

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

SENATE FILE NO.

Early retirement of coal fired generation facilities.

Sponsored by: SDraft Committee

A BILL

for

1 AN ACT relating to public utilities; listing factors that  
2 the public service commission may consider when considering  
3 an application for an early retirement of a coal fired  
4 generation facility; authorizing the issuance of bonds by  
5 the utility as specified; requiring deposits for retiring  
6 facilities as specified; defining terms; requiring  
7 rulemaking; and providing for effective dates.

8

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

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11 **Section 1.** W.S. 35-11-2101 and 37-3-401 through 37-3-  
12 404 are created to read:

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ARTICLE 21

DEPOSIT REQUIREMENTS FOR EARLY RETIRING FACILITIES

**35-11-2101. Decommissioning and deposit requirements  
for early retiring facilities.**

(a) As used in this section:

(i) "Early retiring facility" means as provided  
in W.S. 37-3-401(a)(i);

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

(b) Upon a public utility providing notice to the  
public service commission that a facility will be an early  
retiring facility and in addition to the requirements of  
W.S. 37-3-401 through 37-3-404, the public utility shall  
make a deposit in cash payable to the department of  
environmental quality in an amount equal to one hundred  
percent (100%) of the total costs, as determined by the  
department, of decommissioning the early retiring facility

1 and all reclamation associated with the early retiring  
2 facility.

3

4 (c) The deposit required under subsection (b) of this  
5 section shall be expended by the department of  
6 environmental quality only as necessary to assure the  
7 proper decommissioning and reclamation of the early  
8 retiring facility. The department shall not transfer funds  
9 deposited under this section to any person who purchases  
10 the early retiring facility under W.S. 37-2-133, 37-3-117  
11 or any other provision of law.

12

13 (d) The deposit requirement required of the public  
14 utility under subsection (b) of this section shall not be  
15 transferred to any person, including any person who  
16 purchases the early retiring facility under W.S. 37-2-133,  
17 37-3-117 or any other provision of law or to any person who  
18 otherwise assumes the assets and liabilities of the early  
19 retiring facility.

20

21 (e) The public utility seeking early retirement of the  
22 early retiring facility shall be responsible for any  
23 additional costs for the decommissioning and reclamation of

1 an early retiring facility beyond those deposited with the  
2 department of environmental quality as required under  
3 subsection (b) of this section.

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5 \*\*\*\*\*  
6 \*\*\*\*\*

7 STAFF COMMENT

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9 The Working Group incorporated the above language based on  
10 an amendment that was proposed at the Minerals Committee  
11 meeting.

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16 ARTICLE 4

17 EARLY RETIREMENT OF COAL FIRED GENERATION FACILITIES

18

19 37-3-401. Definitions.

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21 (a) As used in this article:

22

23 (i) "Early retiring facility" means a coal fired  
24 electric generation facility that:

25

26 (A) Is slated for deactivation for reasons  
27 besides routine maintenance before the end of the  
28 facility's established depreciable life;

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2

(B) The public utility plans to transition from generating electricity with coal to a different fuel; or

5

6

(C) After July 1, 2020, has closed or has been retired before the end of the facility's expected lifespan or that has transitioned from generating electricity with coal to a different fuel.

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**STAFF COMMENT**

The Working Group has amended the definition of "early retiring facility" based on technical suggestions from the Public Service Commission.

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(ii) "Transition assistance" includes:

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(A) Payment of retraining costs, including approved apprenticeship training programs under W.S. 16-6-901(a)(iv) and training in a recognized skilled vocational or technical occupation, for directly displaced employees of an early retiring facility;

28

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(B) Financial assistance for directly displaced employees of an early retiring facility;

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(C) Until January 1, 2026, compensation to local governments for losses of property tax revenue resulting directly from an early retiring facility.

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STAFF COMMENT

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In its comments to the working group, the Public Service Commission noted the expansion of its role and duties based on the definition of "transition assistance" above. The Committee may wish to consider, as noted elsewhere in this bill draft, whether another department or state agency is best suited to address transition assistance as contemplated in this bill draft.

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*The following comment below is a carryover from the bill draft the Minerals Committee considered at its final meeting:*

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The definition for "transition assistance" is based loosely on the definition in a similar bill considered in Colorado. The definition provides parameters for how bond proceeds must be used later in this bill draft.

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37-3-402. Factors to be considered upon closing an early retiring facility.

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2 (a) The commission shall consider the following when  
3 reviewing an application from a public utility for closing  
4 an early retiring facility:

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STAFF COMMENT

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10 The Working Group suggested revisions to W.S. 37-3-402(a);  
11 those changes are reflected above this comment.

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16 (i) The socioeconomic factors associated with an  
17 early retirement, including:

18

19 (A) Direct impacts on employees of  
20 facilities, including the number of employees whose  
21 existing jobs will be eliminated due to an early  
22 retirement;

23

24 (B) The need for assistance to employees who  
25 may be displaced by the early retirement, including job  
26 retraining and training, educational opportunities,

1 financial assistance and other employee assistance to  
2 displaced employees;

3

4 \*\*\*\*\*  
5 \*\*\*\*\*

6 STAFF COMMENT

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8 In its technical comments, the Public Service Commission  
9 highlights the use of "displaced" in subparagraph (B)  
10 above, compared to the term "directly displaced" in the  
11 definition of "transition assistance" earlier in the bill  
12 draft.

13

14 \*\*\*\*\*  
15 \*\*\*\*\*

16

17 (C) The impacts on communities where  
18 retiring facilities are located, including lost tax revenue  
19 and the loss of economic benefit associated with the  
20 facility.

21

22 (ii) The effects of the early retirement on the  
23 availability and reliability of service for Wyoming  
24 customers, including the grid safety and system reliability  
25 for the public utility;

26

27 (iii) Any other factor related to the early  
28 retirement that the commission deems necessary.

29



1 (b) Except as provided in W.S. 37-3-117, the  
2 commission may prohibit a public utility from recovering  
3 from its customers any cost related to the facility's early  
4 retirement.

5  
6 (c) When determining rates for a public utility with a  
7 retiring facility, the commission shall ensure that there  
8 is no harm to Wyoming customers or to the public interest  
9 because of the early retirement.

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11 \*\*\*\*\*  
12 \*\*\*\*\*

13 STAFF COMMENT

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15 In its comments, the Public Service Commission noted the  
16 following:

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- 18 • For subsection (b), the reference to W.S. 37-3-117 may
- 19 not be necessary. Further, there may be an issue with
- 20 prohibiting recovery of early retirement costs if a
- 21 utility satisfies its burden to show that early
- 22 retirement is in the economic interest of ratepayers.
- 23 • For subsection (c), the language may be redundant to
- 24 existing law that requires the Commission to consider
- 25 the public interest. The Commission also raised a
- 26 question regarding the standard of "no harm to Wyoming
- 27 customers".
- 28 • For subsection (c) above, the Commission suggests the
- 29 following language:
- 30

31 (c) When determining rates for a public utility with  
32 an early retiring facility, the commission shall ensure  
33 that the early retirement is consistent with the public  
34 interest.

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3 *The comment below is a carryover from the earlier version*  
4 *that the Minerals Committee considered:*

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6 The Committee may wish to consider whether the subsections  
7 above would implicate Article 1, Section 33 of the Wyoming  
8 Constitution, which provides that private property cannot  
9 be taken or damaged for public or private use without just  
10 compensation, if a utility is not able to achieve a fair  
11 return on its investments.

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14 \*\*\*\*\*

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16 **37-3-403. Early retirements of facilities; bonds.**

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18 (a) Upon application by a public utility for the early  
19 retirement of an early retiring facility and after an  
20 opportunity for a hearing, the commission may issue a  
21 financing order authorizing the public utility to issue  
22 bonds for providing the utility with recovery of stranded  
23 costs at a lower cost to customers. Any application under  
24 this section shall include the following:

25

26 (i) An estimated schedule of the early retirement  
27 of any facility;

28

29 (ii) A description of the effects the proposed  
30 bond will have on the early retirement;

1

2 (iii) One (1) or more alternative financing  
3 scenarios in addition to the bonds sought;

4

5 (iv) A proposed methodology for allocating costs  
6 and revenues among customer classes;

7

8 (v) An estimate of the customer savings expected  
9 if the financing order is issued;

10

11 (vi) A workforce transition plan that identifies  
12 the number of employees currently employed and the number  
13 of positions anticipated to be retained or eliminated due  
14 to the early retirement. The plan shall state whether  
15 employees whose positions are to be eliminated will be  
16 offered other employment with the public utility,  
17 retraining for another position with the public utility or  
18 offered early or phased retirement;

19

20 (vii) A statement as to whether the public  
21 utility is replacing the early retiring facility with a new  
22 generating facility, including the new facility's type, the  
23 proposed location and capacity;

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(viii) Any other information as required by the  
commission.

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STAFF COMMENT  
In its comments to the Working Group, the Public Service  
Commission notes that paragraphs (i) through (vi) above may  
expand the Commission's duties in a way that overlaps with  
another department or agency.

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(b) Before issuing any financing order under this  
section, the commission shall give notice and hold a public  
hearing in the municipality nearest to where the early  
retiring facility is located.

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STAFF COMMENT  
The Public Service Commission suggested changes to the  
notice and hearing requirements in subsection (b) above;  
those changes are reflected in this draft. Notably, the  
version above omits the requirement that the notice be  
published for three weeks in a newspaper of general  
circulation in the county where the hearing is to be held.

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1           (c) The commission may issue a financing order if it  
2 finds that:

3

4           (i) The costs of any bonds issued pursuant to the  
5 financing order are reasonable;

6

7           (ii) The issuance of bonds is consistent with the  
8 public interest;

9

10           (iii) The issuance of bonds constitutes a prudent  
11 and reasonable mechanism for financing the costs associated  
12 with the early retirement;

13

14           (iv) The issuance of bonds will provide  
15 substantial, tangible and quantifiable benefits to  
16 customers that are greater than the benefits that would  
17 accrue to customers absent the issuance of bonds;

18

19           (v) The issuance of bonds will significantly  
20 lower costs to customers or will significantly mitigate  
21 rate impacts of an early retirement to customers.

22

1 (d) Any financing order issued under this section  
2 shall:

3  
4 (i) Specify the amounts and types of bonds  
5 authorized to be issued under the financing order and the  
6 maximum period the bonds may bear maturities;

7  
8 (ii) Determine the maximum amount of costs that  
9 may be financed from the proceeds of the bonds to be  
10 issued;

11  
12 (iii) Specify what percentage of proceeds of the  
13 bonds shall be used for transition assistance;

14  
15 (iv) Require an amount equal to the estimated  
16 amount of proceeds specified in paragraph (iii) of this  
17 subsection to be transferred to [the commission] for use  
18 for transition assistance before the retiring facility is  
19 closed;

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21 \*\*\*\*\*  
22 \*\*\*\*\*

23 **STAFF COMMENT**

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1 *The comment below is a carryover from the bill draft the*  
2 *Minerals Committee considered:*

3  
4 The Committee may wish to consider which agency is best  
5 equipped to receive and expend funds for transition  
6 assistance. Currently, the Public Service Commission is  
7 listed (in brackets in paragraph (iv) above) as a  
8 placeholder. It is possible that the Department of  
9 Workforce Services and the Department of Revenue may have a  
10 role to play in overseeing the issued bonds and the  
11 distribution of their proceeds.

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16 (v) Describe the mechanism for billing customers  
17 for charges associated with the issuance of bonds;

18  
19 (vi) Describe the financing costs that the  
20 utility may recover and the period in which the costs may  
21 be recovered;

22  
23 (vii) Describe the property that is used to pay  
24 and secure the payment of the bonds authorized to be  
25 issued;

26  
27 (viii) Specify the process by which adjustments  
28 to customer charges are to be considered;

29





1 The Public Service Commission notes that making bonds  
2 irrevocable, as is done in subsection (e) above, may  
3 interfere with the Commission's ability to address future  
4 changes in circumstances.

5  
6 *The comment below is a carryover from the bill draft the  
7 Minerals Committee considered:*

8  
9 The bonding authority provided in this bill draft is  
10 loosely based on the bill considered in Colorado. The  
11 Committee may wish to consider whether additional statutory  
12 parameters are necessary for the commission to consider and  
13 authorize a utility with an early retiring facility to  
14 issue bonds, including requiring a report from the utility  
15 to the commission on the status of bonds issued and whether  
16 specific rules should outline how customers are charged and  
17 for how much when bonds are issued.

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19 \*\*\*\*\*  
20 \*\*\*\*\*  
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22 37-3-404. Early retiring facilities; deposit  
23 requirements.

24  
25 A public utility seeking early retirement of a facility  
26 shall comply with the deposit requirements of W.S. 35-11-  
27 2101.

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29 \*\*\*\*\*  
30 \*\*\*\*\*  
31 STAFF COMMENT

32  
33 W.S. 37-3-404 above is inserted in this version of the bill  
34 draft as a conforming amendment to new section W.S. 35-11-  
35 2101, which addresses cash deposit requirements for  
36 decommissioning early retiring facilities.

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1 \*\*\*\*\*  
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4       **Section 2.** The public service commission shall  
5 promulgate any rules necessary to implement the provisions  
6 of this act.

7  
8 \*\*\*\*\*  
9 \*\*\*\*\*  
10                   **STAFF COMMENT**

11  
12 *The comment below is a carryover from the bill draft the*  
13 *Minerals Committee considered:*

14  
15 The Committee may wish to specify what it wishes to  
16 specifically be covered under the rules that the Public  
17 Service Commission would promulgate in accordance with this  
18 act.

19  
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23       **Section 3.**

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25       (a) Except as provided in subsection (b) of this  
26 section, this act is effective immediately upon completion  
27 of all acts necessary for a bill to become law as provided  
28 by Article 4, Section 8 of the Wyoming Constitution.

29  
30       (b) Section 1 of this act is effective July 1, 2020.

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3 STAFF COMMENT

4

5 *The comment below is a carryover from the bill draft the*  
6 *Minerals Committee considered:*

7

8 The Committee should consider how these new options for the  
9 Public Service Commission to utilize will be applied vis-à-  
10 vis the provisions created in 2019 Senate File 0159,  
11 particularly the limitation for recovering costs associated  
12 with electric generation facilities built to replace a  
13 retiring facility. See W.S. 37-3-117.

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17

18 (END)