

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2009**

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**HOUSE DRH70221-LD-62A\* (3/10)**

Short Title:   Moratorium on Coal-Fired Power Plants. (Public)

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Sponsors:   Representatives Harrison, Luebke, and Fisher (Primary Sponsors).

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE ECONOMIC RELIEF TO ELECTRIC UTILITY RATEPAYERS  
3 DURING THIS PERIOD OF ECONOMIC RECESSION AND THE COMING  
4 RECOVERY PERIOD BY PLACING A MORATORIUM ON THE CONSTRUCTION  
5 OF NEW COAL-FIRED POWER PLANTS.

6 The General Assembly of North Carolina enacts:

7           **SECTION 1.** Short Title. – This act shall be known as The Electric Utility  
8 Ratepayers Relief Act.

9           **SECTION 2.(a)** Findings. – The General Assembly makes the following findings:

- 10           (1) North Carolina, the nation, and the globe are in the midst of an economic  
11 recession.
- 12           (2) Plummeting property values, increased prices for goods and services, and  
13 rising unemployment rates threaten the economic well-being of North  
14 Carolina's citizens.
- 15           (3) Costs of constructing a new facility for the generation of electricity are  
16 exorbitant during normal economic times and will continue to rise during the  
17 global economic recession and the coming economic recovery period.
- 18           (4) Full recovery from the global recession will take many years.
- 19           (5) A certificate for the construction of a coal-fired unit for the generation of  
20 electricity may be granted by the Utilities Commission only if the  
21 Commission finds (i) that the construction and operation of the facility is in  
22 the public interest and (ii) that energy efficiency measures; demand-side  
23 management; renewable energy resource generation; combined heat and  
24 power generation; or any combination thereof would not establish or  
25 maintain a more cost-effective and reliable generation system.
- 26           (6) Once a certificate is issued by the North Carolina Utilities Commission,  
27 construction of a facility for the generation of electricity may be cancelled  
28 upon a finding that the construction is no longer in the public interest.
- 29           (7) During the recession and the ensuing economic recovery period, it would not  
30 be reasonable and prudent to authorize the construction of a coal-fired  
31 generating unit to begin nor to continue since the costs of that construction  
32 will be passed on to the already economically distressed ratepayers.
- 33           (8) An additional benefit of prohibiting the construction of a coal-fired  
34 generating unit to begin or to continue is it would provide sufficient time to  
35 determine whether consumers prefer during a recession and the ensuing



1 economic recovery to use energy efficiency measures; demand-side  
2 management; renewable energy resource generation; combined heat and  
3 power generation; or any combination thereof to provide a more  
4 cost-effective and reliable generation system.

5 (9) An additional benefit of prohibiting the construction of a coal-fired  
6 generating unit to begin or to continue is it would provide sufficient time to  
7 determine whether activity at the federal level will result in increasing the  
8 projections of costs of producing electricity from coal-fired generating units,  
9 including impacts from the federal stimulus funds to promote green energy  
10 technologies and federal efforts to adopt a cap and trade program that could  
11 result in dramatically increasing the costs of producing electricity generated  
12 from coal-fired generating units.

13 (10) An additional benefit of prohibiting the construction of a coal-fired  
14 generating unit to begin or to continue is it would provide sufficient time to  
15 assess the latest scientific findings regarding the rate at which climate  
16 change is occurring due to green house gas emissions and to assess the  
17 estimated economic impacts of climate change mediation measures in North  
18 Carolina.

19 (11) The public is becoming increasingly aware of the benefits of energy  
20 conservation and becoming increasingly aware of the long-term impacts of  
21 global warming.

22 (12) For a certificate that was issued before this recession, that construction of a  
23 new coal-fired generating unit is no longer in the public interest.

24 **SECTION 2.(b)** Purpose. – It is the purpose of this act to promote economic relief  
25 to electric public utility ratepayers by temporarily prohibiting the issuance of any new  
26 certificate authorizing the construction of a coal-fired generating unit by the North Carolina  
27 Utilities Commission and requiring the suspension of any certificate issued prior to July 1,  
28 2009, for any such generating unit that has not commenced operation by July 1, 2009.

29 **SECTION 3.(a)** Definitions. – As used in this act, the following definitions apply:

30 (1) Certificate. – Defined in G.S. 62-3.

31 (2) Coal-fired generating unit. – Defined in G.S. 62-133.6.

32 (3) Public utility. – Defined in G.S. 62-3.

33 **SECTION 3.(b)** Moratorium. – No certificate shall be issued to operate a  
34 coal-fired generating unit pursuant to any application filed with the North Carolina Utilities  
35 Commission on or after July 1, 2009.

36 **SECTION 3.(c)** Temporary Suspension. – Any certificate issued pursuant to an  
37 application filed with the North Carolina Utilities Commission prior to July 1, 2009, to  
38 construct any coal-fired generating unit that has not commenced electrical generating  
39 operations as of July 1, 2009, shall be suspended by the North Carolina Utilities Commission,  
40 and this suspension shall remain in effect until July 1, 2014.

41 **SECTION 3.(d)** Costs Recovery. – Nothing in this act prohibits an electric public  
42 utility from recovering, pursuant to Article 7 of Chapter 62 of the General Statutes, the costs  
43 associated with construction work that is in progress.

44 **SECTION 4.** Penalties. – Any electric public utility that has obtained a certificate  
45 to construct a coal-fired generating unit issued pursuant to an application filed with the North  
46 Carolina Utilities Commission prior to July 1, 2009, that commences or continues construction  
47 in violation of this act, shall be prohibited from applying to recover, pursuant to Article 7 of  
48 Chapter 62 of the General Statutes, any such construction costs as a fixed rate, and any  
49 temporary suspension under subsection (c) of Section 3 of this act shall be made permanent.

50 **SECTION 5.** Effective date. – This act is effective when it becomes law.