

House Engrossed

power plants; public service corporations

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2646

AN ACT

AMENDING TITLE 40, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 13; RELATING TO PUBLIC SERVICE CORPORATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 40, chapter 2, Arizona Revised Statutes, is  
3 amended by adding article 13, to read:

4 ARTICLE 13. FORCED RETIREMENT OF ELECTRIC GENERATION FACILITIES

5 40-501. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "DISPOSAL" HAS THE SAME MEANING AS DISPOSE OR DISPOSITION AS  
8 USED IN SECTION 40-285, SUBSECTION A.

9 2. "ELECTRIC GENERATION FACILITY" MEANS A PLANT AS DEFINED IN  
10 SECTION 40-360.

11 3. "FORCED RETIREMENT" MEANS THE CLOSURE, DECOMMISSIONING OR  
12 DISPOSAL OF AN ELECTRIC GENERATION FACILITY AS A RESULT OF A FEDERAL LAW  
13 OR REGULATION THAT EITHER:

14 (a) DIRECTLY MANDATES THE CLOSURE, DECOMMISSIONING OR DISPOSAL OF  
15 AN ELECTRIC GENERATION FACILITY BEFORE THE PLANNED RETIREMENT DATE THAT IS  
16 ESTABLISHED BY THE PUBLIC SERVICE CORPORATION OR PUBLIC POWER ENTITY OR  
17 THE CORPORATION COMMISSION'S APPROVED RETIREMENT DATE.

18 (b) RESULTS IN THE COSTS OF COMPLIANCE BEING SO HIGH AS TO  
19 EFFECTIVELY FORCE THE CLOSURE, DECOMMISSIONING OR DISPOSAL OF AN ELECTRIC  
20 GENERATION FACILITY BEFORE THE END OF THE USEFUL LIFE OF THE ELECTRIC  
21 GENERATION FACILITY OR THE RECOVERY OF ALL OUTSTANDING DEPRECIATION  
22 EXPENSES ON THE ELECTRIC GENERATION FACILITY.

23 4. "PUBLIC POWER ENTITY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
24 30-801.

25 5. "PUBLIC SERVICE CORPORATION" HAS THE SAME MEANING PRESCRIBED IN  
26 ARTICLE XV, SECTION 2, CONSTITUTION OF ARIZONA.

27 40-502. Closure; decommissioning or disposal; notice

28 A. IN ADDITION TO THE REQUIREMENTS PRESCRIBED IN SECTION 40-285, A  
29 PUBLIC SERVICE CORPORATION OR PUBLIC POWER ENTITY MAY NOT INITIATE THE  
30 CLOSURE, DECOMMISSIONING OR DISPOSAL OF AN ELECTRIC GENERATION FACILITY  
31 WITHIN FIVE YEARS AFTER THE DATE THE WRITTEN NOTICE IS PROVIDED PURSUANT  
32 TO SUBSECTION B OF THIS SECTION.

33 B. A PUBLIC SERVICE CORPORATION OR PUBLIC POWER ENTITY SHALL  
34 PROVIDE WRITTEN NOTICE TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
35 HOUSE OF REPRESENTATIVES, THE CHAIRPERSON OF THE SENATE NATURAL RESOURCES,  
36 ENERGY AND WATER COMMITTEE, OR ITS SUCCESSOR COMMITTEE, THE CHAIRPERSON OF  
37 THE HOUSE OF REPRESENTATIVES NATURAL RESOURCES, ENERGY AND WATER  
38 COMMITTEE, OR ITS SUCCESSOR COMMITTEE, AND THE DIRECTOR OF THE ARIZONA  
39 POWER AUTHORITY WITHIN SIX MONTHS AFTER THE PUBLIC SERVICE CORPORATION'S  
40 OR PUBLIC POWER ENTITY'S DECISION OR APPLICATION TO THE CORPORATION  
41 COMMISSION FOR AN ORDER PURSUANT TO SECTION 40-285 TO CLOSE, DECOMMISSION  
42 OR DISPOSE OF AN ELECTRIC GENERATION FACILITY.

43 C. THE NOTICE OF CLOSURE, DECOMMISSIONING OR DISPOSAL SHALL INCLUDE  
44 ALL OF THE FOLLOWING:

45 1. THE DATE THE DECISION TO CLOSE OR DECOMMISSION OR TO DISPOSE OF  
46 THE ELECTRIC GENERATION FACILITY WAS MADE.

- 1           2. THE DATE OF THE INTENDED CLOSURE, DECOMMISSIONING OR DISPOSAL.
- 2           3. A DESCRIPTION OF THE PUBLIC SERVICE CORPORATION'S OR PUBLIC
- 3 POWER ENTITY'S ELECTRIC GENERATION FACILITY THAT IS INTENDED FOR CLOSURE,
- 4 DECOMMISSIONING OR DISPOSAL.
- 5           4. A DESCRIPTION OF THE REPLACEMENT POWER THAT THE PUBLIC SERVICE
- 6 CORPORATION OR PUBLIC POWER ENTITY PLANS TO USE OR RELY ON TO MEET
- 7 CUSTOMER AND GRID NEEDS AFTER THE CLOSURE, DECOMMISSIONING OR DISPOSAL.
- 8           5. THE REASONS FOR THE CLOSURE, DECOMMISSIONING OR DISPOSAL.
- 9           40-503. Transitioning to new electric generation facility
- 10          NOTWITHSTANDING SECTION 40-502, A PUBLIC SERVICE CORPORATION OR
- 11 PUBLIC POWER ENTITY MAY:
  - 12           1. TAKE ANY REASONABLE AND PRUDENT ACTION NECESSARY TO CONVERT OR
  - 13 REPURPOSE AN EXISTING ELECTRIC GENERATION FACILITY THAT IS POWERED BY
  - 14 COAL, PETROLEUM, OIL OR NATURAL GAS TO A NEW ELECTRIC GENERATION FACILITY
  - 15 THAT IS POWERED BY NATURAL GAS, BIOMASS, NUCLEAR OR HYDROGEN OR ANY
  - 16 COMBINATION OF THESE, INCLUDING ANY ACTION THAT HAS BEEN APPROVED BY A
  - 17 PERMITTING AUTHORITY.
  - 18           2. INSTALL ANY REASONABLE AND PRUDENT EMISSION REDUCTION CONTROLS
  - 19 OR IMPROVEMENTS ON THE ELECTRIC GENERATION FACILITY THAT MAINTAIN THE NET
  - 20 ELECTRIC GENERATING OUTPUT OF THE FACILITY AT A LOWER RATE OF EMISSIONS
  - 21 PER UNIT OF OUTPUT, INCLUDING ANY ACTION THAT HAS BEEN APPROVED BY A
  - 22 PERMITTING AUTHORITY.
- 23           40-504. Procedure following receipt of notice of federal law;
- 24                                   attorney general; enforcement
- 25          A. A PUBLIC SERVICE CORPORATION OR PUBLIC POWER ENTITY THAT
- 26 RECEIVES NOTICE OF ANY FEDERAL LAW OR REGULATION THAT MAY RESULT IN THE
- 27 FORCED RETIREMENT OF THE PUBLIC SERVICE CORPORATION'S OR PUBLIC POWER
- 28 ENTITY'S ELECTRIC GENERATION FACILITY SHALL INFORM THE ATTORNEY GENERAL,
- 29 THE DIRECTOR OF THE ARIZONA POWER AUTHORITY AND EACH MEMBER OF THE
- 30 CORPORATION COMMISSION OF THE LAW OR REGULATION WITHIN THIRTY DAYS AFTER
- 31 THE RECEIPT OF NOTICE.
- 32          B. AFTER RECEIVING THE INFORMATION PRESCRIBED IN SUBSECTION A OF
- 33 THIS SECTION, THE ATTORNEY GENERAL, THE ARIZONA POWER AUTHORITY AND THE
- 34 CORPORATION COMMISSION MAY EACH TAKE ANY ACTION NECESSARY TO DEFEND THE
- 35 INTEREST OF THIS STATE WITH RESPECT TO THE LAW OR REGULATION, THE PUBLIC
- 36 SERVICE CORPORATION'S OR PUBLIC POWER ENTITY'S ELECTRIC GENERATION
- 37 FACILITY OR THE TOTAL ELECTRICITY GENERATION BY THE PUBLIC SERVICE
- 38 CORPORATION OR PUBLIC POWER ENTITY, INCLUDING FILING AN ACTION IN COURT OR
- 39 PARTICIPATING IN ADMINISTRATIVE PROCEEDINGS.
- 40          C. ON THE ARIZONA POWER AUTHORITY'S WRITTEN REQUEST, THE ATTORNEY
- 41 GENERAL SHALL REPRESENT AND TAKE ANY ACTIONS THAT THE ARIZONA POWER
- 42 AUTHORITY REQUESTS AND THAT RELATE TO SUBSECTION B OF THIS SECTION.
- 43          D. ON THE CORPORATION COMMISSION'S WRITTEN REQUEST, THE ATTORNEY
- 44 GENERAL SHALL REPRESENT AND TAKE ANY ACTIONS THAT THE CORPORATION
- 45 COMMISSION REQUESTS AND THAT RELATE TO SUBSECTION B OF THIS SECTION.

1           Sec. 2. Legislative findings  
2           The legislature finds that:  
3           1. Affordable, reliable, dispatchable and secure energy resources  
4 are important to the convenience, comfort and safety and preservation of  
5 the health of this state's residents.  
6           2. This state and its residents have invested substantial resources  
7 in the development of affordable, reliable, dispatchable and secure energy  
8 resources within this state.  
9           3. The early or forced retirement of an electric generation plant  
10 that provides affordable, reliable, dispatchable and secure energy is a  
11 threat to the convenience, comfort and safety and preservation of the  
12 health of this state's residents.  
13           4. This state's police powers, reserved to this state by the United  
14 States Constitution, provide this state with sovereign authority to make  
15 and enforce laws for the protection of the health, safety and welfare of  
16 this state's residents.  
17           5. This state's police powers, as articulated in article XV,  
18 section 3, Constitution of Arizona, provide this state with authority to  
19 make and enforce laws relating to public service corporations for the  
20 convenience, comfort and safety and preservation of the health of the  
21 residents of this state.  
22           6. This state has a duty to defend the production and supply of  
23 affordable, reliable, dispatchable and secure energy from external  
24 regulatory interference.  
25           7. This state's sovereign authority with respect to the retirement  
26 of an electrical generation facility for the protection of the  
27 convenience, comfort and safety and preservation of the health of this  
28 state's residents is primary and takes precedence over any attempt from an  
29 external regulatory body to mandate, restrict or influence the early  
30 retirement of an electric generation plant in this state.  
31           8. For the purposes of section 40-504, Arizona Revised Statutes, as  
32 added by this act, "interest of this state" means:  
33           (a) If the attorney general is acting independently pursuant to  
34 section 40-504, subsection B, Arizona Revised Statutes, as added by this  
35 act, the attorney general's interpretation of the legislative findings in  
36 this act.  
37           (b) If the attorney general is acting on behalf of the Arizona  
38 power authority pursuant to section 40-504, subsection C, Arizona Revised  
39 Statutes, as added by this act, the Arizona power authority's  
40 interpretation of the legislative findings in this act.  
41           (c) If the attorney general is acting on behalf of the corporation  
42 commission pursuant to section 40-504, subsection D, Arizona Revised  
43 Statutes, as added by this act, the corporation commission's  
44 interpretation of the legislative findings in this act.