Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 320 of the 131st G.A. (L_131_2281-5)

Date: November 21, 2016

Status: In Senate Energy & Natural Resources

Sponsor: Sen. Seitz

Local Impact Statement Procedure Required: No

Contents: To revise utility laws pertaining to renewable energy and energy efficiency standards

State Fiscal Highlights

- The bill requires the Public Utilities Commission (PUCO) to issue a report to the General Assembly within two years that includes recommendations regarding implementing certain policies related to transmission and distribution of electricity. PUCO officials report that they can satisfy this requirement within existing budgetary resources.
- The bill imposes certain limits on the Environmental Protection Agency (EPA). Agency officials report that their preliminary analysis indicates that the bill would have no fiscal effect on EPA.
- Forfeitures collected by the Development Services Agency's Advanced Energy Fund (Fund 5M50) will likely be reduced in future years because the bill eliminates the compliance penalties associated with benchmarks for 2017, 2018, 2019, and for other future years designated by the bill.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

S.B. 320 modifies several different aspects of public utility law. Please refer to the LSC Bill Analysis for a comprehensive listing of the bill's provisions. The topics addressed below are those bill provisions with the most relevant fiscal effect – albeit indirect – on state and local government expenditures.

Renewable portfolio standard

The bill eliminates the Public Utilities Commission of Ohio's (PUCO) duties regarding its compliance review of the renewable energy benchmarks for three years (2017, 2018, and 2019). The benchmarks refer to the supply of renewable energy resources obtained by Ohio's electric distribution utilities (EDUs) and electric services companies (ESCs) that must be provided to retail electricity customers. S.B. 320 also eliminates existing renewable energy resource benchmarks for 2021, 2022, 2024, and 2025. Under the bill, EDUs and ESCs would still be required to meet benchmarks for 2016, 2020, 2023, 2026, and each year thereafter.

S.B. 320 expands the definition of renewable energy resources; specifically, the category for fuel derived from solid wastes. This change may reduce the future cost of the alternative energy rider.

The alternative energy rider is paid by customers and it reflects the cost of complying with renewable energy resource benchmarks. According to the Energy Mandate Study Committee Co-Chairs' Report,[1] "PUCO determined the average monthly charge for the renewables mandate as $0.001142 per kilowatt hour, which averaged out to the following monthly costs for each customer class" as seen in Table 1.

Table 1. Typical Monthly Bill Cost for Alternative Energy Rider for Electric Distribution Utility Service Areas (as of December 4, 2014)

Customer Class (typical usage)	Columbus Southern Power	Ohio Power	Dayton Power and Light	Duke Energy Ohio	Cleveland Electric Illuminating	Ohio Edison	Toledo Edison
Residential (750 kWh)	$1.31	$0.77	$0.62	$0.27	$1.30	$1.01	$0.77
Commercial (300,000 kWh)	$506.52	$298.65	$248.04	$109.20	$501.60	$388.20	$297.30
Industrial (6,000,000 kWh)	$9,928.80	$5,854.20	$4,960.80	$2,184.00	$9,738.00	$7,536.00	$5,778.00

[1] http://emsc.legislature.ohio.gov/.

Energy efficiency and peak demand reduction

S.B. 320 changes the existing law regarding energy efficiency and peak demand reduction savings achieved by customers. In doing so, the bill expands the scope of programs implemented by a utility that qualify as energy efficiency savings and peak demand reductions. The bill also reduces the cumulative energy efficiency savings that must be required in 2027 from 22% to 17% of the 2009 baseline measurement. Compliance with the energy efficiency and peak demand reduction benchmarks will only be reviewed by PUCO in 2016, 2020, 2023, 2026, and 2027 rather than every year through 2027 as required under current law.

According to the Energy Mandate Study Committee Co-Chairs' Report:[2]

> "Unlike the renewables mandate, Ohio's energy efficiency and peak demand reduction mandates apply only to EDUs. The costs associated with complying with the energy efficiency and peak demand reduction mandates are recovered by an EDU through a non-bypassable rider. That rider is recovered from all customers of an EDU regardless of whether they shop for electric generation with the exception of those mercantile customers that obtained a rider exemption from the PUCO pursuant to SB221."

As of December 2014, the Public Utilities Commission (PUCO) determined the average monthly charge for the energy efficiency and peak demand reduction mandates as $0.007225 per kilowatt hour. PUCO only provided the range of the costs of the energy efficiency and peak demand reduction mandates for residential customers, which ranged from $0.00189 to $0.004566 per kilowatt hour. PUCO determined the average monthly costs of the energy efficiency and peak demand reduction mandates for the following customer classes to be:

Table 2. Typical Monthly Bill Cost for Energy Efficiency and Peak Demand Rider for Electric Distribution Utility Service Areas (as of December 4, 2014)

Customer Class (typical usage)	Columbus Southern Power	Ohio Power	Dayton Power and Light	Duke Energy Ohio	Cleveland Electric Illuminating	Ohio Edison	Toledo Edison
Residential (750 kWh)	$3.42	$3.42	$3.43	$2.58	$3.31	$2.37	$1.42
Commercial (300,000 kWh)	$1,001.70	$1,001.70	$762.27	$501.00	$512.40	$582.30	$948.90
Industrial (6,000,000 kWh)	$5,719.80	$5,719.80	$13,050.60	$10,020.00	$5,076.00	$14,496.00	$15,606.00

Despite the costs to ratepayers associated with these riders, economic theory would predict cost savings from energy efficiency and peak demand reduction that could partially (or even potentially fully) offset those costs. The Energy Mandate Study Committee did not receive any definitive data from PUCO on the projected future costs of the energy efficiency and peak demand reduction mandates. In a letter from PUCO to the Study Committee dated September 14, 2015, PUCO stated that they do not currently

[2] *Ibid*.

have the capability to independently forecast the costs of implementing the energy efficiency mandates in future years with a high level of significance.

Public Utilities Commission

The bill requires PUCO, by two years after the bill's effective date, to submit to the General Assembly a report with recommendations that includes the feasibility of implementing other constructs for EDU participation in distributed generation, incentives for residential smart thermostats, and market-based EE certification. According to PUCO, the agency can absorb this bill requirement into its existing budgetary expenditures. S.B. 320 reduces the number of years in which PUCO must review EDUs' and ESCs' compliance with benchmarks. Eliminating these provisions should lower agency expenditures in those years.

Ohio Environmental Protection Agency

The bill specifically prohibits the Ohio Environmental Protection Agency (EPA) from deriving any new state statutory authority from the final guidelines limiting carbon dioxide emissions from fossil-fuel-fired power plants that exist on the effective date of S.B. 320 under section 111(d) of the federal Clean Air Act, consistent with the cooperative federalism model in that act. The bill also declares that "the final guidelines limiting carbon dioxide emissions from existing fossil-fuel-fired power plants under 42 U.S.C. 7411(d) do not expand the authority of the environmental protection agency to allow for the development, implementation, or regulation of electric dispatch protocols."

S.B. 320 states that without new and specific state statutory authority to do so, EPA is prohibited from regulating, establishing, dictating, or otherwise ordering actions regarding:

- any specific levels of natural gas utilization for any electric light company;
- the acquisition of any amounts of renewable energy;
- the awarding, allocation, assignment, or transfer of any carbon dioxide-emission allowance, with respect to a mass-based standard, or emission-rate credit, with respect to a rate-based standard, to any electric light company or to any operator of any existing fossil-fuel-fired power plant that is subject to the final guidelines limiting carbon dioxide emissions under federal law;[3]
- the achievement of any energy savings or peak demand reduction;
- the development and implementation of any trading program or any plan premised in any way on an allowance system, whether on a single-state or multi-state basis, as part of any state plan submitted to the federal EPA.[4]

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[3] This prohibition also applies to PUCO and any other state agency.

[4] *Ibid*.

According to preliminary feedback from a representative of Ohio EPA, the agency does not yet believe there will be any fiscal impacts from this bill. However, the agency continues to fully review the bill and research the implications of language contained therein.

Development Services Agency

S.B. 320 makes other changes concerning payments assessed on EDUs and ESCs for under-compliance or noncompliance with the requirements for renewable energy resources, energy efficiency savings, and peak demand reduction. The bill changes the benchmarks from being enforced through annual PUCO review and instead specifies those measurement years in which the compliance payment can be applied against EDUs and ESCs by PUCO. In the case of renewable energy resource requirements, the compliance payment is lowered.

Existing law states that compliance payments must be remitted to PUCO for deposit into the Development Services Agency's Advanced Energy Fund (Fund 5M50). Compliance payments to Fund 5M50 will likely be reduced by the bill in future years. The first such year for which compliance penalties are removed is 2017. The Revised Code prohibits EDUs or ESCs from passing through the payment incurred by under-compliance or noncompliance with the renewable resource mandate to consumers.

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