Ohio Legislative Service Commission

Sub. Bill Comparative Synopsis

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Sub. H.B. 114

132 General Assembly

(S. Energy & Natural Resources)

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 bills differ substantively. It does not list topics on which the two bills are substantively the same. For ease of review, those matters addressing only renewable energy are blue-gray shaded. Those matters addressing only energy efficiency and peak demand reduction are tan shaded.

Topic	Previous Version (As Passed by the House)	Sub. Version (L_132_2123-5)
RENEWABLES: **Permissive provision of renewable energy resources**	Permits, rather than requires, electric distribution utilities (EDUs) and electric services companies (ESCs) to provide portions of their electricity supplies from qualifying renewable energy resources, as long as their costs of providing those portions do not exceed a 3% cost cap, and repeals or modifies provisions related to the current requirements, such as provisions governing the Public Utilities Commission's (PUCO's) review of compliance and provisions governing the use of renewable energy credits *(R.C. 4928.142(D)(3), 4928.143(D), 4928.20(J), 4928.61(B)(4), 4928.62(A)(2), 4928.64, 4928.641, 4928.643, 4928.644, 4928.645, 4928.65, and 5727.75)*.	No provision.

<table>
<tr><th>Topic</th><th>Previous Version
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(L_132_2123-5)</th></tr>
<tr><td>RENEWABLES:
Indefinite continuance
(R.C. 4928.64(B))</td><td>Repeals the requirement that the renewable energy benchmarks continue indefinitely past 2026, which would effectively permit EDUs and ESCs to provide 12.5% of their power from qualifying renewable energy resources in 2026, and not expressly permit them to provide any power from those resources in future years.</td><td>Maintains the requirement that the renewable energy benchmarks be mandatory for an indefinite time, but changes the benchmark percentages as follows:
<table>
<tr><th rowspan="2">Year</th><th colspan="2">Current law</th><th colspan="2">The bill</th></tr>
<tr><td>Overall</td><td>Solar</td><td>Overall</td><td>Solar</td></tr>
<tr><td>2018</td><td>4.5%</td><td>0.18%</td><td>4.5%</td><td>0.18%</td></tr>
<tr><td>2019</td><td>5.5%</td><td>0.22%</td><td>5.5%</td><td>0.22%</td></tr>
<tr><td>2020</td><td>6.5%</td><td>0.26%</td><td>6.5%</td><td>0.26%</td></tr>
<tr><td>2021</td><td>7.5%</td><td>0.3%</td><td>7.5%</td><td>0.3%</td></tr>
<tr><td>2022</td><td>8.5%</td><td>0.34%</td><td>8.5%</td><td>0.34%</td></tr>
<tr><td>2023</td><td>9.5%</td><td>0.38%</td><td>8.5%</td><td>0.34%</td></tr>
<tr><td>2024</td><td>10.5%</td><td>0.42%</td><td>8.5%</td><td>0.34%</td></tr>
<tr><td>2025</td><td>11.5%</td><td>0.46%</td><td>8.5%</td><td>0.34%</td></tr>
<tr><td>2026 and future years</td><td>12.5%</td><td>0.5%</td><td>8.5%</td><td>0.34%</td></tr>
</table></td></tr>
<tr><td>RENEWABLES:
Compliance payments</td><td>No provision.</td><td>Clarifies that the compliance payments for the solar portion of the renewable energy requirements extend indefinitely beyond 2026 (R.C. 4928.64(C)(2)(a)(iv)).</td></tr>
<tr><td>RENEWABLES:
Opt out</td><td>Permits, beginning January 1, 2019, and subject to rules that the bill requires the PUCO to adopt, all customers to opt out of paying any rider, charge, or other cost recovery mechanism designed to recover an EDU's or ESC's cost of</td><td>No provision.</td></tr>
</table>

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	providing electricity from qualifying renewable energy resources *(R.C. 4928.20(J) and 4928.647)*.	
RENEWABLES: Definition change	Modifies the definition of renewable energy resources and qualifying renewable energy resources to include power produced by a small hydroelectric facility, and excludes small hydroelectric facilities from standards defining hydroelectric facilities *(R.C. 4928.01(A)(37)(a)(iv) and (A)(37)(c) and 4928.64(A)(1)(c))*.	No provision.[1]
RENEWABLES: Recovery of costs for procurement contracts	Requires continued recovery from customers of ongoing costs associated with EDUs' contracts to procure resources to comply with the current qualifying renewable energy requirements, if those contracts were entered into before the bill's effective date *(R.C. 4928.641)*.	No provision.
RENEWABLES: Baseline for percentage reporting excludes opt-out customers	Requires that if an EDU or ESC reports the amount of electricity provided from qualifying renewable energy resources as a portion of its electricity supply, then the portion must be reported as a percentage of a baseline that the bill defines to exclude customers who opt out of paying any rider, charge, or other cost recovery mechanism designed to recover an EDU's or ESC's cost of providing electricity from qualifying renewable energy resources *(R.C. 4928.643, 4928.644, 4928.647, and 4928.6620(A))*.[2]	No provision.

[1] The changes regarding small hydroelectric facilities have been enacted since Sub. H.B. 114 was passed by the House.

[2] A technical amendment is needed to include reference to ESC reports (R.C. 4928.643(B)).

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RENEWABLES: **Rules regarding customer disclosure**	Requires, by January 1, 2018, the PUCO to adopt rules governing disclosure to customers of the costs of electricity provided after the bill's effective date from qualifying renewable energy resources *(R.C. 4928.65)*.	No provision.
RENEWABLES: **EDU and ESC reporting requirement** *(R.C. 4928.6620(A))*	Beginning in 2018, requires every EDU and ESC to report to the PUCO, by July 1 of each year, the amount of electricity that the EDU or ESC provided from qualifying renewable energy resources during the prior calendar year.	Requires every EDU and ESC to report to the PUCO, by July 1 of each year, on the EDU's or ESC's status of compliance with the renewable energy requirements.
RENEWABLES: **Bypassability of the cost for provision**	States that an EDU's costs for "providing electricity from qualifying renewable energy resources" (instead of the costs for "complying with the [qualifying renewable energy] requirements" as provided under current law) are bypassable by any consumer that shops for an electric supplier *(R.C. 4928.143(B) and 4928.64(G))*.	No provision.
RENEWABLES: **PUCO's August report – compliance v. provision**	Requires the PUCO's August 1 report to the General Assembly and the Ohio Consumers' Counsel to detail the amount of electricity provided by EDUs and ESCs from qualifying renewable energy resources *(R.C. 4928.6620(B)(2))*.	Requires the report to detail the compliance of EDUs and ESCs with the renewable energy requirements *(R.C. 4928.6620(B)(1)).*
RENEWABLES: **PUCO's August report – compliance strategy**	No provision.	Requires the PUCO's August 1 report to the General Assembly and the Ohio Consumers' Counsel to detail "any strategy for [EDU] and [ESC] compliance" *(R.C. 4928.6620(B)(3)).*

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<tr><th>Topic</th><th>Previous Version
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<tr><td>RENEWABLES:
PUCO review of compliance</td><td>No provision.</td><td>Requires the PUCO's annual review of compliance with the renewable energy requirements to be based on the information reported by the EDUs and ESCs and any other information that is public (R.C. 4928.64(C)(1)).</td></tr>
<tr><td>ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION (EE/PDR):
Certain EE requirements unenforceable</td><td>Effectively makes the EE requirements for 2017, 2018, 2020, 2021, 2023, 2024, and 2026 no longer true requirements (R.C. 4928.66(A)(1)(c) and 4928.66(B)).</td><td>No provision.</td></tr>
<tr><td>EE/PDR:
EE benchmarks (R.C. 4928.66(A)(1)(a))</td><td>Changes the EE benchmarks as follows:
<table>
<tr><th>Year</th><th>Current law</th><th>The bill</th></tr>
<tr><td>2017</td><td>1%</td><td>1%*</td></tr>
<tr><td>2018</td><td>1%</td><td>1%*</td></tr>
<tr><td>2019</td><td>1%</td><td>1%</td></tr>
<tr><td>2020</td><td>1%</td><td>1%*</td></tr>
<tr><td>2021</td><td>2%</td><td>1%*</td></tr>
<tr><td>2022</td><td>2%</td><td>1%</td></tr>
<tr><td>2023</td><td>2%</td><td>1%*</td></tr>
<tr><td>2024</td><td>2%</td><td>1%*</td></tr>
<tr><td>2025</td><td>2%</td><td>1%</td></tr>
<tr><td>2026</td><td>2%</td><td>2%*</td></tr>
<tr><td>2027</td><td>2%</td><td>2%</td></tr>
<tr><td>Cumulative</td><td>22.2%</td><td>17.2%</td></tr>
<tr><td colspan="3">*not true requirements</td></tr>
</table></td><td>Changes the EE benchmarks as follows:
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<tr><td>2017</td><td>1%</td><td>1%</td></tr>
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<tr><td>2020</td><td>1%</td><td>1%</td></tr>
<tr><td>2021</td><td>2%</td><td>1.5%</td></tr>
<tr><td>2022</td><td>2%</td><td>1.5%</td></tr>
<tr><td>2023</td><td>2%</td><td>1.5%</td></tr>
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<tr><td>2027</td><td>2%</td><td>-------</td></tr>
<tr><td>Cumulative</td><td>22.2%</td><td>17.2%</td></tr>
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		Clarifies that there are no more EE requirements after 2026.
EE/PDR: **EE programs cost effective**	Requires all parts of an EE program to be shown to be cost effective, which the bill requires to be determined by the PUCO *(R.C. 4928.667)*.	No provision.
EE/PDR: **EE program savings included in incentives**	Requires all energy savings from EE programs to be eligible for inclusion in any incentive calculation by the PUCO *(R.C. 4928.665)*.	No provision.
EE/PDR: **Use of banked EE/PDR amounts**	No provision.	Allows an EDU to use banked EE/PDR amounts to exceed the EE/PDR requirements in future years. (Current law permits EDUs to use banked EE/PDR amounts only to achieve the EE/PDR requirements in future years.) *(R.C. 4928.662(G), recodified with changes as 4928.6621(A).)* Specifies that once banked EE/PDR amounts have been applied, they may not be applied again *(R.C. 4928.6621(A))*.
EE/PDR: **Incentives** *(R.C. 4928.6621(B))*	Requires an EDU to be deemed in compliance with the EE/PDR requirements and to be eligible for PUCO-approved incentives in any year in which the EDU's actual cumulative EE/PDR meets or exceeds the cumulative mandates.	Requires an EDU to receive PUCO-approved incentives in any year in which the EDU exceeds the annual EE/PDR benchmark, even if the amount in excess of that benchmark is due in whole or in part to the use of banked EE/PDR amounts, and even if the EDU applied banked EE/PDR amounts toward achieving that benchmark.
EE/PDR: **Effective date of mercantile opt out**	Sets the effective date of the bill's provisions governing certain mercantile customers' ability to opt out of portfolio plans as of January 1, 2019 *(Section 6)*.	Sets the effective date of those provisions as of January 1, 2020 *(Section 3)*.

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EE/PDR: **Mercantile opt-out requirements**	No provision.	Requires a mercantile customer that became eligible to opt out in 2020 to do both of the following: • Include in its initial opt-out report a description of the energy-intensity tracking and benchmarking approaches that the customer intends to use for designing and implementing projects, actions, policies, or practices to reduce energy intensity *(R.C. 4928.6616(A)(2));* • Include in its updated opt-out reports a description of how the energy-intensity tracking and benchmarking approaches facilitated any energy-intensity reductions *(R.C. 4928.6616(B)(2))*. Permits this information for individual customer accounts that are affiliated through ownership or control to be combined and jointly provided in the reports *(R.C. 4928.6616(C)).*
EE/PDR: **PUCO review of mercantile updated reports**	No provision.	Expressly requires the PUCO to review the updated reports of mercantile customers that became eligible to opt out in 2020, and permits the PUCO staff to request those customers to provide additional information *(R.C. 4928.6616(E) and (F)).*
EE/PDR: **EDUs entitled to lost distribution revenue and program costs**	Requires that EDUs be entitled to lost distribution revenue and "full program costs" (likely referring to costs of EE programs, though the bill is not clear) (*R.C. 4928.664(C))*.	No provision.

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EE/PDR: **EDUs may count programs regardless of ESC involvement**	No provision.	Specifies that the fact that an ESC applies on behalf of its customers for an EE program offered by an EDU does not in any way restrict the EDU's ability to count that program toward its compliance with the EE requirements *(R.C. 4928.667)*.
EE/PDR: **Rules regarding customer disclosure**	Requires, by January 1, 2018 (rather than by January 1, 2015, as provided in current law) the PUCO to adopt rules governing disclosure to customers of the costs of EE/PDR *(R.C. 4928.65)*.	No provision.
EE/PDR: **Items to be counted toward compliance**	Requires that the following be counted toward EE/PDR compliance (but excluded from shared savings): • Energy intensity reductions resulting from heat rate improvements at electric generating plants *(R.C. 4928.66(A)(2)(d)(i)(V) and (A)(2)(d)(ii) and 4928.662(E));* • EE/PDR that occur as a consequence of consumer reductions in water usage or reductions and improvements in wastewater treatment *(R.C. 4928.662(G) and (K))*; • Nonelectric EE/PDR that occur as a consequence of a portfolio plan *(R.C. 4928.662(H));* • EE/PDR associated with heat rate improvements, other efficiency improvements, or other energy intensity improvements, if proposed by an EDU and achieved since 2006 from an electric generating plant that is either owned by	No provision.

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	the EDU or, in some cases, owned and operated by an EDU affiliate *(R.C. 4928.662(I))*. Requires the following to be counted toward EE compliance only (but excluded from shared savings): • Any plan, policy, behavior, or practice that reduces the energy intensity of a facility, pipeline, building, plant, or equipment; or any water supply function or water treatment function *(R.C. 4928.662(J) and (K))*.	
EE/PDR: **Definition of energy intensity**	Modifies the current definition of energy intensity to mean the amount of energy to produce a certain level of output or activity, measured by the quantity of energy needed to perform a particular activity, expressed as energy per unit of output or of gross total floor space, or as an activity measure of service. Broadens the definition's applicability. *(R.C. 4928.66(A)(2)(d)(i)(V), 4928.662, and 4928.6610(B).)*	No provision.
EE/PDR: **Provisions for portfolio plans**	Permits EDUs to apply to the PUCO, not later than 30 days after the bill's effective date, to amend their EE/PDR portfolio plans; enacts provisions governing the PUCO's review of those plans; requires amended plans to accord with the law as amended by the bill; requires EDUs that do *not* apply to amend their plans within the required time period to continue to implement their current plans for the originally	Requires that the bill *not* be construed to require the modification or amendment of any portfolio plan in effect on the bill's effective date *(Section 5)*.

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<tr><td></td><td>approved durations, regardless of whether those plans accord with the new law; and specifies that the amendment or continuance of a plan does not affect certain opt-out provisions (Section 4 and R.C. 4928.6611).</td><td></td></tr>
<tr><td>EE/PDR:
Law from S.B. 310</td><td>Repeals provisions of Sub. S.B. 310 of the 130th General Assembly governing transition provisions for portfolio plans that are no longer applicable (Section 3).</td><td>No provision.</td></tr>
<tr><td>Renewables and EE/PDR:
PUCO testimony</td><td>Requires the PUCO Chairperson, not later than September 1 of each year, to provide testimony on the PUCO's August report required in that year to the standing committees of both houses of the General Assembly that deal with public utility matters (R.C. 4928.6620(C)).</td><td>No provision.</td></tr>
<tr><td>Private wind projects of 5-20 megawatts</td><td>No provision.</td><td>Makes certain private wind projects of 5-20 megawatts subject to local jurisdiction rather than the jurisdiction of the Power Siting Board (R.C. 303.213, 519.213, 713.081, and 4906.13).</td></tr>
<tr><td>Wind farms of at least 5 megawatts: setbacks</td><td>No provision.</td><td>Changes the setbacks for a wind farm of at least 5 megawatts (excluding a private wind project subject to local jurisdiction under the bill) as follows:
<table>
<tr><th>Setback</th><th>Current law</th><th>The bill</th></tr>
<tr><td>Based on turbine height</td><td>1.1 times total height (from turbine base to property line)</td><td>1.2 times total height (from turbine base to property line)</td></tr>
</table></td></tr>
</table>

<table>
<tr><th>Topic</th><th>Previous Version
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<tr><td></td><td></td><td><table><tr><td>Distance in feet</td><td>1,125 feet (from tip of nearest blade to property line)</td><td>1,225 feet (from tip of nearest blade to exterior of nearest, habitable, residential structure)</td></tr></table>
(R.C. 4906.20 and 4906.201.)

Specifies that the bill's changes to the setbacks do not affect the authority, rights, and privileges granted to a board of county commissioners and other county officials under provisions of continuing law governing tax exemptions for qualified energy projects (Section 4).</td></tr>
<tr><td>Wind farms of 5-50 megawatts: meeting and notice requirements</td><td>No provision.</td><td>Requires a person seeking to build a wind farm of 5-50 megawatts (excluding a private wind project subject to local jurisdiction under the bill) to do both of the following:
Hold a public information meeting not later than 90 days before filing an application with the Power Siting Board;
Provide notice (via an area newspaper and letters to certain property owners) that includes information on the meeting and the setback requirements. (R.C. 4906.20(B)(1).)</td></tr>
</table>

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Home energy assistance	Changes funding allocations in H.B. 64 (biennial operating budget for FY 2016-2017) for federal funds from the Home Energy Assistance Block Grant; however, because the section being amended is no longer in effect and the effective date for the changes has passed, they likely would have no effect *(Sections 7, 8, and 9).*	No provision.

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