OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 554 of the 131st G.A.

Date: December 8, 2016

Status: As Reported by Senate Energy & Natural Resources

Sponsor: Rep. Amstutz

Local Impact Statement Procedure Required: No

Contents: To revise the requirements for renewable energy, energy efficiency savings, and peak demand reduction and to revise provisions governing which customers can opt out of related programs

State Fiscal Highlights

- Potential forfeitures collected by the Development Services Agency's (DSA) Advanced Energy Fund (Fund 5M50) will likely be reduced in future years because the bill eliminates the compliance penalties associated with benchmarks for 2017 and 2018.
- Requiring DSA to allocate 25% of the Home Energy Assistance Program (HEAP) funds for weatherization and apply for the federal waiver from the U.S. Department of Health and Human Services (HHS) to accomplish this will minimally affect FY 2017 DSA expenditures from its federally funded (Fund 3K90) appropriation item 195614, HEAP Weatherization.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

H.B. 554 removes the compliance provisions regarding the renewable energy resource requirement, energy efficiency savings, and peak demand reduction for two years (2017 and 2018). The Public Utilities Commission of Ohio's (PUCO) enforcement resumes in 2020 to review compliance with 2019 benchmarks in continuing law.

H.B. 554 makes other changes concerning payments assessed on Ohio's electric distribution utilities (EDUs) and electric services companies (ESCs) for under-compliance or noncompliance with the requirements referred to above. Under continuing law, any forfeitures are deposited into the Development Services Agency's Advanced Energy Fund (Fund 5M50).

H.B. 554 expands the scope of programs implemented by EDUs that qualify as energy efficiency savings or peak demand reduction. Under the bill, EDUs receive credit for implementing "energy intensity reductions resulting from heat rate improvements at electric generating plants." Also, the bill requires PUCO to recognize and count savings and reductions for "any plan, policy, behavior, or practice" that reduces either: (a) the total energy intensity of a facility, pipeline, building, plant, or equipment, regardless of the type of energy intensity reduction, or (b) the energy intensity of any water supply function or water treatment function.

The bill adds mercantile customers to those customers that may opt out of, and later opt back into, an EDU's portfolio plan. The mercantile-customer opt out provision is effective January 1, 2019. Under continuing law, mercantile customers include a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than 700,000 kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.

State agencies and local governments are consumers of electricity. The bill does not have a direct effect on these governmental expenditures. The potential aversion of increases in the applicable riders for 2017 and 2018 that fund these energy programs would save customers money, but the savings may be indirectly offset by higher wholesale electricity prices. LSC does not have a reliable source by which it can measure the indirect costs incurred by this bill.

Renewable portfolio standard

The bill eliminates PUCO's duties regarding its compliance review of the renewable energy benchmarks for two years (2017 and 2018). The benchmarks refer to the supply of renewable energy resources obtained by EDUs and ESCs that must be provided to retail electricity customers. H.B. 554 specifies that requirements resume in 2019 and annually escalate according to the schedule in continuing law. The bill retains the provision that both the renewable energy benchmark and the solar energy carve-out continue indefinitely after reaching their culminating point in 2026.

H.B. 554 permits EDUs and ESCs to continue levying an alternative energy rider during the two-year period when renewable energy benchmarks are not subject to compliance review. 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.

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

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

Energy efficiency and peak demand reduction

H.B. 554 changes the existing law regarding energy efficiency and peak demand reduction savings achieved by customers. In doing so, the bill reduces the cumulative energy efficiency savings that must be required in 2027 from 22% to 17% of the 2009 baseline measurement. The bill eliminated PUCO's compliance review for two years (2017 and 2018). Energy efficiency and peak demand reduction benchmarks will be reviewed by PUCO for years 2016 and 2019 through 2027, as applicable,[2] rather than every year through 2027 as required under current law.

According to the Energy Mandate Study Committee Co-Chairs' Report:[3]

> "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, 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:

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[2] Although the energy efficiency savings benchmarks last through the end of 2027 under continuing law, the peak demand reduction programs remain through 2020, unchanged by the bill. Therefore, when PUCO's review resumes in 2020, it will enforce the final two years of peak demand reduction benchmarks as well as all remaining years of the energy efficiency savings requirements.

[3] *Ibid.*

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

H.B. 554 expands the scope of activities that must be recognized and counted by PUCO, which will likely make the energy efficiency savings and peak demand reduction benchmarks easier to achieve. If EDUs pursue the most cost-effective programs, this expanded scope will likely lower the cost of the rider paid by ratepayers, including amounts paid by state agencies and local governments.

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

Energy Efficiency and Peak Demand Reduction Cost Recovery Rider

H.B. 554 adds a provision to existing law governing how PUCO must calculate the energy efficiency and peak demand reduction cost recovery rider levied by EDUs. The bill stipulates that an EDU in compliance with energy efficiency savings and peak demand reduction requirements "shall be eligible for incentives" in any year in which the EDU can "meet or exceed the cumulative mandates." This may be a reference to "shared savings," which may be recovered by EDUs from ratepayers via this rider. Shared savings is a term that is not defined in statute, but it is referenced elsewhere in the Revised Code and administrative law. Under the shared savings principle, EDUs may receive a percentage of the net benefits from their over-compliance with energy efficiency or peak demand reduction benchmarks in any given year. The absence of prescriptive methodology in law gives PUCO discretion in determining the magnitude of costs that can be recovered by EDUs via shared savings.

Continuing law allows EDUs to "bank" any amount achieved in excess of the energy efficiency and peak demand reduction requirements, and EDUs may apply the banked savings toward achieving the energy efficiency or peak demand reduction requirements in future years.[4]

LSC cannot reliably estimate the frequency with which this provision will be used by EDUs nor can LSC estimate the magnitude of any potential increases in the rider paid by ratepayers if this provision is utilized. Therefore, while electricity expenditures incurred by local governments and state agencies could increase, the magnitude of the potential increase is indeterminate and subject to considerable PUCO discretion.

Development Services Agency

Advanced Energy Fund

Continuing law states that compliance payments assessed against EDUs and ESCs must be remitted to PUCO for deposit into Fund 5M50. The Revised Code prohibits EDUs or ESCs from passing through the payment incurred by under-compliance or noncompliance with the renewable resource benchmarks to consumers. The potential reductions in future compliance payments incurred due to the bill's elimination of compliance requirements in 2017 and 2018 will be borne by Fund 5M50.

HEAP Weatherization funding

The bill amends temporary law in H.B. 64, the main operating budget for the FY 2016-FY 2017 biennium, to alter how federal energy assistance funding is allocated. The Development Services Agency (DSA) receives these funds through the Home Energy Assistance Program (HEAP), which is overseen by the U.S. Department of Health and Human Services (HHS). The funds are primarily used for home heating assistance for households below 175% of the federal poverty line. Under current state law, 15% of the HEAP funds are set aside for weatherization projects for individuals eligible for HEAP. This 15% allocation for weatherization is allowed under HEAP guidelines; however, the federal guidelines allow states to apply to HHS for a waiver to raise the set-aside for weatherization to a maximum of 25% of all HEAP funding the state receives. H.B. 554 amends the temporary law in H.B. 64 to require DSA to allocate 25% of the HEAP funds for weatherization and apply for the federal waiver to accomplish this.

This provision will ultimately result in minimal fiscal effects for FY 2017, since DSA's HEAP funding for the fiscal year is in the process of being fulfilled, given current law, and it will take time for DSA to apply for the waiver. Any DSA expenditures resulting from this provision would be incurred from its federally funded (Fund 3K90) appropriation item 195614, HEAP Weatherization. If the 25% requirement were to continue in future years, there will be a potential increase in federal weatherization

[4] R.C. 4928.662 in existing law moved to Section 4928.6621 under the bill.

funding and corresponding decrease in the standard HEAP funding, the amount of which depends on federal funding availability.

Public Utilities Commission

H.B. 554 modifies existing reporting requirements governing what PUCO must submit to the Ohio General Assembly regarding EDUs' and ESCs' compliance status with benchmarks for renewable energy resources, energy efficiency savings, and peak demand reduction. The bill aligns the annual deadline for all three topics such that PUCO must submit a single report to the General Assembly no later than August 1 of each year. The content of PUCO's report remains unchanged by the bill, but H.B. 554 requires the PUCO Chairperson to provide testimony on the report "to the standing committees of both houses of the general assembly that deal with public utility matters." LSC anticipates that this provision will not affect PUCO expenditures.

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