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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of House Committee Amendments

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

### S.B. 41 of the 135<sup>th</sup> General Assembly

#### House Economic and Workforce Development

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#### **Battery-charged fences**

Eliminates state regulation of battery-charged fences installed on private, nonresidential property, and instead expressly authorizes the installation, operation, and use of such fences.

Prohibits a county, township, or municipal corporation from adopting or enforcing an ordinance, order, resolution, or regulation that expressly, implicitly, or functionally prohibits the installation of a battery-charged fence that meets all of the following standards:

- The fence interfaces with a monitored alarm system;
- The fence functions with a battery-operated energizer that is intended to periodically deliver voltage impulses at a rate that does not exceed 1 hertz and an impulse duration that does not exceed 10 milliseconds;
- The fence is four to twelve inches behind a nonbattery-charged perimeter fence, wall, or structure that is at least 5 feet in height;
- The fence is 10 feet in height, or 2 feet higher than the height of the nonelectric perimeter fence or wall, whichever is greater;
- The fence is marked with conspicuous warning signs at not more than 30-foot intervals that read: “WARNING – SHOCK HAZARD” or some similar message.

Retains the authority of a county, township, or municipal corporation to require a permit or fee for the installation or use of a battery-charged fence or to prohibit or impose requirements on the installation, operation, or use of a fence that does not meet the standards described above.

#### **Governmental entity public way fees**

Permits a public utility subject to Public Utilities Commission (PUCO) jurisdiction to file an application with PUCO for the accounting authority to classify costs that meet both of the following as regulatory assets subject to recovery:

- The cost is directly incurred by the utility due to governmental entity (defined in the bill as a state agency or political subdivision that is not a municipal corporation) regulation of the utility's occupancy or use of a right of way (defined as land designated for public use that is owned or controlled by a governmental entity and is not a private easement, and includes a municipal corporation public way).
- The cost is incurred by the utility after the test year of the utility's most recent rate case proceeding or the initial effective date of rates in effect but not established through a proceeding for an increase in rates.

Requires PUCO to authorize such accounting authority as may be reasonably necessary to classify the cost as a regulatory asset.

Requires PUCO to establish a charge and collection mechanism permitting the utility's full recovery of a regulatory asset described above if the cost is determined to be not practical or if deferred recovery would impose a hardship on the utility or its customers.

Exempts cost recovery authorized as a regulatory asset as described above from any provision of law or agreement establishing price caps, rate freezes, or rate increase moratoria.

Requires PUCO to process applications for classifying the above costs as regulatory assets in the same manner as applications for the recovery of certain municipal public way fees and for authorization of accounting authority to classify certain municipal public way fees as regulatory assets and specifies that a final order regarding a recovery mechanism authorized under the amendment must provide for retroactive adjustment as PUCO determines appropriate.

Clarifies, for purposes of authorizing regulatory assets related to the use or occupancy of a municipal public way, costs incurred by a public utility as a result of municipal corporation regulation (instead of local regulation as in current law) of its use or occupancy.

## **Purchase agreements and workers' compensation experience transfers**

States that an employer is not required to provide the Administrator of Workers' Compensation with a copy of a purchase agreement for the Administrator to complete a transfer of experience when an employer transfers a business to another employer if there is a family relationship or other similar connection between the predecessor and the successor.

## **Pay Stub Protection Act**

Requires an employer, on the employer's regular paydays, to provide each of the employer's employees with a statement or access to a statement of the employee's earnings and deductions for the pay period.

Requires an employer who does not provide the statement or access to the statement at the time required under the bill to provide the statement not later than ten days after receiving an employee's request for the statement.

Permits an employee who does not receive the requested statement within ten days of requesting it to report the violation to the Director of Commerce, who must notify the employer in writing of the violation.

Requires, if an employer receives a notice from the Director, the employer to post the notice or a copy of the notice in a conspicuous place on the employer's premises for ten days.

### **Waste energy recovery system**

Includes a facility that produces and uses steam, or transfers it, from recovered waste heat from a manufacturing process to another manufacturing process or to generate electricity as a "waste energy recovery system," which would include such facilities under Ohio's energy efficiency laws.

### **Broadband Pole Replacement and Undergrounding Program**

Modifies the reimbursement formula under the Broadband Pole Replacement and Undergrounding Program as follows:

- For actual and reasonable costs to perform a pole replacement or mid-span pole installation, reimbursements are equal to the lesser of \$7,500 multiplied by the number of pole replacements and mid-pole installations in an application, or 75% of the total eligible costs therein.
- For actual and reasonable undergrounding costs, reimbursements must not exceed 75% of the total eligible costs therein, but are limited to the reimbursement amount that would be available if the applicant did a pole replacement or mid-span pole installation instead of undergrounding that infrastructure.

Currently, the pole replacement or mid-span pole installation reimbursement is the lesser of \$7,500 or 75% of the total amount paid for each replacement or installation. The total reimbursement for undergrounding costs must not exceed what otherwise would be available if pole replacement or mid-span pole installation were done instead.

To the list of undergrounding costs that are eligible for reimbursement, adds costs incurred if the undergrounding is needed because the process for obtaining access to poles is causing, or reasonably anticipated to cause, a delay that will impact the ability of the provider to meet deadlines required by an agreement or terms of support to provide qualifying broadband service to an address within an unserved area.

### **Manipulative practices, greenmail under Ohio Securities Law**

Specifies that a corporation can recover the profits from the disposition of equity securities if the person proposing to acquire control of the corporation engages in manipulative practices.

Defines "manipulative practices" as (1) greenmail, which is the act of staging a hostile takeover bid in order to manipulate a corporation into repurchasing its own common stock at a premium above the current market price, and (2) any other act that the Division of Securities defines as a "manipulative practice" pursuant to existing law authority.

Specifies that “to acquire control of the corporation” does not include attempts by shareholders to influence a corporation’s policies or actions, including the nomination of candidates for director of the corporation.

Revises the definition of “disposition of equity securities of a corporation.”

Specifies that the General Assembly’s intent in amending the statute is to clarify, and not alter, the scope of conduct or practices under the statute.

### **Agricultural use exemption for sales and use tax**

Allows a purchaser to provide three years of filed federal farm profit and loss forms to the Tax Commissioner to verify that certain vehicles and trailers are primarily used in agriculture, and thus exempt from sales and use tax.

Allows the Tax Commissioner to issue certificates, which may be provided to a vendor, verifying that a consumer has filed three years of those forms with the Commissioner.