

SENATE BILL No. 553

By Committee on Ways and Means

2-5

9 AN ACT concerning the environment; relating to carbon dioxide emis-
10 sion offset.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Sections 1 through 3, and amendments thereto, shall
14 be known and may be cited as the carbon dioxide emissions offset act and
15 shall not be construed to be part of the Kansas air quality act.

16 (b) As used in the carbon dioxide emissions offset act:

17 (1) “Affected facility” means a fossil-fuel-fired steam electricity gen-
18 erating unit of more than 250 million British thermal units per hour heat
19 input other than:

20 (A) A facility owned or operated by the federal government;

21 (B) a facility located on tribal lands; or

22 (C) any other facility exempt under section 111 of the federal clean
23 air act.

24 (2) “Construct” or “construction” means physical on-site construction
25 of an affected facility.

26 (3) “Owner or operator” means any person who owns, leases, oper-
27 ates, controls or supervises an affected facility subject to any standard or
28 requirement of the Kansas air quality act, K.S.A. 65-3001 et seq., and
29 amendments thereto, or any rules and regulations promulgated
30 thereunder.

31 (4) “Potential-to-emit” means the maximum capacity of an affected
32 facility to emit carbon dioxide under its physical and operational design.
33 Any physical or operational limitation on the capacity of the source to
34 emit carbon dioxide, including any reduction equipment and restrictions
35 on hours of operation or on the type or amount of material combusted,
36 stored or processed, shall be treated as part of its design.

37 (5) “Qualified owner or owners” means:

38 (A) An individual who is a Kansas resident;

39 (B) any of the following entities, all members of which are individuals
40 who was Kansas residents: A limited liability company which is organized
41 under the Kansas revised limited liability company act (K.S.A. 17-7662 et
42 seq., and amendments thereto), a corporation organized not-for-profit
43 under the laws of this state or a cooperative organized under the coop-

1 erative marketing act (K.S.A. 17-1601 et seq., and amendments thereto),
2 the electric cooperative act (K.S.A. 17-4601 et seq., and amendments
3 thereto) or the renewable energy electric generation cooperative act
4 (K.S.A. 17-4651 et seq., and amendments thereto);

5 (C) a Kansas political subdivision or local government including, but
6 not limited to, a municipal electric utility, or a municipal power agency
7 on behalf of and at the request of a member distribution utility, a county,
8 a city, a school district, a public or private higher education institution or
9 any other local or regional governmental organization such as a board,
10 commission or association; or

11 (D) a tribal council.

12 (6) “Reconstruct” or “reconstruction” means any rebuilding of an
13 emission source within an existing affected facility which generates elec-
14 tricity from fossil fuel that would result in an increase in carbon dioxide
15 emissions from such facility.

16 (7) “Ultra-supercritical pulverized coal technology” means a steam
17 generating facility operating at or above 4,500 pounds per square inch
18 and at or above 1,200 degrees fahrenheit.

19 Sec. 2. (a) Any affected facility to be constructed or reconstructed
20 on or after January 1, 2008, shall comply with the emission limitations
21 provided for herein if the potential-to-emit from the proposed affected
22 facility equals or exceeds 250,000 tons per year of carbon dioxide.

23 (b) Except as otherwise provided herein:

24 (1) On and after the date on which the initial performance test of an
25 affected facility is completed or required to be completed, whichever
26 occurs first, neither the owner nor the operator of such affected facility
27 shall on an annual basis cause to be discharged into the atmosphere from
28 such affected facility any gases containing carbon dioxide in excess of the
29 following emission limits:

30 (A) For an affected facility using solid fuel, carbon dioxide in excess
31 of 1,300 pounds per net megawatt hour;

32 (B) for an affected facility using liquid fuel, carbon dioxide in excess
33 of 1,000 pounds per net megawatt hour; and

34 (C) for an affected facility using gaseous fuel, carbon dioxide in excess
35 of 800 pounds per net megawatt hour.

36 Sec. 3. (a) For affected facilities not meeting the carbon dioxide
37 emission limitations set forth in section 2, and amendments thereto, the
38 owner or operator shall be deemed to be in compliance if the emissions
39 in excess of such limitations are mitigated or offset by any of the following
40 means or methods in the amount of the credit as provided below:

41 (1) For development of carbon reduction, storage or utilization pro-
42 jects, an offset credit shall be received for the reduced, avoided, displaced,
43 captured, stored or sequestered carbon dioxide as follows:

- 1 (A) For capture of carbon dioxide emitted from an affected facility
2 using chilled ammonia, amine capture and coal gasification, an offset
3 credit equal to two times the actual carbon dioxide tonnage captured; or
4 (B) for storage of carbon dioxide emitted from an affected facility
5 using deep aquifer injection, depleted oil or natural gas field injection,
6 enhanced oil or gas recovery, carbon capture sequestration or pipeline
7 projects for the transportation of carbon dioxide to be used for enhanced
8 oil or gas recovery or carbon storage, an offset credit equal to three times
9 the actual carbon dioxide tonnage sequestered, stored or displaced.
- 10 (b) For transmission system improvements located inside or outside
11 Kansas, including direct-current converters or ties, which enable or en-
12 hance the development in whole or in part of renewable resources elec-
13 tricity generating facilities located in Kansas, an offset credit shall be
14 allowed as follows:
- 15 (1) The carbon dioxide offset credit from any project shall be based
16 on the incremental available transfer capacity, expressed in mega-volt-
17 amperes, which may be available for renewable energy transfers as a re-
18 sult of such project. Such determination of available transfer capacity
19 must be demonstrated by an engineering study performed by, or in ac-
20 cordance with procedures developed by, the southwest power pool or
21 other reliability, planning or regional transmission organization, if any, in
22 the affected transmission grid or grids.
- 23 (2) Such carbon dioxide offset shall be determined by taking the ad-
24 ditional transmission capacity, expressed in mega-volt-amperes, multi-
25 plied by a 0.9 power factor, multiplied by the rate of the affected facility's
26 expected carbon dioxide release rate expressed in pounds per megawatt
27 hour, multiplied by a 40% capacity factor, multiplied by 8,760 hours per
28 year, to be recalculated on an annual basis. The owner or operator of the
29 affected facility shall be entitled to an offset credit whether it owns or
30 leases the transmission facility.
- 31 (c) An owner or operator of an affected facility shall receive an offset
32 credit for the retirement of other electricity generating units located in
33 Kansas which are permanently removed from service on or after July 1,
34 2008, and which combusted the same fuel as the affected facility. The
35 owner or operator shall state, in a written format prescribed by the per-
36 mitting authority, those units that have been permanently retired on a
37 specific date and the fossil-fuel capability of such unit. Such offset credit
38 is only applicable if fuel utilized by the affected facility is the same fuel
39 as that utilized by the retired electricity generating unit.
- 40 (d) Before July 1, 2009, the secretary of the Kansas department of
41 health and environment shall adopt such rules and regulations to imple-
42 ment this section and sections 1 and 2, and amendments thereto, includ-
43 ing, but not limited to, monitoring, reporting and recordkeeping require-

1 ments, consistent herewith as deemed necessary to ensure conformance
2 with the provisions of this section and section 2, and amendments thereto.
3 The secretary shall consult with the state corporation commission in the
4 promulgation of such rules and regulations. The secretary shall not defer
5 nor delay the issuance of any construction permit pursuant to the Kansas
6 air quality act, and amendments thereto, pending the establishment of
7 such rules and regulations. The limitations under this act shall not be set
8 forth in any construction or operating permit to be issued under the
9 Kansas air quality act.

10 Sec. 4. This act shall take effect and be in force from and after its
11 publication in the statute book.