance of a permit for solid waste or special waste handling for a coal combustion unit or landfill.

HB 929

*Passed House 3/12/20*

Establishes procedure for post-closure ground-water monitoring at closed coal combustion residual impoundments.

## Hawaii

HB 2657/SB 2366

*Passed House 3/3/20*

Prohibits the issuance or renewal of covered source air permits for coal-burning electricity generation facilities after 12/31/2022. The bill further prohibits the approval of a new, modified, or renewed power purchase agreement for electricity generated from coal after 6/30/2020.



# Illinois

## HB 4300

*Introduced 1/28/20*

Creates the Coal Severance Tax Act. The act imposes a tax upon the severance and preparation of coal for sale, profit, or commercial use, if the coal is severed from a mine located in the state. Provides that the rate of tax is 5% of the gross value of the severed coal. Contains provisions concerning returns and penalties. Effective January 1, 2020.

## SB 2954

*Placed on Calendar 2/27/20*

Creates the Coal Tar Sealant Disclosure Act. The bill requires specified persons and entities, public schools and public school districts, and State agencies to disclose the use of a coal tar-based sealant or high polycyclic aromatic hydrocarbon sealant product.

It also requires public schools or public school districts and State agencies to post, for a minimum of 10 years after application, signage regarding the dangers such use poses. Public schools or public school districts and State agencies are required to determine whether specified benefits of alternative products outweigh the cost, and if so to use them.

On or before January 1, 2021, the bill asks the Department of Public Health to adopt rules for prescribed procedures and standards to be used in assessing acceptable levels of high polycyclic aromatic hydrocarbon content of pavement seals on properties covered under the Act. Finally, the bill provides that the Department, in consultation with the State Board of Education, must conduct outreach to public schools and public school districts regarding coal tar-based sealant and high polycyclic aromatic hydrocarbon product.

# Indiana

## HB 1414

*Passed 3/21/20*

Provides that a public utility that owns and operates a reliable capacity electric generation resource must operate and maintain the unit using good utility practices and in a



manner reasonably intended to support the availability of the unit for dispatch and for providing reliable service to customers of the public utility.

The bill prohibits a public utility from terminating a power agreement with a legacy generation resource in which the public utility has an ownership interest unless the public utility provides the utility regulatory commission (IURC) with at least three years advance notice of the termination, and it provides that the IURC must determine the reasonable costs incurred by the public utility under the power agreement and allow the public utility to recover those costs in a fuel adjustment charge proceeding.

The bill further declares that a public utility may not retire, sell, or transfer a reliable capacity resource with a capacity of at least 80 megawatts before May 1, 2021, unless: (1) the public utility first provides written notice to the IURC of the public utility's intent to do so; and (2) the IURC conducts a public hearing to receive information concerning the reasonableness of the planned retirement, sale, or transfer.

The bill also requires the IURC to conduct the required hearing and issue its analysis and conclusions concerning the reasonableness of the planned retirement, sale, or transfer not later than 120 days after the date of the IURC's receipt of the public utility's written notice to the IURC. The bill states that if the planned retirement, sale, or transfer: (1) was included in the public utility's preferred portfolio in the public utility's most recent integrated resource plan, the public utility may proceed with the planned retirement, sale, or transfer after the commission issues the commission's analysis and conclusions; or (2) was not included in the public utility's preferred portfolio in the public utility's most recent integrated resource plan, the public utility may not proceed with the planned retirement, sale, or transfer until at least six months have elapsed from the date of the commission's receipt of the public utility's written notice of the planned retirement, sale, or transfer.

The bill further provides that if a public utility cites a federal mandate as the basis, in whole or in part, for the planned retirement, sale, or transfer of the reliable capacity resource, the IURC may consider as part of its analysis and conclusions whether the cited federal mandate: (1) is in force; (2) has not expired or been revoked; and (3) is not merely anticipated to be enacted; at the time of the public utility's notice. These provisions expire May 1, 2021.

The bill also declares that in awarding high value workforce ready credit-bearing grants, the commission for higher education, in conjunction with the department of



workforce development, must give priority to an applicant who is a coal transition worker.

Finally, the bill defines a “coal transition worker” as an individual who is laid off or terminated from the individual’s employment: (1) at a commercial coal mine in Indiana; (2) at a coal-fired electric generating unit in Indiana; or (3) in an Indiana based manufacturing or transportation supply chain serving: (A) a commercial coal mine; or (B) a coal-fired electric generating unit; in Indiana.

## **Kentucky**

**HB 209**

*Introduced 1/8/20*

Eliminates the deduction for transportation expenses from coal severance tax.

## **Maryland**

**HB 919/SB 902**

*Introduced 2/5/20*

Repeals a certain credit against the public service company franchise tax for the purchase of Maryland-mined coal during a certain year. The bill also repeals a credit against the State income tax that certain cogenerators or electricity suppliers may have claimed for the purchase of Maryland-mined coal during a certain taxable year. Finally, the bill repeals an exemption to the sales and use tax for the sale of coal used in certain residential properties

**SB 912**

*Introduced 2/3/20*

Establishes a Climate Crisis Initiative in the Department of the Environment for certain purposes and requires the Secretary of the Environment to administer certain schedules of greenhouse gas pollution fees.

The bill also requires the Secretary to delegate certain collection and benefit functions to the Comptroller, and asks the Comptroller to carry out certain functions. It also requires the collection of a greenhouse gas pollution fee on certain fuels for certain purposes.



## **SB 865/HB 969**

*Introduced 2/3/20*

Extends to December 31, 2030, the termination of a credit against the public service company franchise tax for the purchase of Maryland-mined coal and authorizes the State Department of Assessments and Taxation to approve up to \$3,000,000 in total credits each year.

## **HB 1543**

*Introduced 2/7/20*

Establishes the Climate Crisis Initiative in the Maryland Department of the Environment (MDE) and requires the State to reduce greenhouse gas (GHG) emissions to 70% of 2006 levels by 2030, by 100% of 2006 levels by 2040, and be net-negative thereafter.

As a funding source, the bill establishes various pollution fees on fossil fuels, electricity, and certain new vehicle sales and registrations.

## **Ohio**

### **HB 6**

*Passed 10/22/2019*

Declares FirstEnergy customers across Ohio will pay an additional monthly surcharge (\$1.50 for residential customers; up to \$1,500 for commercial operations) to help cover costs for two coal plants owned by the Ohio Valley Electric Corporation—one in Ohio, one in Indiana.

## **Pennsylvania**

### **HB 1557**

*Passed 10/04/19*

Amends the act, known as the Coal Refuse Disposal Control Act, further providing for designating areas unsuitable for coal refuse disposal.



## SB 790

*Removed from table 4/20/20*

Provides a legislative framework for regulations specific to conventional oil and gas drillers in a way that protects the environment while preserving what the state considers to be a valuable industry.

## Virginia

### HB 1526

*Passed 4/11/20*

Declares that by December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility must retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

### HB 1189

*Stricken from docket 1/30/20*

Establishes the Coal and Energy Worker Relief Task Force for the purpose of assisting Virginia residents whose employment by a business related to the exploration for or the extraction, processing, or transportation of coal or natural gas terminates pursuant to the employer's complete or partial closure.

The purposes of the Task Force are to (i) provide a single point of contact for displaced coal and energy workers; (ii) direct resources of the Virginia Employment Commission, state and regional workforce systems, the Department of Social Services, and Virginia's community colleges to areas where coal or energy operations have ceased or reduced operations; and (iii) develop a package of assistance measures that is scalable and transferable across the Commonwealth.

### HB 1641

*Passed 4/2/20*

Requires a utility, defined in the bill as the owner or operator of a coal ash pond in the Chesapeake Bay watershed, to complete a survey of all private wells and public water



supply wells within 1.5 miles of each of its ponds by October 1, 2020, and to notify residents via mail and a local newspaper posting that the survey will be conducted.

## **HB 1642**

*Passed 4/7/20*

Provides that if any test exceeds any U.S. Environmental Protection Agency Maximum Contaminant Level for drinking water, the utility must provide water treatment or alternative water supplies, potentially including a connection to a city or county water utility, to the owner of the well.

## **HB 528**

*Passed 4/6/20*

Directs the State Corporation Commission to determine when electric utilities should retire coal-fired or natural gas-fired electric generation facilities.

## **HB 754**

*Left in Appropriations 2/11/20*

Establishes the Virginia Brownfield Renewable Energy and Coal Mine Grant Fund and Program. The fund and program must be administered by the Department of Mines, Minerals and Energy, for the purpose of awarding grants to renewable energy projects that are located on brownfields or previously coal mined lands.

Grants are to be awarded on a basis of \$500 per kilowatt of nameplate capacity from renewable energy sources that are located on previously coal mined lands and \$100 per kilowatt of nameplate capacity from renewable energy sources that are located on brownfields.

## **SB 876**

*Incorporated by Commerce & Labor 2/3/20*

Replaces the voluntary renewable energy portfolio standard program with a mandatory clean energy standard (CES) program that sets requirements for all investor-owned electric utilities and cooperative electric utilities. The CES program requires 30 percent of the total electric energy sold by each utility in 2030 to be clean energy, which is defined as electricity generated without emitting carbon dioxide or generated by a



natural gas-fired facility with 80 percent carbon capture or a coal-fired facility with 90 percent carbon capture.

The CES Goals increase incrementally in future years until 2050 and thereafter, by which time 100 percent of the electric energy sold is required to be clean energy. The measure requires a utility that fails to meet a CES Goal to pay a compliance payment.

The measure also requires each electric utility (i) to include a clean energy plan in each of its integrated resource plans and (ii) by January 1, 2030, to decommission all of its coal-fired electric generation facilities.

## **HB 443**

*Passed 3/31/20*

Requires the owner or operator of any coal combustion residuals (CCR) unit, defined in the bill to include a coal ash pond or landfill, at the Glen Lyn Plant and the Clinch River Plant in Giles and Russell Counties, respectively, to close such CCR unit under certain circumstances by removing all of the CCR for (i) recycling, known as encapsulated beneficial use, or (ii) deposition in a permitted and lined landfill that meets certain federal standards.

## **SB 851**

*Passed 4/11/20*

Establishes a schedule by which Dominion Energy Virginia and American Electric Power are required to retire electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity and by which they are required to construct, acquire, or enter into agreements to purchase generating capacity located in the Commonwealth using energy derived from sunlight or on-shore wind.

The bill also provides that it is the policy of the Commonwealth that the State Corporation Commission, Department of Environmental Quality, Department of Mines, Minerals and Energy, Virginia Council on Environmental Justice, and other applicable state agencies, in the development of energy programs, job training programs, and placement of renewable energy facilities, must consider those facilities and programs being to the benefit of low-income geographic areas and historically economically disadvantaged communities that are located near previously and presently permitted fossil fuel facilities or coal mines.



# West Virginia

## HB 2113

*Introduced 1/8/20*

Creates the Intrastate Coal and Use Act establishing that the environmental regulation of coal and certain coal products mined and used within the state are exclusively regulated by the West Virginia Department of Environmental Protection.

## HB 4574

*Passed House 2/26/20*

Establishes “Just Transition” support for coal and timber related jobs. The bill is meant to facilitate the recovery of areas of the state that have been impacted by the reduction of coal production and consumption.

## HB 2055

*Introduced 1/8/20*

Prohibits drilling units from being established without consent of all owners. The bill prohibits coal bed methane units from being established without consents from all owners, and it prohibits deep oil or gas well units from being established without consents from all owners.

## SB 731

*Sent to Finance Committee 2/19/20*

Limits the two percent tax break on steam coal to the first six million tons of production per operator per year.

## HB 4439

*Passed 4/15/20*

Clarifies the method for calculating the amount of severance tax attributable to the increase in coal production.



## SB 793

*Passed 4/14/20*

Reduces the Business and Occupation Tax liability for coal-fired electric power generation units of up to \$15.0 million in Fiscal Year 2022 and by as much as \$16.3 million each year thereafter.

The provisions of the bill allows coal-fired electric generators to reduce their taxable generation capacity tax base to 45 percent beginning July 1, 2021 in exchange for an agreement to keep those facilities open until at least July 1, 2025.

## Wisconsin

### SB 716

*Failed 4/1/20*

Prohibits the sale and use of coal tar-based sealants and high PAH (polycyclic aromatic hydrocarbons) sealant products. Follows in the steps of other states in years prior.

### AB 797

*Failed 4/1/20*

Prohibits the sale and use of coal tar-based sealants and high PAH sealant products.

## Wyoming

### SB 21

*Passed 3/10/20*

Declares that if an electric utility purchases electricity from the owner of an otherwise retiring coal-fired electric generation facility for the benefit of an eligible retail customer, the utility serving that eligible retail customer must purchase the electricity at a cost and under terms and conditions that are acceptable to and negotiated between the customer and the owner of the otherwise retiring coal-fired electric generation facility.

The electric public utility must pass that cost through to the customer without markup or modification except for the collection of applicable taxes and the appropriate uniform assessment, according to the bill.



## HB 4

*Passed 3/10/20*

Establishes the Wyoming Coal Marketing Program to be administered by the governor. The purpose of the program is to protect and expand Wyoming's coal markets and coal facilities and to address impacts cities, towns, and counties have experienced or will experience due to changes in the coal market.

## HB 74

*Passed 3/13/20*

Authorizes the replacement of coal generation capacity with small modular nuclear reactor capacity.

## HB 200

*Passed 3/24/20*

Requires the public service commission to establish electricity generation portfolio standards for public utilities (require utilities to produce a portion of their electricity from low-carbon sources e.g. coal plants with carbon capture. ), and it limits the recovery of costs for the retirement of coal-fired electric generation facilities.

## HB 129

*Passed 3/24/20*

Establishes rules and regulations governing the use of decommissioned wind turbine blades and towers to backfill surface coal mining sites as part of an approved reclamation plan.

## HB 117

*Failed 2/26/20*

Diverts one-half percent severance tax on surface coal and underground coal to the proposed Wyoming Mineral Resources Exportation Account.



## HB 159

*Passed 3/24/20*

Requires all mineral producers in the state to report and remit ad valorem taxes on mineral production on a monthly basis to the Department of Revenue on behalf of counties as an attempt to reduce uncollectable ad valorem taxes.

## HB 231

*Passed 3/24/20*

Creates a severance tax exemption for surface coal transported to markets outside of North America as specified.

## SB 21

*Passed 3/10/20*

Allows the purchaser of a (coal-fired) facility to sell electricity generated by the facility to the utility selling the facility in order to pass on the generated electricity with specifically permitted markups to customers meeting certain criteria. The bill also requires any utility seeking to retire a facility to first make a good faith effort to sell the facility for continued use as a coal-fired electric generation facility.





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