

1 HB329
2 173731-2
3 By Representatives Henry, Ball, Wood, Patterson, Nordgren,
4 Collins, Johnson (K), Sessions, Gaston, Harbison, Whorton (I),
5 Butler, Ledbetter, Faust, Chesteen and Shedd
6 RFD: Transportation, Utilities and Infrastructure
7 First Read: 25-FEB-16

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8 SYNOPSIS: This bill would adopt the Interstate Power
9 Compact.

10 The compact would provide that states and
11 local governments would have the primary
12 responsibility in controlling air pollution.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to interstate compacts on air pollution
19 control; to adopt the Interstate Power Compact in order to
20 provide that states and local governments shall have the
21 primary responsibility in adopting standards for controlling
22 air pollution.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The State of Alabama enacts, adopts, and
25 agrees to be bound by the following compact:

26 I. DEFINITIONS

1 "State(s)" means the several states, the
2 Commonwealth of Puerto Rico, the District of Columbia, and all
3 U.S. territorial possessions. Where contextually appropriate,
4 the term shall be construed to include all of its branches,
5 departments, agencies, political subdivisions, officers, and
6 representatives acting in their official capacity.

7 "Compact" means this "Interstate Power Compact."

8 "Member State" means a State that is a signatory to
9 this Compact and has adopted it under the laws of that State.

10 II. STATE POWER COMPACT

11 A. PURPOSE

12 The purpose of this compact is to protect Member
13 States' sovereignty and the assurances granted under the Tenth
14 Amendment. In accomplishing this, member states shall work in
15 isolation, or with other Member States, to formulate plans for
16 restoring the primary responsibility of States and Local
17 governments in the prevention of air pollution and the control
18 of air pollution at its source, in accordance with 42 U.S.C. §
19 7401(a)(3) of the federal Clean Air Act. Member States agree
20 that the Section 111(d) rule lacks a statutory and
21 constitutional foundation.

22 B. PLEDGE

23 No agency, political subdivision, or official of any
24 Member State will submit any filing in partial or complete
25 fulfilment of the state plan requirements under EPA's 111(d)
26 rule:

1 (1) unless the filing involves emission limits or
2 budgets derived only from assumptions of what is technically
3 achievable inside the physical boundaries of the electrical
4 generating units using the same fuel and boiler design that is
5 currently in place at those units consistent with the Clean
6 Air Act, 42 U.S.C. § 7401 et seq.; and

7 (2) until such time as the Supreme Court of the
8 United States has rendered an opinion that the Section 111(d)
9 rule is legally valid or refused to grant certiorari of such
10 an opinion of the D.C. Circuit Court of Appeals.

11 Filing for an extension of the state planning
12 requirement and conducting a public input process as required
13 by EPA to secure such an extension does not conflict with this
14 pledge as it does not constitute the filing of a state plan.

15 Upon congressional assent to this compact, the EPA
16 shall be prohibited from imposing any measures under a federal
17 plan with respect to a member state if such state fails to
18 file a fully approvable state plan. Member States shall take
19 joint and separate action to secure the consent of the United
20 States Congress to this Compact.

21 C. AMENDMENTS

22 This compact may be amended by unanimous agreement
23 of the Member States without prior consent or approval of
24 Congress.

25 By consenting to this compact, the United States
26 Congress consents to any amendment adopted under this compact
27 unless, within one year, Congress disapproves that amendment.

1 In as much as it is probable that regulation of air
2 and water pollution may differ between two or more states and
3 Member States that are party hereto, this compact contains
4 elements of a broad base common to all states, and nothing
5 herein shall preclude any state entering into a supplementary
6 agreement in force between states. Supplementary agreements
7 may comprehend but shall not be limited to, provisions for the
8 exchange of public utilities, electricity, personnel,
9 equipment, and supplies.

10 III. EFFECTIVENESS, WITHDRAWAL, AND DISSOLUTION

11 This compact and the pledge made hereunder shall
12 become effective on the date when it has been adopted by two
13 or more Member States and the member states have secured
14 consent of the U.S. Congress to this compact.

15 Any Member State may withdraw from this compact by
16 enacting a statute repealing the same, but no such withdrawal
17 shall take effect until 30 days after the Governor of the
18 withdrawing state has given notice in writing of such
19 withdrawal to the Governors of all Member States. Such action
20 shall not relieve the withdrawing state from obligations
21 assumed hereunder prior to the effective date of withdrawal.

22 This compact shall be dissolved upon the withdrawal
23 of all but one of the Member States.

24 IV. VALIDITY, CONSTRUCTION, AND SEVERABILITY

25 This Compact shall be construed to effectuate the
26 purposes stated in Article II. If any provision of this
27 compact is declared unconstitutional, or the applicability

1 thereof to any person or circumstances is held to be invalid,
2 the constitutionality of the remainder of this Compact and the
3 applicability thereof to other persons and circumstances shall
4 not be affected.

5 It is intended that the provisions of this compact
6 shall be reasonably and liberally construed to effectuate the
7 purposes thereof. If any part or application of this compact,
8 or legislation enabling the compact, is held invalid, the
9 remainder of this Compact or its application to other
10 situations or persons shall not be affected.

11 The validity of this compact shall not be affected
12 by any insubstantial difference in its form or language as
13 adopted by the states.

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.