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Act Governing the Mitigation of Climate Change in Baden-Württemberg

23 July 2013

(enacted on 30 July 2013 in the Law Gazette 2013, p. 229)

Article 1

Baden-Württemberg Climate Protection Act (KSG BW)

Section 1

Purpose of the Act

(1) The purpose of this Act is to make an appropriate contribution to the protection of the climate within the framework of international, European and national climate protection goals by reducing greenhouse gas emissions while also contributing to the sustainable provision of energy.

(2) This Act defines goals for the reduction of greenhouse gas emissions in Baden-Württemberg, specifies climate protection concerns and creates the requisite implementation tools.

Section 2

Scope of Application

Where federal law on climate protection is pre-emptive, the provisions of this Act shall not apply. The provisions of this Act shall apply in a supplementary capacity where matters concerning the protection of the climate are considered, either explicitly or within the framework of public sector decisions, subject to the prioritisation of specific statutes.

Section 3 Interpretation

(1) In this Act, "greenhouse gases" means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆), emitted in Baden-Württemberg.

(2) In this Act, the "public sector" means:

1. the state, local authorities, associations of local authorities as well as any entity, group of persons or public assets established under a state law, with the exception of religious communities and
2. any entity, group of persons or private assets if a single person or several persons under 1. above together have a direct or indirect
 - a) majority shareholding in the subscribed capital,
 - b) control the majority of the votes attaching to the shares or
 - c) are able to appoint more than half of the members of the administrative, managerial or supervisory body.

This shall not include public undertakings which provide services in free competition with private undertakings.

Section 4 Climate Targets

(1) Aggregate greenhouse gas emissions in Baden-Württemberg for the year 2020 shall be at least 25% lower than the 1990 baseline. The envisaged target for 2050 is a 90% reduction in aggregate emissions from the 1990 baseline. Corresponding account will be taken of mitigation contributions arising from the European scheme for greenhouse gas emission allowance trading.

(2) The unavoidable consequences of climate change shall be limited as part of an adaptation strategy for the entire state involving the adoption of precautionary

adaptation measures. The State Government will adopt an applicable plan after consulting with associations and groups.

Section 5 Climate Protection Principles

Energy savings, the efficient provision, conversion, use and storage of energy as well as the expanded use of renewable energies all play an important role in achieving the climate protection goals stated in section 4, subsection 1. This also applies even where in particular cases only minor contributions are made to reducing emissions of greenhouse gases.

Section 6 Integrated Energy and Climate Protection Plan

(1) After consulting with associations and groups the State Government will adopt an Integrated Energy and Climate Protection Plan which defines the central objectives, strategies and measures needed to achieve the climate protection goals stated in section 4, subsection 1. The Integrated Energy and Climate Protection Plan shall be submitted to the State Parliament for comment before being adopted pursuant to sentence 1. The Integrated Energy and Climate Protection Plan shall be adopted for the first time in 2014 at the latest and renewed every five years on the basis of monitoring reports produced pursuant to section 9.

(2) The Integrated Energy and Climate Protection Plan encompasses the following elements in particular:

1. reduction targets for greenhouse gas emissions originating from various emitter groups (sector targets);
2. action area targets to achieve the sector targets, including but not limited to targets for energy-saving, improved energy efficiency and the expansion of renewable energies which take account of the need for secure and affordable energy supplies;
3. strategies and measures for achieving climate protection goals.

The Integrated Energy and Climate Protection Plan must take account of the impact of and interactions with climate protection measures adopted by the federal government and the European Union.

(3) The Integrated Energy and Climate Protection Plan will support the State Government in reaching decisions aimed at achieving the climate protection goals.

Section 7

The Public Sector's Role Model Function

(1) The public sector performs a general role model in those areas in which it has organisational functions, including in particular by means of energy savings, efficient provision, use and storage of energy and the use of renewable energies. This is the case in those cases in which the organisation of tasks is not pre-emptively governed by federal law.

(2) The state aims to have reorganised its own administrative structures on a largely climate neutral basis by the year 2040 as defined in sentence 2. In order to achieve this objective the State Government has adopted a plan which encompasses Baden-Württemberg's institutions of higher education and other state institutions without their own legal personality which are immediately subject to the state's organisational power. This shall not include public undertakings belonging to the state which provide services in free competition with private undertakings. In duly justified exceptional cases the State Government may except other organisational units from the scope of application of the plan under sentence 2. Broad climate neutrality will primarily be achieved by energy savings as well as by means of the efficient provision, conversion, use and storage of energy and the use of renewable energies. These measures may also be supplemented by compensatory and legally recognised emission reduction measures or emission reduction measures which meet comparable standards.

(3) Drawing on key indicators the State Government shall submit a general report every three years on the implementation status of the plan referred to in subsection 2. The general report shall, in particular, include information on the development of CO₂ emissions arising from the use made of the state's own buildings, the type and amount of heat and electricity consumed by the state administration as well as the fuel used for official travel.

(4) Local authorities and associations of local authorities are themselves responsible for fulfilling their role model function pursuant to subsection 1. The state will support them in this respect. More detailed arrangements shall be decided upon in an agreement between the state and regional associations of local authorities.

(5) The grant programmes offered by the state for local authority building construction shall comply with the principles of sustainable building practice. Section 3, subsection 2, sentence 2 shall apply accordingly. More detailed provisions shall be stipulated in the funding guidelines.

Section 8

General Duty to Protect the Climate

(1) Every individual shall, to the extent possible, contribute to achieving the climate protection goals, in particular by means of energy savings, the efficient provision, use and storage of energy and the use of renewable energies.

(2) Appropriate means shall be employed to promote general understanding of the climate protection goals. State, local authority and private educational and training institutions and information media shall, to the extent possible, raise awareness concerning the causes and significance of climate change as well as the tasks of climate protection and shall promote awareness of the need for a more economical use of energy.

Section 9

Monitoring

(1) Achievement of the objectives defined in section 4 and section 6, subsection 2, numbers 1 and 2 as well as the implementation of strategies and measures pursuant to section 6, subsection 2, number 3 shall be reviewed in the context of monitoring based on quantitative and qualitative surveys. These monitoring reports will lay the groundwork for the further development of the Integrated Energy and Climate Protection Plan as well as the adaptation strategy in section 4, subsection 2.

(2) Monitoring shall include the following reports:

1. Annual brief extracts, starting from 2014, covering the following points in particular:
 - a) development of greenhouse gas emissions in Baden-Württemberg taking account of the reduction impact of European wide emissions trading;
 - b) development of the framework conditions for the energy sector and energy policy; as well as
 - c) short assessment of the findings.

2. A summary report every three years, starting from 2016, covering the following points in particular:
 - a) the matters referred to under number 1 letters a and b;
 - b) degree of implementation of important targets and measures;
 - c) substantial impact of climate change for Baden-Württemberg as well as the implementation and effect of important adaptation measures;
 - d) assessment of the findings; and
 - e) proposals for the further development of the Integrated Energy and Climate Protection Plan.

Monitoring must take account of the impact of and interactions with climate protection measures adopted by the federal government and the European Union as well as important cause-related considerations.

(3) The report referred to in subsection 2, number 2 shall be presented to the State Parliament with the comments added by the Advisory Committee for Climate Protection after a decision has been taken by the State Government.

Section 10 Advisory Committee for Climate Protection

The State Government shall set up an Advisory Committee for Climate Protection which shall advise the government on the implementation of the climate protection goals and elaborate proposals for the further development of climate protection measures on the basis of the monitoring reports referred to in section 9. The Advisory Committee shall consist of representatives from a diversity of socio-professional associations, local authorities, churches and academia. The State Government shall be empowered to transfer the duties of the Advisory Committee for Climate Protection to a previously existing committee.

Section 11 Duties and Responsibilities

(1) A Staff Division for Climate Protection shall be established within the Ministry of the Environment for the purposes of coordinating interdepartmental duties under this Act. This Staff Division shall be responsible for coordinating the drafting and updating of the Integrated Energy and Climate Protection Plan pursuant to section 6 as well as the plan pursuant to section 7, subsection 2 and for coordinating the reports pursuant to section 7, subsection 3 and section 9.

(2) The ministries which are responsible for implementing the applicable strategies and measures shall also be responsible for drafting the monitoring reports pursuant to section 9. These ministries shall submit their reports, which shall have a uniform structure, to the Staff Division for Climate Protection within the Ministry of the Environment by 1 November at the latest. Summary reports drafted in accordance with section 9, subsection 2, number 2 shall be submitted by the Staff Division for Climate Protection to the Advisory Committee for Climate Protection for comment.

(3) Authorities, public bodies, establishments and foundations governed by public law shall contribute to the achievement of the climate protection goals within the limits of their powers.

(4) In the context of approval procedures for projects concerning the construction of facilities for the use of renewable energies which are of considerable public

importance subordinate administrative authorities and building authorities shall, from the beginning of the involvement of public authorities whose sphere of activities is affected, involve the regional administrative authority and enable this authority to bring forward matters concerning climate protection. These shall include but not be limited to the following facilities:

- a) construction of a wind power plant with a total height of over 50 metres;
- b) construction of a hydroelectric plant which has an installed electrical capacity of 50 kilowatts or more;
- c) construction of a biogas plant which is subject to approval under air pollution control law;
- d) construction of a standalone system for the generation of photovoltaic solar power which has an installed electrical capacity of 500 kilowatts or more;
- e) construction of a standalone system for the generation of solar thermal power with a collector area of at least 1000 m².

Article 2

Amendment to the State Planning Act

Section 11 of the State Planning Act of 10 July 2003 (Law Gazette, p. 385), last amended by Article 1 of the Law of 22 May 2012 (Law Gazette p. 285) shall be amended as follows:

- a) The following sentence shall be inserted after sentence 1 of section 2:

"The practical application of the principles stated in section 2, subsection 2, number 6, sentences 7 and 8 of the Regional Planning Act shall take additional account of the stipulations of the Baden-Württemberg Climate Protection Act."

- b) In new sentence 3 of subsection 2 the word "it" shall be replaced by the words "the Regional Plan".

- c) The wording of subsection 3, sentence 2, number 11 shall be as follows:

"11. Areas which serve as locations for the use of renewable energies, including but not limited to areas which serve as locations for regionally significant wind farms,"

d) The following number 12 shall be added to subsection 3, sentence 2:

"12. Locations and routes for other infrastructure projects, including energy supply and energy storage."

e) In subsection 5, sentence 2 the words "as well as the Integrated Energy and Climate Protection Plan and adaptation strategy subject to the stipulations of the Baden-Württemberg Climate Protection Act" shall be inserted after the word "Baden-Württemberg".

f) In subsection 7 first half of sentence 1 "and 11" shall be replaced by ",11 and 12".

g) The following sentence shall be inserted to subsection 8:

"The climate protection related stipulations of subsection 3, sentence 2, numbers 11 and 12 shall be substantiated according to conceptual considerations and subject to the regional potential for the use of renewable energies."

Article 3 Commencement

This Act shall come into force on the day following its enactment with the exception of article 1, section 2, sentence 2, section 5 and section 11, subsection 3 which shall come into force on 1 January 2014 as well as article 1, section 7, subsection 5 which shall come into force twelve months after the day on which this Act is enacted.