



AN ACT GENERALLY REVISING LEGAL OBLIGATIONS OF COAL-FIRED POWER PLANT OWNERS RELATED TO PUBLIC WATER SUPPLIES; REQUIRING A WATER FEASIBILITY STUDY BE COMPLETED BY THE OWNERS OF A COAL-FIRED GENERATING UNIT TO ENSURE ACCESS TO A WATER SUPPLY; AMENDING SECTION 75-8-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Water feasibility study. (1) On or before November 1, 2022, the owners of a coal-fired generating unit shall complete a water feasibility study in accordance with subsection (2). Costs of completing the study must be shared among the owners based on each owner's individual ownership interest in the coal-fired generating unit.

(2) The study required in subsection (1) must include:

(a) planning to ensure a local government attendant to a coal-fired generating unit is able to access the local government's water rights and related infrastructure in the event of closure of the coal-fired generating unit;

(b) an estimation of potential conveyance costs that could be incurred by a local government, for up to a 30-year timeline following closure of a facility; and

(c) recommendations, developed in consultation with the community attendant to a coal-fired generating unit, for meeting financial obligations necessary to ensure the affected local government is able to maintain its water supply and water rights.

(3) The study must be submitted to the department and included in remediation plans required in accordance with this part.

Section 2. Section 75-8-103, MCA, is amended to read:

"75-8-103. Definitions. As used in this part, the following definitions apply:

(1) (a) "Affected property" means the property owned by or under the control of an owner that is affected by a coal-fired generating unit, including:

(i) land, surface water, or ground water directly affected by the coal-fired generating unit, associated impoundments, disposal and waste operations, buildings, structures, or other improvements or operations infrastructure; and

(ii) areas affected by activities necessary to the closure and dismantling of the coal-fired generating unit.

(b) The term does not include:

(i) land, water, or air affected or potentially affected by emissions from the operation of a coal-fired generating unit; or

(ii) the mining of coal at an underground or strip mine and used at the coal-fired generating unit.

(2) "Applicable legal obligations" means any applicable state or federal environmental laws, including but not limited to the Montana Water Quality Act, rules regarding disposal of coal combustion residuals from electric utilities, the Montana Major Facility Siting Act, and other applicable laws administered by the department in accordance with Title 75. The term includes:

(a) any consent order or settlement entered into by the department and an operator or owner imposing obligations to undertake remediation actions at the coal-fired generating unit or affected property; and

(b) a water feasibility study completed in accordance with [section 1].

(3) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility located in Montana, where the unit has a generating capacity that is greater than or equal to 200 megawatts.

(4) "Department" means the department of environmental quality provided for in 2-15-3501.

(5) "Operator" means the person engaged in operating or undertaking remediation actions at a coal-fired generating unit. An operator may or may not be an owner.

(6) "Owner" means a person who has a legal or equitable interest in property subject to this part or the person's legal representative.

(7) "Person" means an individual, partnership, corporation, association, or other legal entity or any

political subdivision of the state or federal government.

(8) "Reasonably anticipated future uses" means likely future land or resource uses that take into consideration:

- (a) local land and resource use regulations, ordinances, restrictions, or covenants;
- (b) historical and anticipated uses of a site where a coal-fired generating unit is located;
- (c) patterns of development in the immediate area; and
- (d) relevant indications of anticipated land use from an operator or owner, or both, of a coal-fired

generating unit, affected property owners, and local planning officials.

(9) "Remediation" means all actions required by an applicable legal obligation directed exclusively toward achieving a degree of cleanup required in accordance with 75-8-107.

(10) "Retired" or "retire" means the complete and permanent closure of a coal-fired generating unit. Retirement occurs on the date that the coal-fired generating unit ceases combustion of fuel and permanently ceases to generate electricity."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 8, part 1, and the provisions of Title 75, chapter 8, part 1, apply to [section 1].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Applicability. [This act] applies to remediation plans filed on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 87, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 87

INTRODUCED BY D. ANKNEY, C. SMITH

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