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Substitute Bill Comparative Synopsis

Sub. H.B. 6

133rd General Assembly

House Energy and Natural Resource Committee, Energy Generation Subcommittee

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_133_0905-12)
Clean air resource definition: State financial preferences restriction	
Restricts the electric generating facility from receiving state tax exemptions, deferrals, exclusions, allowances, payments, credits, deductions, or reimbursements calculated using a metric that provides a value for air emissions not produced by the facility through any program other than the Ohio Clean Air Program created by the bill (R.C. 3706.40(A)(1)).	No provision.

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Clean air resource definition: Partial ownership by municipal corporation/cooperative restriction	
No provision.	Restricts the electric generating facility from being <i>partially</i> owned by a municipal or cooperative corporation or a group, association, or consortium of those corporations (R.C. 3706.40(A)(1)).
Clean air resource definition: PJM interconnection	
Requires the facility to be interconnected with PJM Interconnection, L.L.C. or its successor (R.C. 3706.40(A)(5)).	Requires that, if the electric generating facility is designed for, or capable of, operation at an aggregate capacity of more than 20 megawatts, the facility is interconnected with PJM Interconnection, L.L.C. or its successor (R.C. 3706.40(A)(4)).
Clean air resource definition: Facility type	
Requires the electric generating facility to be either a major utility facility or an economically significant wind farm (R.C. 3706.40(A)(6)).	Requires that regardless of the location of the meter, the electric generating facility is any of the following, a major utility facility in this state, an economically significant wind farm in this state, or a small wind farm in this state (R.C. 3706.40(A)(5)).
Reduced emissions resource definition: State financial preferences restriction	
Restricts the electric generating facility from receiving state tax exemptions, deferrals, exclusions, allowances, payments, credits, deductions, or reimbursements calculated using a metric that provides a value for air emissions not produced by the facility through any program other than the Ohio Clean Air Program created by the bill (R.C. 3706.40(B)(1)).	No provision.

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Reduced emissions resource definition: Partial ownership by municipal corporation/cooperative restriction	
No provision.	Restricts the electric generating facility from being <i>partially</i> owned by a municipal or cooperative corporation or a group, association, or consortium of those corporations (R.C. 3706.40(B)(1)).
Reduced emissions resource definition: Emissions effect	
Requires the electric generating facility to show either of the following: <ul style="list-style-type: none"> ▪ It has made a significant historical contribution to the air quality of Ohio by minimizing emissions that result from electricity generated in Ohio. ▪ It will make a significant contribution toward minimizing emissions that result from electric generation in Ohio. (R.C. 3706.40(B)(4).) 	Requires the electric generating facility to show that it will make a significant contribution toward minimizing emissions that result from electric generation in Ohio (R.C. 3706.40(B)(3)).
Reduced emissions resource definition: Facility type	
Requires the electric generating facility to be a major utility facility (R.C. 3706.40(B)(6)).	Requires the electric generating facility to be a major utility <i>in this state</i> (R.C. 3706.40(B)(5)).
Application contents: Emissions forecast	
Requires a clean air resource and reduced emissions resource to provide a forecast estimate of the emissions that would occur in Ohio during the remaining useful life of the resource if the resource discontinued operations prior to the end of the resource’s useful life (R.C. 3706.42(C)(4)).	Requires only a clean air resource to provide the <i>forecast</i> (R.C. 3706.42(C)(4)).

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Application contents: Funding requested	
Requires a clean air resource and reduced emissions resource to provide the level of funding requested from the Ohio Clean Air Program (<i>R.C. 3706.42(C)(7)</i>).	Requires only a reduced emissions resource to provide the level of funding requested (<i>R.C. 3706.42(C)(7)</i>).
Application contents: Five-year-megawatt quantity	
Requires an existing clean air resource and reduced emission resource to submit the quantity of megawatt hours generated by the resource annually and the annual capacity factor for each of the previous five calendar years (<i>R.C. 3706.42(C)(2)</i>).	Requires an existing clean air resource and reduced emission resource to submit the quantity of megawatt hours generated by the resource annually <i>during each of the previous five calendar years during which the resource was generating</i> , and the annual capacity factor for each of those calendar years (<i>R.C. 3706.42(C)(2)</i>).
Resource certification: Level of discretion	
Requires the Ohio Air Quality Development Authority (Authority) to review all applications and issue an order for certification of a clean air resource or reduced emissions resource in the Authority's sole discretion (<i>R.C. 3706.44(A)</i>).	Requires the Authority to review all applications and issue an order for certification if a clean air resource or reduced emissions resource meets the definition of a clean air resource or reduced emissions resource, as applicable, in the bill (<i>R.C. 3706.44(A)</i>).
Resource certification: Period of certification/eligibility for clean air resource	
Provides that a clean air resource certification may be for one or more program years and that the resource is eligible to participate in the Ohio Clean Air Program provided it continues to meet the definition of a clean air resource and any additional requirements the Authority sets (<i>R.C. 3706.44(A)</i>).	Provides that a clean air resource is to remain certified as long as it continues to meet the definition of a clean air resource (<i>R.C. 3706.44(A)</i>).

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Resource decertification: Level of discretion	
Allows the Authority <i>in its sole discretion</i> to decertify a clean air resource or reduced emissions resource if the Authority determines certification is not in the public interest (R.C. 3706.44(C)).	Eliminates the provision allowing the Authority to decertify <i>in its sole discretion</i> (R.C. 3706.44(C)).
Resource recertification	
Requires each clean air resource and reduced emissions resource to be re-evaluated and recertified if the resource continues to meet the definition of clean air resource or reduced emissions resource and any additional requirements set by the Authority. Permits the Authority to impose new requirements on the recertified resource that are in addition to the requirements that were imposed when the resource was initially certified. Requires the Authority to adopt rules to determine the amount of time during which the resources must come into compliance with the additional requirements. (R.C. 3706.45.)	Applies the recertification requirements only to reduced emissions resources (R.C. 3706.45).
Monthly per-account charge: Commencement date	
No provision.	Requires the monthly per-account charge to begin on January 1, 2020 (R.C. 3706.47(A)).
Monthly per-account charge: Residential customers	
\$2.50/month (R.C. 3706.47(B)).	<ul style="list-style-type: none"> ▪ For the year 2020: 50¢/month; ▪ For the year 2021 and each year thereafter: \$2.50/month. (R.C. 3706.47(B).)

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Monthly per-account charge: Commercial customer base rate	
<p>\$20/month (<i>R.C. 3706.47(B)</i>).</p>	<ul style="list-style-type: none"> ▪ For the year 2020: \$15/month; ▪ For the year 2021 and each year thereafter: \$20/month (<i>R.C. 3706.47(B)</i>.)
Monthly per-account charge: Customer classification	
<p>No provision.</p>	<p>Requires the classification as residential, commercial, and industrial customers to be consistent with the utility's reporting under its approved rate schedule (<i>R.C. 3706.47(C)</i>).</p>
Renewable energy (RE) and energy efficiency/peak demand reduction (EE/PDR) program charges: Exemption unless customer opts-in	
<p>Exempts a customer who pays the monthly charge under the bill from paying both the RE program and the EE/PDR program charges, unless the customer opts into payment of one or both of those charges (<i>R.C. 3706.47(C) and 3706.471</i>).</p>	<p>Exempts a customer who pays the monthly charge under the bill from paying the RE program charge, unless the customer opts into payment of that charge. Provides no exemption from customers paying EE/PDR program charges. (<i>R.C. 3706.47(D) and 3706.471</i>.)</p>
RE and EE/PDR program charges: Payment for prudently incurred charges under current law or PUCO-approved programs	
<p>Requires a customer that pays the monthly charge under the bill to continue to pay the following costs associated with the RE and EE/PDR program requirements:</p> <ul style="list-style-type: none"> ▪ Costs prudently incurred for contractual obligations that existed prior to the effective date of the bill by an electric distribution utility (EDU) in reliance on the requirements under current law; 	<p>Allows an EDU to submit an application to the Authority for reimbursement, from the Ohio Clean Air Program Fund, of the following costs to comply with the RE program requirements (no provision is made for EE/PDR program cost reimbursement):</p> <ul style="list-style-type: none"> ▪ Costs prudently incurred for contractual obligations that existed prior to the effective date of the bill by an EDU in reliance on the requirements under current law;

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<ul style="list-style-type: none"> Costs prudently incurred by an EDU associated with programs approved by the public utilities commission (PUCO) under current law that are modified or eliminated as a result of the bill, including any costs to discontinue the program. <i>(R.C. 3706.47(D).)</i> 	<ul style="list-style-type: none"> Costs prudently incurred by an EDU associated with programs approved by the PUCO under current law that are modified or eliminated as a result of the bill, including any costs to discontinue the program. <i>(R.C. 3706.47(E).)</i>
RE program charges: Remission to EDU	
No provision.	Requires that after receipt of the application and verification of the prudently incurred costs, the authority must direct the treasurer to remit money from the Ohio Clean Air Program fund to the EDU as reimbursement for those RE program costs <i>(R.C. 3706.47(F)).</i>
Clean air credit price	
Priced at \$9.25 for the first program year <i>(R.C. 3706.482(B)).</i>	Priced at \$9.00 for the first program year <i>(R.C. 3706.482(B)).</i>
Payment for clean air credits	
No provision.	Requires that if the money in Ohio Clean Air Program Fund is insufficient to pay for all of the credits earned by a resource, the unpaid credits must be paid first in the next monthly payment period <i>(R.C. 3706.482(A)(2)).</i>
Pledges for air quality development and related capital formation and investment	
Allows the Authority to pledge a portion of moneys that may, in the future, be accumulated in the Ohio Clean Air Program Fund for the benefit of any certified reduced emissions resource, provided the resource agrees to be bound by the conditions the Authority in its sole discretion may attach to the pledge <i>(R.C. 3706.49(A)).</i>	Applies the pledge requirements also <i>to any certified clean air resource</i> and eliminates the language permitting the Authority to attach pledge conditions <i>in its sole discretion (R.C. 3706.49(A)).</i>

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Public interest inquiry and report on Ohio Clean Air Program	
No provision.	Provides that in 2029, the Authority must conduct an inquiry to determine whether it is in the public interest to continue the Ohio Clean Air Program after 2030. Requires the Authority to submit a report of its findings to the General Assembly. <i>(R.C. 3706.42(A)(2).)</i>
Ohio Clean Air Program Audit	
No provision.	Requires the Authority to annually audit the Ohio Clean Air Program. Requires the audit to be conducted according to rules the Authority adopts under the Ohio Administrative Procedure Act (R.C. Chapter 119) no later than 90 days after bill's effective date. <i>(R.C. 3706.50(A) and (B)(2).)</i>
Reasonable arrangements	
No provision.	Requires the PUCO, in order to promote job growth and retention in Ohio, to attempt to minimize electric rates to the maximum amount possible on trade exposed manufactures when ruling on a reasonable arrangement application <i>(R.C. 4905.311).</i>
Report on Federal Energy Regulatory Commission program	
No provision.	Requires the PUCO report regarding FERC authorization of states to take action relating to capacity resources in the organized wholesale market to also incorporate the policy of facilitating the state's effectiveness in the global economy by minimizing any adverse impact on trade-exposed industrial manufacturers <i>(R.C. 4928.46(C)).</i>

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Retail purchase power agreements	
Requires PUCO to facilitate and encourage the establishment of retail purchased power agreements having a term of three years or more through which consumers commit to satisfy a portion of their electricity requirements from the output of a clean air resource (<i>R.C. 4928.47(B)(1)</i>).	Limits the agreements to satisfying a <i>material</i> portion of the consumer’s electricity requirements from the output of a clean air resource (<i>R.C. 4928.47(B)(1)</i>).
Decoupling mechanism not available to certain EDUs	
No provision.	Prohibits an EDU that has base distribution rates that became effective between December 31, 2018, and the effective date of the bill pursuant to an application for an increase in base distribution rates to apply for a decoupling mechanism under the bill (<i>R.C. 4928.471(D)</i>).
Baseline reduction for renewable energy	
Removes from the baseline of an EDU regarding its compliance with RE program requirements, the load and usage of a customer that pays the monthly charge under the bill, unless or until the customer opts to pay the RE program charge (<i>R.C. 4928.644(B)</i>).	Applies the provisions to the base line of electric services company as well (<i>R.C. 4928.644(B)</i>).
Renewable energy service purchase programs	
No provision.	Allows an EDU, subject to approval by the PUCO and regardless of any limitations set forth in any other section of Chapter 4928 of the Revised Code to offer a customer the opportunity to purchase renewable energy services on a nondiscriminatory basis, by offering a customer (1) the opportunity to purchase renewable energy credits for any purpose the customer elects, or (2) a nondiscriminatory schedule

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	or reasonable arrangement involving the production and supply of renewable energy (R.C. 4928.647(A)).
Change to annual savings and elimination of cumulative savings requirement for EE	
No provision.	Clarifies that the EE annual savings requirement for years 2017, 2018, 2019, and 2020 is an <i>additional</i> 1% of the baseline and eliminates the EE requirements for years 2021 through 2027 (R.C. 4928.66(A)(1)(a)).
EE/PDR baseline reduction	
Removes from the EE/PDR baseline of an EDU, a customer who pays the monthly charge under the bill, unless or until the customer opts to pay the EE/PDR program charge (R.C. 4928.66(A)(2)(a)(iv)).	No provision.
Terminating EE/PDR portfolio plans and programs	
No provision.	Requires that all terms and conditions of an EDU's EE/PDR portfolio plan in effect as of the bill's effective date to remain in place through December 31, 2020 (with appropriate adjustments to the terms and conditions of plans extended to that date), and terminate on that date. Requires all EE/PDR programs to terminate on that date, but provides for EDU recovery, through tariffs or riders, of all remaining program costs from contractual obligations and any costs to discontinue portfolio plan programs. (R.C. 4928.66(F) and (G).)
Programs to encourage EE/PDR	
No provision.	Allows an electric distribution utility to submit an application to the PUCO for approval of programs to encourage EE/PDR beginning January 1, 2020. Requires the PUCO to approve or modify and approve an application if the programs will be cost effective, in the public

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	interest, and consistent with state policy. Provides for approved applications to take effect no earlier than January 1, 2021. (R.C. 4928.661.)
Opt-out and opt in under an EE/PDR portfolio plan	
No provision.	Permits, as of January 1, 2020, mercantile customers to opt-out and later opt-back-in to an EDU's EE/PDR portfolio plan. Expands the portfolio plans subject to opt-out and opt-in to include programs to encourage EE/PDR added by the bill (see " Programs to encourage EE/PDR " in this column above). (R.C. 4928.6610.)
Adding members to the Ohio Air Quality Development Authority	
Adds four legislative members, appointed by the House of Representatives and Senate majority and minority leadership, to the board ex officio without compensation (R.C. 3706.02(B)(4)).	Clarifies that the legislative members are nonvoting but may otherwise participate fully in all of the board's deliberations and activities (R.C. 3706.02(B)(4)).
Severability clause	
No provision.	Provides that if any provision of the act or the application of any provision is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and the invalid provisions are severable from the act (Section 5).

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Repeal of customer report on reducing energy intensity	
No provision.	Repeals the current law requirement that customers that opt out of an EDU's EE/PDR portfolio plan submit an initial and update reports to PUCO staff regarding energy intensity reduction projects, actions, policies, and practices, and cumulative energy-intensity reductions achieved (<i>R.C. 4928.6616</i>).