Ohio Legislative Service Commission
Bill Analysis
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Sub. H.B. 554*

131st General Assembly
(As Passed by the House)

Rep. Amstutz

BILL SUMMARY

- Effectively makes the renewable energy requirements for 2017, 2018, and 2019 no longer true requirements, but keeps the benchmarks for those years (and the years that follow) at the levels in current law.
- Effectively makes the energy efficiency requirements for 2017, 2018, and 2019 no longer true requirements.
- Decreases the energy efficiency benchmarks, resulting in a decrease to the current cumulative requirement from 22.2% to 17.2%.
- Seeks to clarify that the energy efficiency requirements terminate at the end of 2027.
- Effectively makes the peak demand reduction requirements for 2017, 2018, and 2019 no longer true requirements, but keeps the benchmarks for those years (and the year that follows) at the levels in current law.
- Requires every electric distribution utility (EDU) and electric services company (ESC) to report to the Public Utilities Commission (PUCO), by July 1 of each year, its status of compliance for the prior calendar year with the renewable energy, energy efficiency, and peak demand reduction provisions, as applicable.
- Requires that the PUCO's review of EDU and ESC compliance with the renewable energy requirements and the PUCO's annual report of EDU compliance with the energy efficiency and peak demand reduction provisions must be based on the EDUs' and ESCs' reports, as well as any other information that is public.

* This analysis was prepared before the House third consideration appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Adds mercantile customers to those customers that may opt out of an EDU's energy efficiency and peak demand reduction portfolio plan, effective January 1, 2019.
- Requires that if an EDU applies banked energy efficiency savings or banked peak demand reductions to achieve compliance with an energy efficiency or peak demand reduction benchmark (as permitted under continuing law), the EDU must receive shared savings on the banked portion.
- Clarifies that the law as amended by Sub. S.B. 310 of the 130th General Assembly would continue in effect until the law as amended by Sub. H.B. 554 takes effect.

CONTENT AND OPERATION

Renewable energy requirements

The bill effectively makes the renewable energy requirements for 2017, 2018, and 2019 no longer true requirements. But it keeps the benchmarks for those years (and the years that follow) at the levels in current law. The bill accomplishes this change by doing the following:

- Making the noncompliance payments for 2017, 2018, and 2019 inapplicable;
- Eliminating the requirement that the Public Utilities Commission (PUCO) review compliance for those years;
- Specifying that the imposition of noncompliance payments is the sole penalty for noncompliance with the renewable energy provisions; and
- Changing references to the renewable energy requirements to the renewable energy *provisions*.[1]

Energy efficiency requirements

The bill makes two changes to the energy efficiency requirements: (1) it effectively makes the energy efficiency requirements for 2017, 2018, and 2019 no longer true requirements and (2) it decreases the energy efficiency benchmarks.

The bill effects the first change by doing the following:

[1] R.C. 4928.64(B)(2), (C), and (D), 4928.643, 4928.645, 4928.65, and 5727.75; Section 5.

- Specifying that noncompliance with the energy efficiency provisions is subject to forfeitures only for the requirements for years 2016, 2020, 2021, 2022, 2023, 2024, 2025, 2026, and 2027;
- Limiting the PUCO's requirement to assess forfeitures to only those years; and
- Specifying that the assessment of forfeitures is the sole penalty for noncompliance with the energy efficiency provisions.

The bill decreases the energy efficiency benchmarks as follows, resulting in a decrease to the current cumulative requirement from 22.2% to 17.2%:

Year	Current law	L-131-2143-5
2017	1%	1%*
2018	1%	1%*
2019	1%	1%*
2020	1%	1%
2021	2%	1%
2022	2%	1%
2023	2%	1%
2024	2%	1%
2025	2%	1%
2026	2%	2%
2027	2%	2%
*not true requirements		

Finally, the bill seeks to clarify that the energy efficiency requirements terminate at the end of 2027 by repealing the language requiring savings of 2% "each year thereafter." Under current law this language might be interpreted to imply that the 2% requirement extends beyond 2027.[2]

Peak demand reduction requirements

The bill effectively makes the peak demand reduction requirements for 2017, 2018, and 2019 no longer true requirements. But it keeps the benchmarks for those years (and the year that follows) at the levels in current law. The bill accomplishes this change by doing the following:

[2] R.C. 4928.66(A)(1)(a), (A)(1)(c), and (C).

- Specifying that noncompliance with the peak demand reduction provisions is subject to forfeitures only for the requirements for years 2016 and 2020;
- Limiting the PUCO's requirement to assess forfeitures to only those years; and
- Specifying that the assessment of forfeitures is the sole penalty for noncompliance with the peak demand reduction provisions.[3]

Utility and company reporting requirement

The bill requires every electric distribution utility (EDU) and electric services company (ESC) to submit an annual report for the prior calendar year to the PUCO not later than July 1 of each year. The report must detail the EDU's or ESC's status of compliance with the renewable energy, energy efficiency, and peak demand reduction provisions, as applicable.[4] Under continuing law, only EDUs are subject to the energy efficiency and peak demand reduction provisions, while both EDUs and ESCs are subject to the renewable energy provisions.[5] The report is required for every year, even years in which there are no true requirements under the provisions.

The bill also requires the PUCO to modify its rules in accordance with the reporting requirement, including the filing date.[6]

Finally, the bill requires that the PUCO's review of EDU and ESC compliance with the renewable energy requirements and the PUCO's annual report of EDU compliance with the energy efficiency and peak demand reduction provisions must be based on the EDUs' and ESCs' reports to the PUCO, as well as any other information that is public. Current law requires the PUCO to conduct an annual review of EDU and ESC compliance with the renewable energy requirements. The bill does not require that a review be conducted for the years in which there are no true requirements. Continuing law requires the PUCO to make an annual report of compliance with the energy efficiency and peak demand reduction provisions. The report on renewable energy must, under continuing law, go to the General Assembly, whereas the report on

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[3] R.C. 4928.66(A)(1)(c) and (C).

[4] R.C. 4928.6620.

[5] R.C. 4928.64 and 4928.66.

[6] R.C. 4928.6620.

energy efficiency and peak demand must be docketed at the PUCO, with a copy provided to the Ohio Consumers' Counsel.[7]

Mercantile customer opt out

Effective January 1, 2019, the bill adds mercantile customers to those customers that may opt out of an EDU's energy efficiency and peak demand reduction portfolio plan. Such an opt out would make them exempt from associated cost recovery and unable to participate in or directly benefit from the plan and associated programs.[8]

Shared savings

The bill guarantees shared savings for EDUs in a limited circumstance. Shared savings are not defined by the bill or continuing law.[9] While the authority for EDUs to recover shared savings on energy efficiency and peak demand reduction programs can arguably be tied to continuing law,[10] shared savings are mostly governed by PUCO proceedings.[11] It is generally understood that the concept of shared savings is an incentive mechanism that allows utilities to share in the cost savings associated with programs that save customers money.

The bill requires that if, under continuing law, an EDU applies banked energy efficiency savings or banked peak demand reductions to achieve compliance with an energy efficiency or peak demand reduction benchmark, the EDU must receive shared savings on the banked portion. The bill prohibits double counting of this portion by requiring that the EDU must not have previously received shared savings on the portion. The bill also prohibits the EDU from getting shared savings on any banked portion that is in excess of what is needed to achieve compliance. To illustrate, if the requirement is 1% energy savings and the EDU achieved 0.8% for that year and uses 0.2% in banked energy savings to achieve compliance, the bill entitles the EDU to shared savings on the 0.2%. But the EDU may not take 0.3% in banked energy savings and claim shared savings on the full 0.3%.

The bill is silent on the authorization of shared savings for energy savings or peak demand reductions that are applied toward benchmark compliance in the year in

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[7] R.C. 4928.64(C)(1) and (F) and 4928.66(B).

[8] R.C. 4928.6610(A) and Section 6; R.C. 4928.6611 and 4928.6613, not in the bill.

[9] R.C. 4928.664.

[10] R.C. 4928.143(B)(2)(h).

[11] Ohio Administrative Code 4901:1-39-07(A), not in the bill.

which they are achieved. In fact, the bill states that its provisions must not be construed to affect PUCO procedures or rules governing shared savings associated with nonbanked energy efficiency savings and nonbanked peak demand reductions.[12]

Amendment of uncodified law enacted by S.B. 310

The bill amends an uncodified section that was enacted by Sub. S.B. 310 of the 130th General Assembly. The bill's amendments clarify that the law as amended by Sub. S.B. 310 would continue in effect until the law as amended by Sub. H.B. 554 takes effect.[13]

HISTORY

ACTION	DATE
Introduced	05-19-16
Reported, H. Public Utilities	12-01-16
Passed House	---

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[12] R.C. 4928.664.

[13] Sections 3 and 4; Section 6 of Sub. S.B. 310 of the 130th General Assembly.