

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Early retirement of coal fired generation facilities.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

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

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

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10 **Section 1.** W.S. 37-3-401 through 37-3-403 are created
11 to read:

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ARTICLE 4

EARLY RETIREMENT OF COAL FIRED GENERATION FACILITIES

37-3-401. Definitions.

(a) As used in this article:

(i) "Early retirement" or "retiring facility" means a coal fired electric generation facility that:

(A) Is slated for closure, shutdown or retirement before the end of the facility's expected lifespan;

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

(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 substance or natural resource.

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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 a retiring facility;

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

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

STAFF COMMENT

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.

1 (B) The need for assistance to employees who
2 may be displaced by the early retirement, including job
3 retraining and training, educational opportunities,
4 financial assistance and other employee assistance to
5 displaced employees;

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7 (C) The impacts on communities where
8 retiring facilities are located, including lost tax revenue
9 and the loss of economic benefit associated with the
10 facility.

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12 (ii) The effects of the early retirement on the
13 availability and reliability of service for Wyoming
14 customers, including the grid safety and system reliability
15 for the public utility;

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

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

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

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9 STAFF COMMENT

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

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21 37-3-403. Early retirements of facilities; bonds.

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23 (a) Upon application by a public utility projecting or
24 planning for the early retirement of a facility, the
25 commission may issue a financing order authorizing the
26 public utility to issue bonds for providing the utility
27 with recovery of stranded costs at a lower cost to
28 customers. Any application under this section shall include
29 the following:

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2 (i) An estimated schedule of the early retirement
3 of any facility;

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

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

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11 (iv) A proposed methodology for allocating costs
12 and revenues among customer classes;

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

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17 (vi) A workforce transition plan that identifies
18 the number of employees currently employed and the number
19 of positions anticipated to be retained or eliminated due
20 to the early retirement. The plan shall state whether
21 employees whose positions are to be eliminated will be
22 offered other employment with the public utility,

1 retraining for another position with the public utility or
2 offered early or phased retirement;

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4 (vii) A statement as to whether the public
5 utility is replacing the retiring facility with a new
6 generating facility, including the proposed location,
7 capacity and fuel source of the new facility;

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

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12 (b) Before issuing any financing order under this
13 section, the commission shall hold a public hearing to
14 consider public comment on the proposed financing order.
15 The commission shall hold the hearing in the municipality
16 nearest to where the retiring facility is located. Before
17 holding the hearing, the commission shall publish notice of
18 the hearing for three (3) weeks in a newspaper of general
19 circulation in the county in which the hearing is to be
20 held.

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22 (c) The commission may issue a financing order if it
23 finds that:

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

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5 (ii) The issuance of bonds is consistent with the
6 public interest;

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

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

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

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21 (d) Any financing order issued under this section
22 shall:

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

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

8
9 (iii) Specify what percentage of proceeds of the
10 bonds shall be used for transition assistance;

11
12 (iv) Require an amount equal to the estimated
13 amount of proceeds specified in paragraph (iii) of this
14 subsection to be transferred to [the commission] for use
15 for transition assistance before the retiring facility is
16 closed;

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19 **STAFF COMMENT**

20 The Committee may wish to consider which agency is best
21 equipped to receive and expend funds for transition
22 assistance. Currently, the Public Service Commission is
23 listed (in brackets) as a placeholder. It is possible that
24 the Department of Workforce Services and the Department of
25 Revenue may have a role to play in overseeing the issued
26 bonds and the distribution of their proceeds.

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

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7 (vi) Describe the financing costs that the
8 utility may recover and the period in which the costs may
9 be recovered;

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11 (vii) Describe the property that is used to pay
12 and secure the payment of the bonds authorized to be
13 issued;

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15 (viii) Specify the process by which adjustments
16 to customer charges are to be considered;

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18 (ix) Include any other requirement or condition
19 the commission deems necessary to protect customers and
20 impacted employees.

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22 (e) Any bonds issued pursuant to a financing order
23 validly issued under this section are irrevocable. The
24 commission shall not reduce, impair or terminate any

1 charges approved in a financing order or impair any
2 property specified as security in a financing order.

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6 STAFF COMMENT

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

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21 Section 2. The public service commission shall
22 promulgate any rules necessary to implement the provisions
23 of this act.

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27 STAFF COMMENT

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29 The Committee may wish to specify what it wishes to
30 specifically be covered under the rules that the Public
31 Service Commission would promulgate in accordance with this
32 act.

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1 **Section 3.**

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

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

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12 **STAFF COMMENT**

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

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24 (END)