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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of Senate Committee Amendments

(This synopsis does not address amendments that may have been adopted on the Senate Floor.)

### Sub. H.B. 6 of the 133<sup>rd</sup> General Assembly

#### Senate Energy and Public Utilities

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As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Public policy for air quality under the Ohio Air Quality Development Authority (Authority)</b>	
Declares that it is the public policy of the state to “maintain operations of certified clean air resources [as defined in the bill] that, through continued operation, are expected to provide the greatest quantity of carbon-dioxide-free electric generation” ( <i>R.C. 3706.03(A)(6)</i> ).	No provision.
<b>Clean Air Program/provisions regarding payments to qualifying resources</b>	
Creates the Clean Air Program, which terminates on December 31, 2026 ( <i>R.C. 3706.42(A)</i> ).	Establishes a procedure for collecting charges from EDU customers and remitting payments to certain qualifying nuclear and renewable resources for the period ending with January 2027, but does not create a named program ( <i>R.C. 3706.40 to 3706.65</i> ).
<b>Definition: Clean air resource-nuclear/qualifying nuclear resource</b>	
Defines a generating facility in Ohio fueled by nuclear power as a “clean air resource” if the facility satisfies the following criteria: <ul style="list-style-type: none"> <li>▪ The facility is not wholly or partially owned by a municipal or cooperative corporation or a group, association, or consortium of those corporations;</li> <li>▪ The facility is not used to supply customers of a wholly owned municipal or cooperative corporation or a group, association, or consortium of those corporations;</li> </ul>	Defines an electric generating facility in this state fueled by nuclear power as a “qualifying nuclear resource” ( <i>R.C. 3706.40(A)</i> ).

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<ul style="list-style-type: none"> <li>▪ The facility has made a historical contribution to the state’s air quality by minimizing emissions that result from electric generation in Ohio or will make a significant contribution toward minimizing such emissions;</li> <li>▪ The facility is interconnected with the transmission grid that is subject to the operational control of PJM Interconnection, L.L.C., or its successor organization;</li> <li>▪ The facility is a major utility facility in Ohio (a facility that produces 50 megawatts or more of electricity);</li> <li>▪ The facility’s owner maintains operations in Ohio. <i>(R.C. 3706.40(A)(1).)</i></li> </ul>	
<b>Definition: clean air resource (solar) v. qualifying renewable resource (solar)</b>	
<p>Includes as a “clean air resource” (CAR) an electric generating facility in Ohio that:</p> <ul style="list-style-type: none"> <li>▪ Has obtained a certificate from the Power Siting Board prior to June 1, 2019;</li> <li>▪ Uses or will use solar energy as the primary energy source;</li> <li>▪ Satisfies the criteria listed above for a nuclear facility, except that its owner is not required to maintain operations in Ohio. <i>(R.C. 3706.40(A)(2).)</i></li> </ul>	<p>Defines a “qualifying renewable resource” as an electric generating facility in Ohio that:</p> <ul style="list-style-type: none"> <li>▪ Has obtained a certificate for construction of a major utility facility from the Power Siting Board prior to June 1, 2019;</li> <li>▪ Uses or will use solar energy as the primary energy source; and</li> <li>▪ The facility is interconnected with the transmission grid that is subject to the operational control of PJM Interconnection, L.L.C., or its successor organization. <i>(R.C. 3706.40(B).)</i></li> </ul>
<b>Definition: clean air credit</b>	
<p>Defines “clean air credit” as a credit that represents the clean air attributes of one megawatt hour of electric energy produced from a certified CAR <i>(R.C. 3706.40(E)).</i></p>	<p>No provision.</p>
<b>Definition: program year</b>	
<p>Defines program year as the 12-month period beginning June 1 of a given year of the Ohio Clean Air Program and ending May 31 of the following year <i>(R.C. 3706.40(B)).</i></p>	<p>No provision.</p>

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Resource certification application</b>	
<p>For certification as a CAR in order to be eligible to participate in the program, permits any person owning or controlling an electric generating that meets the definition of a CAR to submit a written application with the Authority (<i>R.C. 3706.42(B)</i>).</p>	<p>Permits the owner of a qualifying nuclear or renewable resource to apply, not later than February 1, 2020, to the Authority to receive payments for nuclear resource credits or renewable energy credits, as applicable to the resource (<i>R.C. 3706.41(A)</i>).</p>
<b>Resource certification application information</b>	
<p>Requires applications to include certain information about the resource as follows:</p> <ul style="list-style-type: none"> <li>▪ In-service date and estimated remaining useful life;</li> <li>▪ <i>Capacity factor</i> (defined in the bill) information and 5-calendar-year-look-back data on annual megawatt hours generated;</li> <li>▪ Forecast estimates of annual megawatt hours to be generated over the useful life of the resource and the emissions that would occur in the state if the resource discontinued operations prior to the end of its useful life;</li> <li>▪ Verified documentation of certain information regarding emissions, qualifications, and ownership;</li> <li>▪ Nameplate capacity;</li> <li>▪ Any other data or information that the Authority requests and determines is necessary to evaluate an application for certification or to demonstrate that certification would be in the public interest (<i>R.C. 3706.42(C)</i>).</li> </ul>	<p>Requires applications for qualifying nuclear resources to include all of the following pertaining to the resource:</p> <ul style="list-style-type: none"> <li>▪ Financial information;</li> <li>▪ Certified cost and revenue projections through December 31, 2026;</li> <li>▪ Operation and maintenance expenses;</li> <li>▪ Fuel expenses, including spent-fuel expenses;</li> <li>▪ Nonfuel capital expenses;</li> <li>▪ Fully allocated overhead costs;</li> <li>▪ The cost of <i>operational risks</i> (defined generally as including risk that operating costs and per-megawatt-hour costs will be higher than anticipated) and <i>market risks</i> (defined generally as including risks of (1) a forced outage with associated contractual obligation costs and (2) inability to sell output at projected levels) that would be avoided by ceasing operation of the resources;</li> <li>▪ Any other information that demonstrates the resource is not projected to continue being operational (<i>R.C. 3706.41(B) and (C)</i>).</li> </ul>
<b>Application website posting</b>	
<p>Requires the Authority to post all program certification applications, nonconfidential supporting materials, and interested party comments on its website (<i>R.C. 3706.42(D) and (E)</i>).</p>	<p>No provision.</p>

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Application comments</b>	
Permits interested persons to file comments not later than 20 days after an application is posted on the Authority website and allows an applicant to respond to the comments not later than ten days after their posting ( <i>R.C. 3706.40(E)</i> ).	No provision.
<b>Resource certification/review process</b>	
Requires the Authority, on or before March 31, to review all applications timely submitted (by February 1 of the program year beginning on June 1 of the same year) and issue an order certifying a resource that meets the definition of a CAR ( <i>R.C. 3706.42(B) and 3706.44(A)</i> ).	Requires the Authority to review and approve an application by March 31, 2020, if all of the following apply: <ul style="list-style-type: none"> <li>▪ The resource meets the definition of a qualifying nuclear resource or qualifying renewable resource;</li> <li>▪ With respect to qualifying nuclear resources only, the application meets the bill's requirements (described above) and the resource's operator maintains both a principal place of business in Ohio and a substantial presence in Ohio with regard to its business operations, offices, and transactions (<i>R.C. 3706.43</i>).</li> </ul>
<b>Resource certification/review process: confidential information</b>	
No provision.	Provides that all financial and proprietary information, including trade secrets submitted to the Authority is confidential and not a public record ( <i>R.C. 3706.431</i> ).
<b>Resource certification: when Authority does not act</b>	
Provides that if the Authority does not issue a certification order by March 31, each electric generating facility included in a timely application is deemed a CAR ( <i>R.C. 3706.44(B)</i> ).	No provision.
<b>Decertification: when permitted</b>	
Permits the Authority to decertify a CAR at any time if it determines that certification is not in the public interest ( <i>R.C. 3706.44(C)</i> ).	No provision.
<b>Decertification: when required</b>	
Specifies that a CAR must remain certified as a CAR as long as it continues to meet the definition of a CAR ( <i>R.C. 3706.44(A)(2)</i> ).	No provision.

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Audit/management and financial review</b>	
Requires an unaffiliated and independent third party to conduct an annual audit of the program every year beginning in 2021 and ending in 2027 ( <i>R.C. 3706.50(A)</i> ).	Requires PUCO to conduct a retrospective management and financial review annually, beginning in 2021 and ending in 2026, and not later than May 1 of each of those years of any owner or operator of a qualifying nuclear resource and any such resource that receives payments for nuclear resource credits specifies that current general PUCO hearings law do not apply to these audits ( <i>R.C. 3406.61(A) and (G)</i> ).
<b>Audit/management and financial review: retaining consultants</b>	
No provision.	Permits PUCO to retain consultants and advisors to perform all or any of the annual reviews, to be paid for at the direction of the Authority by the Treasurer of State from the Nuclear Generation Fund created in the bill ( <i>R.C. 3706.55(A)(1) and 3706.61(A)</i> ).
<b>Audit/management and financial review: documents, information, data, or other information</b>	
No provision.	Permits an owner or operator, for purposes of the review, to provide the PUCO or PUCO's consultants or advisors with any information the owner or operator chooses. Requires any owner or operator, for the purpose of the review, to promptly and fully respond to any document, information, data, or other request directed to their attention by PUCO or its consultants or advisors. ( <i>R.C. 3706.61(B)</i> .)
<b>Audit/management and financial review: suspension of payments for failure to respond</b>	
No provision.	Requires the suspension of further nuclear resource credit payments for any material failure to timely and fully respond to requests by PUCO or its consultants or advisors until the failure is cured to PUCO's satisfaction ( <i>R.C. 3706.61(B)</i> ).
<b>Audit/management and financial review: report</b>	
No provision.	Requires PUCO to submit a report summarizing findings of each annual review (including a copy of the owner's or operator's own certified annual audit) to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House, and the Authority, provided that the report does not reveal any confidential or proprietary information ( <i>R.C. 3706.61(C)</i> ).

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Audit/management and financial review: consideration of and action on findings--cessation or reduction of payments</b>	
No provision.	<p>In consultation with PUCO, requires the Authority to consider the findings of the review and permits the Authority to cease or reduce payment for nuclear resource credits if the Authority determines any of the following:</p> <ul style="list-style-type: none"> <li>▪ The Federal Energy Regulatory Commission (FERC) or the Nuclear Regulatory Commission has established a monetary benefit or other incentive payment to continue commercial operation;</li> <li>▪ The resource no longer meets the definition of a qualifying nuclear resource;</li> <li>▪ The resource's operator no longer maintains a principal place of business in Ohio nor a substantial presence in Ohio regarding business operations, offices, and transactions;</li> <li>▪ The resource's owner or operator applies, before May 1, 2026, to decommission the resource;</li> <li>▪ That, for the purpose of ensuring that the funding for nuclear resource credits remains reasonable, the market price index exceeds the strike price on June 1 in the year in which the report is submitted, in which case the authority shall apply the credit price adjustment for the 12-month period that begins on that day and ends May 31, or, for 2026, for the seven-month period that begins on that day and ends December 31 (<i>R.C. 3706.61(D)</i>).</li> </ul>
<b>Audit/management and financial review: consideration of and action on findings--revenue and payment reduction actions</b>	
No provision.	<p>Requires PUCO to do all of the following, as necessary, if the Authority determines, pursuant to the review, a reduction in payments for nuclear resource credits is necessary:</p> <ul style="list-style-type: none"> <li>▪ Reduce the \$150 million revenue requirement for nuclear resource credit payments;</li> </ul>

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<b>Audit/management and financial review: revenue and payment reduction not an application to establish or change rates</b>	
No provision.	<ul style="list-style-type: none"> <li>▪ Except when the Authority has applied the credit price adjustment (described above), reduce the price of a nuclear resource credit, in accordance with a reduced revenue requirement;</li> <li>▪ Reduce the charge or charges imposed by EDUs on customers, to conform with a reduced revenue requirement;</li> <li>▪ Adjust the percentages of collected charge amounts to be deposited into the Nuclear Generation Fund and Renewable Generation Fund, in accordance with a reduced revenue requirement (<i>R.C. 3706.61(E)(1)</i>).</li> </ul>
<b>Audit/management and financial review: EDU duties if credit payments are suspended or cease</b>	
No provision.	Specifies that any changes made by PUCO regarding revenue and payment reduction actions described above (made through a PUCO-determined process) are not for an increase in any rate, joint rate, toll, classification, charge, or rental notwithstanding anything to the contrary in the public utilities law ( <i>R.C. 3706.61(E)(2)</i> ).
<b>Funds established in custody of Treasurer of State</b>	
Creates the Clear Air Program Fund, the purpose of which is to fund the benefits provided by the program ( <i>R.C. 3706.46(A)</i> ).	Creates two funds for the purposes set forth in the bill to collect charges from EDU customers and remit payments to certain qualifying nuclear and renewable resources from the fund applicable to the resource: Nuclear Generation Fund and the Renewable Generation Fund ( <i>R.C. 3706.49(A)</i> ).
<b>Percentage deposit of EDU customer charges deposited into funds</b>	
No Provision.	Requires that 88.25% of EDU customer charges be deposited into the Nuclear Generation Fund; 11.75% into the Renewable Generation Fund ( <i>R.C. 3706.53</i> ).

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<b>Distribution of moneys from fund</b>	
Requires the Treasurer of State to distribute moneys from the fund in accordance with the directions of the Authority ( <i>R.C. 3706.46(B)</i> ).	Requires the Treasurer of State to distribute moneys from the fund in accordance with the directions of the Authority, but adds that the directions be provided after consulting with PUCO ( <i>R.C. 3706.49(B)</i> ).
<b>Per-account monthly charges: based on revenue requirement</b>	
No provision.	Provides that the amount billed and collected from all retail electric customers must be sufficient to produce both of the following: <ul style="list-style-type: none"> <li>▪ \$150 million annually for total disbursements from the Nuclear Generation Fund;</li> <li>▪ \$20 million annually for total disbursements from the Renewable Generation Fund (<i>R.C. 3706.46(A)(1)</i>).</li> </ul>
<b>Per-account monthly charges: allocation of revenue requirement</b>	
No provision.	Requires PUCO to determine the method by which the revenue allocated or assigned to each EDU for billing and collection, provided the method of allocation be based on the relative number of customers, relative quantity of kilowatt hour sales, or a combination of the two. Requires the level and structure of the charge to be authorized by PUCO through a process that is not a rate, toll, or charge increase under the public utility law. ( <i>R.C. 3706.46(A)(2)</i> .)
<b>Per-account monthly charges: revenue requirement reconciliation and accounting</b>	
No provision.	Subjects each PUCO-authorized charge to adjustment in order to reconcile actual revenue collected with revenue needed to meet the revenue requirements to pay the credits. Permits PUCO to authorize each EDU to adopt accounting practices to facilitate the reconciliation. ( <i>R.C. 3706.46(C)</i> .)



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<b>Per-account monthly charges: revenue recovery beyond December 31, 2026</b>	
No provision.	Provides that, notwithstanding other Revised Code provisions, PUCO-authorized charges may continue beyond December 31, 2026, but only if necessary to reconcile actual revenue collected to pay the credits during the period ending on December 31, 2026, with the actual revenue needed to make the disbursements. Provides that the continuation is authorized beyond December 31, 2026 of as long as reasonably necessary to complete the reconciliation. <i>(R.C. 3706.46(C).)</i>
<b>Per-account monthly charges: residential customers</b>	
Specifies that the monthly charge for residential customers is: <ul style="list-style-type: none"> <li>▪ For the year 2020: \$0.50/month; and</li> <li>▪ For years 2021 through 2026: \$1.00/month.</li> </ul> <i>(R.C. 3706.47(B)(1).)</i>	Specifies that PUCO, in authorizing the level and structure of any charge or charges, it must ensure that the per-customer monthly charge for residential customers does not exceed: <ul style="list-style-type: none"> <li>▪ \$0.85/month <i>(R.C. 3706.49(B)).</i></li> </ul>
<b>Per-account monthly charges: most commercial customers</b>	
Specifies that most commercial customers are subject to a charge that is determined by a structure and design that PUCO must establish not later than October 1, 2019. Requires the PUCO-structured/designed charge to avoid abrupt or excessive total electric bill impacts for the customers. Requires the structure and design of the charge to be such that the average charge across all customers subject to the charge is: <ul style="list-style-type: none"> <li>▪ For the year 2020: \$10/month; and</li> <li>▪ For years 2021 through 2026: \$15/month.</li> </ul> <i>(R.C. 3706.47(B)(2) and (C).)</i>	No provision.

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Per-account monthly charges: most industrial customers</b>	
<p>Specifies that most industrial customers are subject to a charge that is determined by a structure and design that PUCO must establish not later than October 1, 2019. Requires the PUCO-structured/designed charge to avoid abrupt or excessive total electric bill impacts for the customers. Requires the structure and design of the charge to be such that the average charge across all customers subject to the charge is:</p> <ul style="list-style-type: none"> <li>▪ \$250/month (<i>R.C. 3706.47(B)(3) and (C)</i>).</li> </ul>	<p>No provision.</p>
<b>Per-account monthly charges: nonresidential customers that are not self-assessors of the Ohio Kilowatt Hour Tax</b>	
<p>No provision.</p>	<p>Provides that for nonresidential customers that are not self-assessors of the Ohio Kilowatt Hour Tax, the level and design of the charge or charges applied monthly must be established in a manner that avoids abrupt or excessive total net electric bill impacts for typical customers (<i>R.C. 3706.46(B)</i>).</p>
<b>Per-account monthly charges: industrial customers eligible to become self-assessors of the Ohio Kilowatt Hour Tax</b>	
<p>No provision.</p>	<p>Provides that industrial customers eligible to become self-assessors of the Ohio Kilowatt Hour Tax (under current law, commercial and industrial purchasers receiving over 45 million kilowatt hours at a single Ohio-located meter or single location in Ohio are eligible)<sup>1</sup> cannot be subject to a per-customer monthly charge exceeding \$2,400 (<i>R.C. 3706.46(B)</i>).</p>
<b>Per-account monthly charges: commercial and industrial customers exceeding 45 million kilowatt hours</b>	
<p>Specifies that monthly charges for customers classified as commercial or industrial that exceeded 45 million kilowatt hours of electricity at a single location in the preceding year is:</p> <ul style="list-style-type: none"> <li>▪ \$2,500/month (<i>R.C. 3706.47(B)(4)</i>).</li> </ul>	<p>No provision.</p>

<sup>1</sup> R.C. 5727.81(C). It is not clear what the per-customer monthly charge will be for a commercial customer that is a self-assessor.

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Report of megawatt hours produced</b>	
<p>Not later than seven days after the close of each month during a program year (June 1 to May 31 of any year), requires each owner of a certified CAR to report to the Authority the number of megawatt hours it produced in the previous month <i>(R.C. 3706.48)</i>.</p>	<p>Requires, not later than seven days after the close of each quarter, the owner or operator of a qualifying nuclear or renewable resource to report to the Authority the number of megawatt hours it produced, if any, in the previous quarter. Requires the first report to be made not later than April 7, 2020, and the last to be made not later than January 7, 2027 and also requires the information reported to be in accordance with data from the generation attribute tracking system, designated by the Authority. <i>(R.C. 3706.45(A).)</i></p>
<b>Credit calculation</b>	
<p>Specifies that a certified CAR (nuclear and certain solar resources) earns a clean air credit for each megawatt hour of electricity it produces <i>(R.C. 3706.481)</i>.</p>	<p>Requires the Authority to issue one nuclear resource credit to a qualifying nuclear resource for each megawatt hour of electricity that is both reported and approved by the Authority. Requires the Authority to issue one renewable energy credit to a qualifying renewable resource for each megawatt hour of electricity that is both reported and approved by the Authority. <i>(R.C. 3706.45(B).)</i></p>
<b>Credit price</b>	
<p>Requires the clean air credit price paid to a certified CAR (nuclear and certain solar resources) to be \$9, except as provided in the “<b>Credit price adjustment</b>,” described below <i>(R.C. 3706.482(B))</i>.</p>	<p>Requires the nuclear resource credit price paid to an owner or operator of a qualifying nuclear energy resource to be \$9, except as reduced in relation to the annual review requirements of the bill. Requires the price for a renewable energy credit paid to an owner or operator of a qualifying renewable resource to be \$9. <i>(R.C. 3706.45(C) and (D).)</i></p>
<b>Credit price adjustment</b>	
<p>Requires the Authority to apply the credit price adjustment for the upcoming program year (for a CAR fueled by nuclear power) if the market price index exceeds the strike price on that date. Requires the adjustment on April 1 during the first program year and annually on April 1 in subsequent program years to ensure that the purchase of clean air credits remains affordable to retail customers if electricity prices increase. <i>(R.C. 3706.482(C).)</i></p>	<p>Provides for the credit price adjustment pursuant to annual review consideration (described above) <i>(R.C. 3706.61(D))</i>.</p>

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Credit payment: certified CAR</b>	
Requires the Authority, no later than 14 days after the end of each month, to direct the Treasurer of State, to remit money from the fund to each owner of a certified CAR equal to the number of clean air credits earned in the previous month multiplied by the credit price ( <i>R.C. 3706.482(A)</i> ).	No provision.
<b>Credit payment: qualifying nuclear resource remittance</b>	
No provision.	For the period beginning with April of 2020 and ending with January of 2027, the Authority shall, in April of 2020 and every three months thereafter through the end of the period, and not later than 14 days after the receipt of the quarterly resource megawatt report, direct the Treasurer of State to remit money from the Nuclear Generation Fund and subject to prioritization for insufficient funds or reduction as provided by the bill, to the owner or operator of a qualifying nuclear resource, in the amount equivalent to the number of credits earned by the resource during the previous quarter multiplied by the credit price, and as directed by the Authority ( <i>R.C. 3706.55(A)(1)</i> ).
<b>Credit payment: qualifying renewable resource remittance</b>	
No provision.	For the period beginning with April of 2020 and ending with January of 2027, the Authority shall, in April of 2020 and every three months thereafter through the end of the period, and not later than 14 days after the receipt of the quarterly resource megawatt report, direct the Treasurer of State to remit money from the Renewable Generation Fund and subject to adjustment for insufficient funds as provided by the bill, to the owners or operators of qualifying renewable resources, in the amount equivalent to the number of credits earned by the resources during the previous quarter multiplied by the credit price ( <i>R.C. 3706.55(A)(2)</i> ).

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Customer refunds</b>	
No provision.	Notwithstanding utility ratemaking law in R.C. 4905.32 that prevents refunds, requires any amount remaining in the Nuclear Generation Fund and the Renewable Generation Fund as of December 31, 2026 (except for remittances required to be made by January 21, 2027) to be refunded to the customers in a manner determined by the Authority in consultation with PUCO ( <i>R.C. 3706.55(B)</i> ).
<b>Insufficient funds/unpaid credits: CARs</b>	
<p>If the money in the fund is insufficient in a particular month to make the remittances as required under the bill, requires money to be remitted to pay for unpaid credits first to the owners of CARs fueled by nuclear power and then to the owners of CARs that use or will use solar energy and specifies that after unpaid credits are paid, other remittances are to be paid in the following order:</p> <ul style="list-style-type: none"> <li>▪ To the owners of CARs fueled by nuclear power;</li> <li>▪ To the owners of CARs that use or will use solar energy;</li> <li>▪ To EDUs as reimbursement for costs certified by PUCO as recoverable according to the bill's accounting mechanism for renewable energy contracts. (<i>R.C. 3706.486.</i>)</li> </ul>	No provision.
<b>Insufficient funds/unpaid credits: qualifying nuclear resources</b>	
No provision.	Provides that if the money in the Nuclear Generation Fund is insufficient in a particular quarter to make the payments for nuclear resource credits, then the Authority is required, not later than 21 days after the close of any quarter in which the owner or operator was not fully compensated, direct the Treasurer of State to remit money from the fund to pay for the unpaid credits ( <i>R.C. 3706.59(A)</i> ).

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Insufficient funds/unpaid credits: qualifying renewable resources</b>	
<p>No provision.</p>	<p>Provides that if the money in the Renewable Generation Fund is insufficient to make the payments for renewable resource credits for all owners and operators of qualifying renewable resources, the Authority is required to do both of the following:</p> <ul style="list-style-type: none"> <li>▪ Not later than 21 days after the close of the quarter in which the charges collected were insufficient, direct the Treasurer of State to prorate payments from the total amount available in the Renewable Generation Fund, based on the number of each resource's credits earned during the previous quarter;</li> <li>▪ Not later than 21 days after the close of any quarter in which the owners or operators received prorated payments, direct the Treasurer of State to remit money from the Renewable Generation Fund to pay for the unpaid credits. Requires the unpaid credits to be paid before any other remittances are paid for current renewable resource credits.</li> </ul> <p><i>(R.C. 3706.59(B).)</i></p>
<b>Rules</b>	
<p>Requires the Authority to adopt rules necessary to begin the implementation of the program not later than 90 days after the bill's effective date and rules necessary for further implementation and administration of the program not later than 275 days after the bill's effective date. Requires the rules to include provisions for (1) tracking the number of clean air credits earned by each CAR during each month of a program year based on the megawatt information reported by the CAR and (2) the annual audit required under the bill. Requires the Authority to also adopt rules to provide for Ohio a system of registering clean air credits by specifying that the generation attribute tracking system may be used and not by creating a registry. <i>(R.C. 3706.483 and 3706.50(B) and(C).)</i></p>	<p>Requires the Authority, not later than January 1, 2020, to adopt rules under R.C. Chapter 119 (the Administrative Procedure Act) that are necessary to implement the credit payment regime <i>(R.C. 3706.63).</i></p>

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Use of PUCO staff and experts</b>	
No provision.	Permits the Authority, for purposes of carrying out its duties under the credit system, to make use of PUCO staff and experts in such a manner as is provided by mutual arrangement between the Authority and PUCO and specifies that any PUCO information, data, and equipment must be placed at the disposal of the Authority. Provides that if information, data, or equipment is not a public record because it is in the Authority's or PUCO's possession, then its sharing as described above does not render that information, data, and equipment public records. <i>(R.C. 3706.65.)</i>
<b>Pledges for air quality development and related capital formation and investment</b>	
Allows the Authority to pledge a portion of moneys that may, in the future, be accumulated in the fund for the benefit of any certified CAR provided the resource agrees to be bound by the conditions the Authority may attach to the pledge and specifies that the Authority is not required to direct the distribution of fund moneys unless adequate moneys are available and that the provisions of the bill do not cause any pledge to be construed or applied to create a general obligation of or for the state <i>(R.C. 3706.49)</i> .	No provision.
<b>Authority membership: legislative members</b>	
Adds four legislative members to the Authority, one appointed by the Speaker of the House, one by the President of the Senate, one by the House Minority Leader, and one by the Senate Minority Leader. Specifies that legislative members are nonvoting, ex officio members of the Authority and serve without compensation. <i>(R.C. 3706.02(B)(4).)</i>	No provision.
<b>Authority membership: public members</b>	
Adds two members of the general public to the Authority, one appointed by the President of the Senate, and one appointed by the Speaker of the House, who are to be voting members, receive no compensation, and have a term of four years <i>(R.C. 3706.02(B)(5)).</i>	No provision.

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Authority membership: surety bond exemption</b>	
Provides that the four legislative members and two general public members are exempt from the surety bond requirement imposed on certain other Authority members ( <i>R.C. 3706.02(D)</i> ).	No provision.
<b>Resources including Ohio Valley Electric Corporation</b>	
Defines as a “national security generation resource” all generating facilities owned directly or indirectly by a corporation that was formed prior to 1960 by investor-owned utilities <i>for the original purpose of providing capacity and electricity</i> to the federal government for use in the nation’s defense or in furtherance of national interests and includes the Ohio Valley Electric Corporation (OVEC) ( <i>R.C. 4928.01(A)(41)</i> ).	Defines such facilities as a “legacy generation resource,” but specifies that they were formed for <i>the original purpose of providing power</i> to the federal government for use in the nation’s defense or in furtherance of national interests ( <i>R.C. 4928.01(A)(41)</i> ).
<b>Recovery for a national security generation resource/legacy generation resource</b>	
Permits an EDU to continue recovering, through 2030, its national security generation resource net impact after the expiration of any mechanism authorized by the PUCO to recover that impact. Makes the recovery subject to audit, reconciliation, and a prudence review. ( <i>R.C. 4928.01, 4928.147, and 4928.148.</i> )	Provides that, on January 1, 2020, PUCO must replace any mechanism authorized by the public utilities commission prior to the effective date of this section for retail recovery of prudently incurred costs related to a legacy generation resource with a nonbypassable rate mechanism for recovery of those costs through December 31, 2030, from customers of all EDUs in Ohio ( <i>R.C. 4928.148(A)</i> ).
No provision.	Specifies that the nonbypassable rate mechanism (to be established through a PUCO-determined process) is not for an increase in any rate, joint rate, toll, classification, charge, or rental notwithstanding anything to the contrary in the public utilities law ( <i>R.C. 4928.148(A)</i> ).



As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Recovery for a national security generation resource/legacy generation resource: prudence and reasonableness reviews</b>	
Requires PUCO to determine, every three years, the prudence and reasonableness of EDU's actions related to the national security generation resource and exclude from recovery those costs that the PUCO determines imprudent and unreasonable ( <i>R.C. 4928.148(A)(1)</i> ).	Requires PUCO to determine the prudence and reasonableness of the actions of EDUs with ownership interests in the legacy generation resource and exclude from recovery the costs that PUCO determines are imprudent or unreasonable and specifies that this determination is to be made during 2021 for actions in 2020, and again in 2024, 2027, and 2030 during the three calendar years that preceded the year of the determination ( <i>R.C. 4928.148 (A)(1)</i> ).
<b>Recovery for a national security generation resource/legacy generation resource: cost caps</b>	
Caps the recovery at \$2.50 per month per customer for residential customers and \$2,500 per month per customer for other customer classes ( <i>R.C. 4928.148(A)(2)</i> ).	Caps the recovery at \$1.50 per month per customer for residential customers and \$1,500 per month per customer for other customer classes ( <i>R.C. 4928.148(A)(2)</i> ).
<b>Recovery for a national security generation resource/legacy generation resource: PUCO inquiry</b>	
Requires PUCO to conduct an inquiry in 2029 to determine whether it is in the public interest to continue recovery of the national security generation resource net impact after 2030 and report its findings to the General Assembly ( <i>R.C. 4928.148(B)</i> ).	No provision.
<b>Recovery for a national security generation resource/legacy generation resource: General Assembly action</b>	
Provides for the discontinuation of the nonbypassable rate mechanism on December 31, 2030, unless extended by the General Assembly ( <i>R.C. 4928.148(A)(3)</i> ).	No provision.
<b>Recovery for a national security generation resource/legacy generation resource: cutoff deferral recovery</b>	
No provision.	Provides for discontinuation of recovery of any deferrals of prudently incurred costs related to a legacy generation resource, on December 31, 2030 ( <i>R.C. 4928.148(A)(3)</i> ).

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Recovery for a national security generation resource/legacy generation resource: EDU with no ownership interest</b>	
No provision.	Requires PUCO to determine the manner in which charges collected by an EDU with no ownership interest in a legacy generation resource shall be remitted to the EDUs with such ownership interests, in direct proportion to each EDU's sponsorship interest ( <i>R.C. 4928.148(A)(4)</i> ).
<b>Recovery for a national security generation resource/legacy generation resource: state policy</b>	
Adds that it is state policy to provide clarity in cost recovery for Ohio-based EDUs in conjunction with national security generation resources and support EDU and affiliate divestiture of ownership interests in any national security generation resource if divestiture efforts result in no adverse consequences to the EDU ( <i>R.C. 4928.02(O)</i> ).	No provision.
<b>Renewable energy requirements</b>	
Repeals the renewable energy requirements effective January 1, 2020 ( <i>R.C. 1710.061, 4928.64, 4928.643, 4928.644, and 4928.65 (repealed)</i> ); conforming changes in <i>R.C. 1710.06, 4928.01, 4928.142, 4928.143, 4928.20, 4928.61, 4928.62, 4928.641, 4928.645, 4928.66, 5501.311, and 5727.75; Section 10</i> ).	Changes the renewable energy requirements for years 2020 through 2025 so that by the end of 2026, an EDU and an electric services company (ESC) shall provide 8.5% of their electricity supply from qualifying renewable energy resources, with no requirement that a portion come from solar energy resources (solar energy resource requirement ends as of 2019 at 0.22%). Removes the requirement that an EDU and ESC maintain those compliance levels in subsequent years. ( <i>R.C. 4928.64(B) and (C)(2)</i> .)
<b>Renewable energy compliance reduction with solar pooling</b>	
No provision.	Provides that, beginning with compliance year 2020, PUCO is required to reduce the kilowatt hour renewable energy resource requirements for all EDUs and ESCs in Ohio by taking the total amount of kilowatt hours produced, if any, by all "qualifying renewable resources" (solar facility of 50 or more megawatts with a Power Siting Board certificate issued before June 1, 2019--defined above), during the preceding compliance year, allocating that total among all EDUs and ESCs in proportion to their baselines for the subject compliance year, and subtracting that allocated amount from the EDU's and ESC's compliance

As Passed by the House	As Reported by S. Energy and Public Utilities
	amount as otherwise determined under the renewable energy resource requirements ( <i>R.C. 4928.642</i> ).
<b>Renewable energy credit limitations</b>	
No provision.	Provides that, beginning January 1, 2020, a “qualifying renewable resource” (solar facility of 50 or more megawatts with a Power Siting Board certificate issued before June 1, 2019--defined above) is not eligible to obtain a renewable energy credit available under the renewable energy requirement law for any megawatt hour for which the resource has been issued a renewable energy credit under the credit system established in the bill ( <i>R.C. 4928.645(C)</i> ).
<b>Renewable energy service purchase programs</b>	
Allows an EDU, subject to approval by PUCO and regardless of any limitations set forth in any other section of R.C. Chapter 4928 to offer a customer the opportunity to purchase renewable energy services on a nondiscriminatory basis, by offering a customer (1) the opportunity to purchase RECs for any purpose the customer elects, or (2) a nondiscriminatory schedule or reasonable arrangement involving the production and supply of renewable energy. Provides that PUCO may not approve any schedule or arrangement unless the schedule or arrangement does not cause an undue burden or unreasonable preference or disadvantage to nonparticipating customers and the EDU commits to comply with any conditions PUCO imposes to ensure that the EDU and participating customers are solely responsible for the risks, costs, and benefits of any schedule or arrangement. ( <i>R.C. 4928.647</i> .)	No provision.
<b>Renewable energy contract costs</b>	
Provides for an EDU to recover its costs for existing renewable energy contractual obligations affected by the repeal of the renewable energy requirements. Provides for recovery through the Ohio Clean Air Program Fund or through a distribution charge on the EDU’s retail customers if fund money is insufficient. Provides other regulatory devices, including the use of regulatory	Provides that an EDU that executed a contract before April 1, 2014 to procure renewable energy resources and ongoing costs under that contract were being recovered as of September 12, 2014, that cost recovery is required to continue on a bypassable basis through December 31, 2032, instead of “until the prudently incurred costs . . . are fully recovered” (as existing law provides).

As Passed by the House	As Reported by S. Energy and Public Utilities
assets, to aid cost recovery. <i>(R.C. 3706.485 and 4928.641.)</i>	Specifies that this recovery will take place regardless of the changes made to the renewable energy portfolio standards in the bill. <i>(R.C. 4928.641(A).)</i>
<b>Energy efficiency requirements: specific recovery provisions for early terminated portfolio plans</b>	
Provides for cost recovery for energy efficiency/peak demand reduction portfolio plans that terminate on December 31, 2020 (as required by the bill), which is before the end of their PUCO-approved term <i>(R.C. 4928.66(G)).</i>	No provision.
<b>Energy efficiency requirements: pooling to meet 17.5% collective energy efficiency savings</b>	
No provision.	Requires PUCO, not later than February 1, 2021, to determine the cumulative energy savings collectively estimated by PUCO to be achieved, since 2009, by all EDUs in Ohio as of December 31, 2020 and determine if the total meets 17.5% of the collective baseline the bill provides for all the EDUs. Provides, generally that if the total is 17.5% or more, then full compliance with the energy efficiency requirements are deemed to have been achieved for all EDUs collectively. Provides for PUCO to determine further energy efficiency programs that must occur if 17.5% is not collectively achieved, including PUCO establishing a date certain when full compliance will be deemed achieved. Provides that EDU cost recovery mechanisms will terminate on the date full compliance is deemed achieved, except as may be necessary for a final reconciliation between revenue collected and allowable cost of compliance associated with compliance efforts occurring prior to the date full compliance is deemed achieved. <i>(R.C. 4928.66(G).)</i>
<b>Energy efficiency programs: application for approval</b>	
Allows an electric distribution utility to apply to PUCO for approval of programs to encourage energy efficiency/peak demand reduction, which programs may begin in 2021 <i>(R.C. 4928.661).</i>	No provision.

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Energy efficiency programs: expansion of “portfolio plan” definition</b>	
<p>Expands the definition of “portfolio plan” for purposes of energy efficiency/peak demand reduction requirements to programs to encourage energy efficiency/peak demand reduction, which programs may begin in 2021 <i>(R.C. 4928.6610(C)(2)).</i></p>	<p>Expands the definition of “portfolio plan” for purposes of energy efficiency/peak demand reduction requirements to programs to PUCO energy efficiency programs that must occur if 17.5% is not collectively achieved <i>(R.C. 4928.6610(C)(2)).</i></p>
<b>Mercantile customer competitiveness</b>	
<p>No provision.</p>	<p>To facilitate competitiveness of mercantile customers that are located in Ohio and are registered as self-assessing purchasers for purposes of the Kilowatt Hour Tax:</p> <ul style="list-style-type: none"> <li>▪ Requires PUCO to reduce the EDU and ESC baselines used to determine compliance with renewable energy resource requirements to exclude the load and usage of such mercantile customers;</li> <li>▪ Upon the effective date of the reduction: <ul style="list-style-type: none"> <li>❖ Relieves any EDU or ESC serving the mercantile customer from the amount of compliance that would be required but for the reduction;</li> <li>❖ Exempts such mercantile customers from any bypassable charge for the costs of renewable energy resource requirements. <i>(R.C. 4928.644(B).)</i></li> </ul> </li> </ul>
<b>Power agreements with mercantile customers</b>	
<p>Requires PUCO to facilitate and encourage the establishment of retail purchased power agreements having a term of three years or more through which mercantile customers commit to satisfy a material portion of their electricity requirements from the output of a clean air resource (that is customer-sited and a self-generator) and permits PUCO to exempt such purchased mercantile customers from the per-account monthly charge under the program <i>(R.C. 4928.47).</i></p>	<p>Permits an EDU, on a nondiscriminatory basis and subject to PUCO approval, to enter into an agreement having a term of three years or more with a mercantile customer or group of mercantile customers for the purpose of constructing a customer-sited renewable energy resource in Ohio that will provide the mercantile customer or group with a material portion of the customer’s or group’s electricity requirements. <i>(R.C. 4928.47(A)).</i></p>

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Power agreements with mercantile customers: responsibility for costs</b>	
No provision.	Requires any direct or indirect costs, including costs for infrastructure development or generation, associated with the in-state customer-sited renewable energy resource (described above) to be paid for solely by the EDU and the mercantile customer or group of mercantile customers. Specifies that at no point may PUCO authorize the EDU to collect, nor may the EDU ever collect, any of these costs from any customer other than the mercantile customer or group of mercantile customers. <i>(R.C. 4928.47(B)).</i>
<b>Power agreements with mercantile customers: rules</b>	
Requires PUCO to promulgate rules (1) to begin implementation of the power agreement provisions not later than 90 days after the bill's effective date and (2) for further implementation and administration of the provisions not later than 275 days after the bill's effective date <i>(R.C. 4928.47(C)).</i>	No provision.
<b>Report on Federal Energy Regulatory Commission (FERC) capacity program: end-use customer participation in PJM demand response program</b>	
If FERC authorizes a program for states to take action relating to capacity resources in the organized wholesale market, requires PUCO to promptly review the program and submit a report with recommendations regarding procurement and legislation to the General Assembly and to also incorporate in the report 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).</i>	No provision.

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>Taxable property</b>	
<p>Permits an electric company with taxable property that is, or is part of, a certified CAR fueled by nuclear power to file a petition for reassessment seeking a reduction in taxable value of that property, provided that any such petition may not request, and the tax commissioner has no authority to grant, a reduction in taxable value below the taxable values for such property as of the effective date of the bill (<i>R.C. 5727.47(G)</i>).</p>	<p>Prohibits the taxable property of an electric company that is or is part of a qualifying nuclear resource receiving payments for nuclear resource credits for any part of a tax year to be assessed for that year at less than the taxable value of such property as of the effective date of the bill. Prohibits the electric company from valuing such property at less than its taxable value as of that date in its annual report filed or from filing a petition for reassessment seeking a reduction in taxable value below the taxable value of such property as of that date, and prohibits the tax commissioner from granting such a reduction (<i>R.C. 5727.231</i>).</p>
<b>Township referendum for wind farms</b>	
<p>Establishes a procedure for electors in the unincorporated areas of a township to submit a referendum petition to approve or reject a certificate issued by the Power Siting Board for a wind farm that is to be located in whole or in part in the township. Provides that the certificate is invalid if rejected at the referendum by electors from all participating townships. Requires the Power Siting Board to modify the certificate if not all participating townships' electors reject the certificate. Applies the referendum only to major utility wind farms (50 or more megawatts) and economically significant wind farms (5 to less than 50 megawatts, except for those that are 5 to less than 20 megawatts that meet certain requirements). (<i>R.C. 519.214, 519.215, 4906.10, 4906.101, 4906.13, 4906.20, 4906.201, and 4906.203.</i>)</p>	<p>No provision.</p>
<b>HEAP waiver</b>	
<p>Beginning in fiscal year 2021 and in each fiscal year thereafter, the Director of Development Services must submit a waiver to the U.S. Department of Health and Human Services and any other applicable federal agencies so Ohio can expend 25% of federal low-income home energy assistance programs funds from the home energy assistance block grants for purposes of weatherization services (<i>R.C. 4928.75</i>).</p>	<p>Includes the same waiver provision, but adds a provision allowing federal funds deposited to the credit of the Home Energy Assistance Block Grant Fund to be expended from the HEAP Weatherization appropriation item to provide home weatherization services in Ohio as determined by the Director of Development Services (<i>R.C. 4928.75 and Section 5</i>).</p>

As Passed by the House	As Reported by S. Energy and Public Utilities
<b>E-check</b>	
<p>Authorizes the Director of the Ohio Environmental Protection Agency to apply to the Administrator of the U.S. Environmental Protection Agency for an exemption from the requirement of the federal Clean Air Act to implement E-Check, a program to achieve compliance with the Clean Air Act's air pollution standards. Permits the Director to make the application no earlier than two years from the bill's effective date. In making the application, requires the Director to request the Administrator to authorize implementation of the Ohio Clean Air Program established by the bill as an alternative to E-Check. (<i>Section 9.</i>)</p>	<p>No provision.</p>
<b>Severability clause</b>	
<p>Provides that if any provision of the bill or the application of any of its provisions is held invalid, the invalidity does not affect other provisions or applications of the bill that can be given effect without the invalid provision or application, and the provisions are severable (<i>Section 11.</i>)</p>	<p>No provision.</p>
<b>County fairs and agricultural societies</b>	
<p>Requires an EDU to file a tariff with the PUCO applicable to county fairs and agricultural societies that includes a fixed monthly service fee or an energy charge on a kilowatt-hour basis and requires an EDU to be eligible to recover any revenue loss associated with the customer migration to the new tariff (<i>R.C. 4928.80.</i>)</p>	<p>Requires an EDU to file a <i>rate schedule</i> with the PUCO applicable to county fairs and agricultural societies that includes a fixed monthly service fee or an energy charge on a kilowatt-hour basis, and requires an EDU to be eligible to recover any revenue loss associated with customer migration to the new <i>rate schedule</i> (<i>R.C. 4928.80.</i>)</p>