By Representatives Henry, Ball, Wood, Patterson, Nordgren, Collins, Johnson (K), Sessions, Gaston, Harbison, Whorton (I), Butler, Ledbetter, Faust, Chesteen and Shedd

RFD: Transportation, Utilities and Infrastructure

First Read: 25-FEB-16
SYNOPSIS: This bill would adopt the Interstate Power Compact.

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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

"Compact" means this "Interstate Power Compact."

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

II. STATE POWER COMPACT

A. PURPOSE

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

B. PLEDGE

No agency, political subdivision, or official of any Member State will submit any filing in partial or complete fulfilment of the state plan requirements under EPA's 111(d) rule:
(1) unless the filing involves emission limits or
budgets derived only from assumptions of what is technically
achievable inside the physical boundaries of the electrical
generating units using the same fuel and boiler design that is
currently in place at those units consistent with the Clean
Air Act, 42 U.S.C. § 7401 et seq.; and

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

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

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

C. AMENDMENTS

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

By consenting to this compact, the United States
Congress consents to any amendment adopted under this compact
unless, within one year, Congress disapproves that amendment.
In as much as it is probable that regulation of air
and water pollution may differ between two or more states and
Member States that are party hereto, this compact contains
elements of a broad base common to all states, and nothing
herein shall preclude any state entering into a supplementary
agreement in force between states. Supplementary agreements
may comprehend but shall not be limited to, provisions for the
exchange of public utilities, electricity, personnel,
equipment, and supplies.

III. EFFECTIVENESS, WITHDRAWAL, AND DISSOLUTION

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

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

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

IV. VALIDITY, CONSTRUCTION, AND SEVERABILITY

This Compact shall be construed to effectuate the
purposes stated in Article II. If any provision of this
compact is declared unconstitutional, or the applicability
thereof to any person or circumstances is held to be invalid, the constitutionality of the remainder of this Compact and the applicability thereof to other persons and circumstances shall not be affected.

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

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

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