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HOUSE BILL 498

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Anthony Allison

AN ACT

RELATING TO UTILITIES; REQUIRING A UTILITY THAT ABANDONS A
QUALIFYING GENERATING FACILITY TO LOCATE REPLACEMENT RESOURCES
IN THE SCHOOL DISTRICT WHERE THE ABANDONED FACILITY IS LOCATED;
CREATING THE ENERGY TRANSITION ECONOMIC DEVELOPMENT ASSISTANCE
FUND AND THE ENERGY TRANSITION DISPLACED WORKER ASSISTANCE
FUND; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public Utility Act is
enacted to read:

"[NEW MATERIAL] ABANDONED QUALIFYING GENERATING FACILITY--
LOCATION OF RESOURCE DEVELOPMENT AFTER ABANDONMENT.--

A. A qualifying utility shall, no later than one
year after commission approval of abandonment of a qualifying
generating facility in New Mexico, apply for commission

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1 approval for competitively procured replacement resources that
2 are located in the school district where the abandoned
3 qualifying generating facility is located. As part of that
4 competitive procurement, in addition to the criteria set forth
5 in Subsections C and E of this section, projects shall be
6 ranked based on their cost, economic development opportunity
7 and ability to provide jobs with comparable pay and benefits to
8 those lost due to the abandonment of a qualifying generating
9 facility. The qualitative and quantitative data and analysis
10 used to establish the ranking shall be available for review by
11 parties to the commission proceeding.

12 B. Replacement resources must be subject to
13 property taxes or a binding commitment to make an equivalent
14 payment in lieu of taxes.

15 C. In determining whether to approve replacement
16 resources, the commission shall prefer resources with the least
17 environmental impacts, resources with higher ratios of capital
18 costs to fuel costs and those able to reduce the cost of
19 reclamation and use for lands previously mined within the
20 county of the qualifying generating facility.

21 D. The commission shall grant all necessary
22 approvals for replacement resources, except that the commission
23 may determine that the particular resource proposed by the
24 qualifying utility should not be approved and that, instead, an
25 alternative replacement resource that meets the conditions of

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1 Subsection A of this section should be approved. The
2 commission shall not disallow recovery of reasonable costs
3 necessary to comply with the locational directives provided in
4 Subsection A of this section.

5 E. In considering responses to requests for
6 proposals for replacement resources pursuant to this section, a
7 qualifying utility shall inform prospective bidders that it
8 promotes and encourages the use of workers residing in New
9 Mexico to the greatest extent practicable and shall take that
10 use into consideration in evaluating proposals.

11 F. As used in this section:

12 (1) "qualifying generating facility" means a
13 coal-fired generating facility that has been granted a
14 certificate of public convenience and for which abandonment
15 authority has been requested at the commission;

16 (2) "qualifying utility" means a public
17 utility pursuant to Paragraph (1) of Subsection G of Section
18 62-3-3 NMSA 1978 that owns or leases all or a portion of a
19 qualifying generating facility and its successor or assignees;
20 and

21 (3) "replacement resources" means up to four
22 hundred fifty megawatts of nameplate capacity identified by the
23 qualifying utility as replacement for a qualifying generating
24 facility and may include energy storage capacity, provided that
25 such resources are needed and in the public interest."

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1 SECTION 2. A new section of the Public Utility Act is
2 enacted to read:

3 "[NEW MATERIAL] ENERGY TRANSITION ECONOMIC DEVELOPMENT
4 ASSISTANCE FUND--ENERGY TRANSITION DISPLACED WORKER ASSISTANCE
5 FUND.--

6 A. The "energy transition economic development
7 assistance fund" is created in the state treasury. The fund
8 shall consist of appropriations, gifts, grants, donations and
9 bequests made to the fund. Income from the fund shall be
10 credited to the fund, and money in the fund shall not revert or
11 be transferred to any other fund at the end of a fiscal year.

12 B. The economic development department shall
13 administer the energy transition economic development
14 assistance fund, and money in the fund is subject to
15 appropriation by the legislature only to that department to
16 assist in diversifying and promoting the affected community's
17 economy by fostering economic development opportunities
18 unrelated to fossil fuel development or use.

19 C. The economic development department shall
20 develop an economic diversification and development plan to
21 assist the affected community that shall provide for the
22 disbursement of money in the energy transition economic
23 development assistance fund. In developing the plan, the
24 economic development department shall establish a public
25 planning process in the affected community to inform the use of

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1 money in the fund. The public planning process shall include
2 at least three public meetings in the affected community.
3 Expenditures from the fund shall be made after completion of
4 the plan and as follows:

5 (1) to an entity approved by the economic
6 development department to receive funds for any program
7 established at the economic development department;

8 (2) to assist employers to qualify for any tax
9 relief for hiring displaced workers established under state or
10 federal law; and

11 (3) to a municipality, county, Indian nation,
12 pueblo or tribe or land grant community in New Mexico for
13 programs designed to promote economic development in the
14 affected community.

15 D. The "energy transition displaced worker
16 assistance fund" is created in the state treasury. The fund
17 shall consist of appropriations, gifts, grants, donations and
18 bequests made to the fund. Income from the fund shall be
19 credited to the fund, and money in the fund shall not revert or
20 be transferred to any other fund at the end of a fiscal year.

21 E. The workforce solutions department shall
22 administer the energy transition displaced worker assistance
23 fund, and money in the fund is subject to appropriation by the
24 legislature only to that department to assist displaced workers
25 in an affected community.

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1 F. The workforce solutions department shall develop
2 a displaced worker development plan to assist displaced workers
3 in an affected community that shall provide for the
4 disbursement of money in the energy transition displaced worker
5 assistance fund. In developing the plan, the workforce
6 solutions department shall establish a public planning process
7 in the affected community to inform the use of money in the
8 fund. The public planning process shall include at least three
9 public meetings in the affected community. Expenditures from
10 the fund shall be made after completion of the plan and as
11 follows:

12 (1) to assist employers of displaced workers
13 to qualify for any tax relief established under state or
14 federal law;

15 (2) to the workforce solutions department:

16 (a) to provide assistance to displaced
17 workers or to prepare to assist future displaced workers due to
18 a pending abandoned qualifying generating facility using any
19 program established at that department; and

20 (b) for payment of costs or to prepare
21 to assist future displaced workers due to a pending abandoned
22 qualifying generating facility associated with displaced
23 workers enrolling and participating in certified apprenticeship
24 programs in New Mexico; and

25 (3) to a municipality, county, Indian nation,

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1 pueblo or tribe or land grant community in New Mexico for job
2 training and apprenticeship programs for displaced workers or
3 for programs designed to promote economic development in the
4 affected community.

5 G. As used in this section:

6 (1) "affected community" means a New Mexico
7 county located within one hundred miles of a qualifying
8 generating facility that has filed an intent to abandon or
9 located within one hundred miles of a facility that generates
10 energy in New Mexico that closes and results in at least forty
11 displaced workers;

12 (2) "displaced worker" means a New Mexico
13 resident who:

14 (a) within the previous twelve months,
15 was terminated from employment, or whose contract was
16 terminated, due to the anticipated abandonment of a qualifying
17 generating facility or the abandonment of a facility that
18 generates energy with an impact on forty workers;

19 (b) had at least seventy-five percent of
20 the resident's net income, as that term is defined in the
21 Income Tax Act, from the employment or contract described in
22 Subparagraph (a) of this paragraph;

23 (c) has not been able to replace the
24 lost wages described in Subparagraph (b) of this paragraph or
25 whose annual wages are at least twenty-five percent less than

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1 when the qualifying generating facility was operating; and

2 (d) does not qualify to take full
3 benefits pursuant to a pension or retirement plan; and

4 (3) "qualifying generating facility" means a
5 coal-fired generating facility that has been granted a
6 certificate of public convenience and for which abandonment
7 authority has been requested at the commission."

8 SECTION 3. APPROPRIATIONS.--

9 A. Seven million dollars (\$7,000,000) is
10 appropriated from the general fund to the energy transition
11 economic development assistance fund for expenditure in fiscal
12 year 2020 and subsequent fiscal years to carry out the purposes
13 of the fund. Any unexpended or unencumbered balance remaining
14 at the end a of fiscal year shall not revert to the general
15 fund.

16 B. Three million dollars (\$3,000,000) is
17 appropriated from the general fund to the energy transition
18 displaced worker assistance fund for expenditure in fiscal year
19 2020 and subsequent fiscal years to carry out the purposes of
20 the fund. Any unexpended or unencumbered balance remaining at
21 the end of a fiscal year shall not revert to the general fund.

22 SECTION 4. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2019.