

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 337

(By Senators McCabe, Hunter, Unger, Foster and Kessler)

[Originating in the Committee on the Judiciary;

reported February 26, 2007.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-5-19, relating to the establishment of a program to inventory emissions, reductions and carbon sequestrations of greenhouse gases; creating a voluntary registry for the reporting of voluntary reductions of greenhouse gas emissions if the reductions are made before they are required by law; clarifying that certain industries are exempt from reporting; providing public recognition of voluntary reduction or avoidance of greenhouse gases; providing definitions; and providing consideration of the reductions under future federal greenhouse gas emission reduction programs.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §22-5-19, to read as follows:

ARTICLE 5. AIR POLLUTION CONTROL. §22-5-19. Net greenhouse gas inventory.

(a) The secretary is authorized to propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code, establishing a net greenhouse gas inventory to determine whether West Virginia is a net sink or emitter of greenhouse gas and whether greenhouse gas can be developed as an asset for economic development by establishing an inventory using reasonable estimates of current and future greenhouse gas emissions. The inventory shall include all significant emissions, reductions, capture and sequestration of greenhouse gases from stationary, area and mobile sources, such as power plants, waste combustors, natural gas/oil systems, landfills, and waste water treatment facilities, highway and nonroad sources, agricultural sources and shall consider direct (geologic) and indirect (terrestrial) carbon sequestration. Stationary sources are not required to but may submit to the secretary estimates of carbon sequestration activities.

(b) To inventory greenhouse gas emissions, the secretary shall establish a program for the reporting and, where information already exists or is reported to the department or other state or federal agency, the collection of greenhouse gas emissions information from all sources that emit greater than a *de minimis* amount of greenhouse gases on an annual basis. *De minimis* shall mean emissions from an individual facility that are equal to or less than ten thousand tons per year for carbon dioxide, four hundred seventy-six tons per year for methane, thirty-two and six tenths tons per year for nitrous oxide, eight hundred fifty-five thousandths tons per year for hydrofluorocarbons, one and nine hundredths tons per year for perfluorocarbons and forty-two hundredths tons per year for sulfur hexafluoride. Stationary sources shall only be required to report the annual quantities of nonmobile source, anthropogenic emissions of greenhouse gases, and shall not be required to report naturally occurring emissions of greenhouse gases. Only those stationary sources who are otherwise required to report emissions of regulated air pollutants under rules promulgated by the secretary pursuant to section four of this article, shall be required to report their greenhouse gas emissions under this section. Stationary sources which are not required to report air emissions under this section and are regulated by the secretary under the provisions of article three, chapter twenty-two of this code are not required to, but may voluntarily, report such emissions. The reporting entities will be permitted to provide existing and ongoing documented inventories, such as those provided to the Environmental Protection Agency's Climate Leaders Program, Chicago Climate Exchange Registry, the International Organization for Standardization, the SF6 Emissions Reduction Partnership for Electric Power Systems or other widely recognized and verified greenhouse gas inventory programs to completely fulfill their West Virginia program reporting requirements.

(c) The secretary shall establish a voluntary program under which the department registers voluntary reductions in emissions of greenhouse gases for reductions made before mandated by law. The voluntary program shall include, but not be limited to, developing criteria for establishing baseline emissions, quantifying emission reductions and providing public recognition. The department shall consider the information recorded in the voluntary emission reduction registry when determining baselines and reduction requirements under future emission reduction programs implemented under federal law.

(d) To inventory greenhouse gas reductions, the secretary shall consult and coordinate with other state agencies and higher education institutions, the citizenry and other entities such as industry trade groups that have knowledge or information relating to greenhouse gas emissions, measurement protocols, greenhouse gas reductions and sequestration including, but not limited to, the Department of Agriculture, the Division of Forestry, Marshall University, West Virginia University and the Department of Transportation. These governmental entities shall enter into interagency agreements with the secretary and shall cooperate by: (i) Providing information relating to greenhouse gas emissions, reductions and sequestration; and (ii) providing any necessary assistance to the secretary in effectuating the purposes of this article. The secretary shall determine the form and format of the information submitted by these entities.

(e) In establishing the net greenhouse gas inventory program, the department shall make the program as consistent as possible with other state and federal programs designed to monitor, quantify and register reductions in emissions of greenhouse gases as referenced in subsection (b) of this section.

(f) As used in this section, "greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

(NOTE: The purpose of this bill is to create a net greenhouse gas inventory. The legislation, to be administered by the Department of Environmental Protection, requires the department to determine whether the state is a net sink or emitter of greenhouse gases. Facilities emitting a significant amount of greenhouse gases must provide such emissions information to the department and the department is authorized to establish a voluntary registry for voluntary reductions of greenhouse gas emissions. The program will enable the department to analyze the extent to which gross carbon emissions are offset by the rate of carbon sequestration by the state's forests. The Department of Environmental Protection is to propose legislative rules to establish the program. This section is new; therefore, strike-throughs and underscoring have been omitted.)