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OHIO LEGISLATIVE SERVICE COMMISSION

Wendy Zhan, Director

Office of Research
and Drafting

Legislative Budget
Office

R-133-4711

To: The Honorable Theresa Gavarone
Ohio Senate

From: Chenwei Zhang, Attorney *CZ*

Date: August 25, 2020

Subject: Comparison of H.B. 6 As Passed by the House and Senate

The following table compares the provisions of Sub. H.B. 6, As Passed by the House, and Am. Sub. H.B. 6, As Passed by the Senate, of the 133rd General Assembly.

I hope this information is helpful. If you have additional questions, please feel free to contact me at chenwei.zhang@lsc.ohio.gov or (614) 466-3976.

Sub. H.B. 6 (As Passed by the House)	Am. Sub. H.B. 6 (As Passed by the Senate)
Clean Air Program/Qualifying Resource Payments	
Creates the Ohio Clean Air Program, which terminates on December 31, 2026, to be administered by the Ohio Air Quality Development Authority (OAQDA). Makes changes to OAQDA Board and authority and requires OAQDA to make rules to implement and administer the Clean Air Program. Provides for an application and certification of clean air resources and provides for their decertification. <i>(R.C. 3706.40 to 3706.50.)</i>	Establishes a procedure for collecting charges from electric distribution utility (EDU) customers and remitting payments to certain qualifying nuclear and renewable resources for the period ending with January 2028, but does not create a named program. Provides for the Public Utilities Commission (PUCO) and OAQDA to perform duties regarding the charge/remittance system. Requires OAQDA to adopt rules for implementing payments under the system. Provides for an application and approval process to receive payments. <i>(R.C. 3706.40 to 3706.65.)</i>
Use of PUCO Staff, information, data, and equipment; confidentiality	
No provision.	Permits OAQDA to make use of the staff and experts employed by PUCO in such manner as is provided by mutual arrangement between OAQDA and PUCO, and requires PUCO's information, data,

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	and equipment to be placed at the disposal of OAQDA. Provides that any information, data, or equipment that is not a public record because OAQDA or PUCO possesses it cannot be construed as a public record due to the mutual arrangement between OAQDA and PUCO, notwithstanding anything to the contrary under the Revised Code. <i>(R.C. 3706.65.)</i>
Resources	
Applies the Clean Air Program to in-state nuclear-powered electric generating facilities and in-state solar-energy-powered electric generating facilities (with a Power Siting Board certificate issued prior to June 1, 2019) that meet the following criteria (1) prohibitions against municipal/cooperative/consortium ownership or customer supply, (2) air quality and emissions requirements, (3) PJM interconnection required, (4) must be a major utility facility (50 megawatts capacity or more). Requires the in-state nuclear-powered facility owner to maintain operations in Ohio. <i>(R.C. 3706.40(A) and 3706.42(B).)</i>	Applies the charge/remittance system to in-state nuclear resources and in-state solar resources (with a Power Siting Board certificate issued prior to June 1, 2019 and connected to PJM) <i>(R.C. 4906.40(A) and (B) and 4906.41).</i>
Charge and collection	
Requires customers of an EDU to pay a per-account monthly charge to fund the Ohio Clean Air Program. Those charges are: Residential – 50¢ (2020) and \$1 (2021-2026); Commercial-generally \$10 average (2020) and \$15 average (2021-2026) across customers; Industrial-generally \$250 average across customers; and Commercial or Industrial that exceeded 45 million kilowatt hours of electricity at one location in the preceding year-\$2,500. Provides that PUCO, in setting the charges for Commercial and Industrial customers that use less than 45 million kilowatt hours, to do so in a manner that avoids abrupt or excessive total electric bill impact for the typical customers in those classes. <i>(R.C. 3706.46(B).)</i>	Requires an EDU to collect a per-customer monthly charge from all of its retail electric customers in Ohio beginning January 1, 2020, and ending December 31, 2026, that is sufficient to produce the following revenue requirements: \$150 million annually for total disbursements from the Nuclear Generation Fund; \$20 million annually for total disbursements from the Renewable Generation Fund. Requires PUCO to allocate to each EDU for customer billing, provided the charges do not exceed: Residential – \$0.85; Industrial customers that exceeded 45 million kilowatt hours of electricity at one location in the preceding year-\$2,400; and charges established for nonresidential customers that do not exceed 45 million kilowatt hours of electricity to be established in a way that avoids abrupt or excessive bill impacts for typical customers. Makes

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	provision for reconciliation and accounting practices regarding revenue collected. <i>(R.C. 3706.46.)</i>
Funds	
Creates the Ohio Clean Air Program Fund, where all the moneys collected via the Ohio Clean Air Program monthly charges are remitted. Requires OAQDA to direct the State Treasurer to remit money to owners of certified clean air resources from the Fund. <i>(R.C. 3706.46.)</i>	Creates the Nuclear Generation Fund and the Renewable Generation Fund, where the above charges are to be deposited (88.25% of charges going into the Nuclear Generation Fund and 11.75% of charges going into the Renewable Generation Fund). Requires the Treasurer to distribute the money from the Nuclear Generation Fund and Renewable Generation Fund in accordance with directions provided by OAQDA, which must consult with the PUCO. Requires any amount remaining in the Nuclear Generation Fund or Renewable Generation Fund as of December 31, 2027, minus remittances still required to be made, to be refunded to customers in a manner determined by OAQDA consultation with the PUCO. <i>(R.C. 3706.49, 3706.53, and 3706.55(B).)</i>
Remittance	
Requires the OAQDA to direct the State Treasurer to remit money monthly to owners of certified clean air resources based on the number of credits earned, at a credit price of \$9, subject to a credit price adjustment for nuclear clean air credits. Requires OAQDA to apply the credit price adjustment for nuclear clean air credits for the upcoming program year, on April 1, if the market price index exceeds \$46 per megawatt hour, to ensure the purchase of clean air credits remains affordable. Establishes a payment priority structure of (1) previously unpaid nuclear clean air credits, (2) unpaid solar clean air credits, (3) nuclear clean air credits, (4) solar clean air credits, and (5) reimbursement for renewable contract costs. <i>(R.C. 3706.46, 3706.482, and 3706.486.)</i>	Requires OAQDA to direct the State Treasurer to make quarterly remittances for credits earned out of the appropriate fund depending on whether the resource to be paid is an in-state nuclear resource or in-state solar resource. Sets the credit price for both at \$9 per megawatt hour, but provides for the nuclear resource credit to be subject to reduction under the bill. Establishes standards for prioritizing remittances if money in the funds for each type of resource is insufficient. <i>(R.C. 3706.55, 3706.59, and 3706.61.)</i>

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Generation attribute tracking of credits	
Requires OAQDA to adopt rules to provide for Ohio a system of registering clean air credits by specifying that the generation attribute tracking system may be used for that purpose and not creating a registry (<i>R.C. 3706.483</i>).	Requires megawatt hour information reported to OAQDA for purposes of tracking nuclear resource and renewable energy credits to be reported in accordance with data from the generation attribute tracking designated by OAQDA (<i>R.C. 3706.45</i>).
Audit/review	
Requires the Ohio Clean Air Program to be audited by an unaffiliated and independent third party from year 2021 to 2027. Requires the Ohio Clean Air Program to be audited by an unaffiliated and independent third party from year 2021 to 2027. Requires the Ohio Clean Air Program to be audited by an unaffiliated and independent third party from year 2021 to 2027 (<i>R.C. 3706.50</i>).	Requires an annual management and financial review of the owner or operator of a nuclear resource to be conducted by PUCO beginning in 2021 and ending in 2027 not later than May 1 in each of those years. Allows the owner or operator of the nuclear resources to provide information it chooses, but provides the penalty of suspension of credit payments if PUCO requests are not promptly answered. Requires a report of the review to be provided to the Majority and Minority Leader of each house and to OAQDA and to be made public, except for confidential or proprietary information. Requires the report to include the owner or operator's certified annual audit. Require OAQDA, in consultation with PUCO, to consider the report and allows OAQDA to reduce or cease credit payment remittances if OAQDA makes certain determinations. Requires, if OAQDA determines, based on the review, that it is necessary to make reductions, that PUCO must, as necessary, reduce the revenue requirement, reduce the credit price, reduce the customer charge or charges, and adjust percentages for customer charge allocation. Requires PUCO to instruct EDUs to suspend or cease billing and collection of customer charges if payments for nuclear resource credits are suspended or ceased. (<i>R.C. 3706.61.</i>)
Pledging for clean air resources	
Allows OAQDA to pledge moneys that may be accumulated to the Ohio Clean Air Program Fund for the benefit of a certified clean air resource, if	No provision.

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the resource agrees to be bound by the conditions OAQDA may attach to the pledge (<i>R.C. 3706.49</i>).	
Renewable energy changes	
<p>Repeals the renewable energy requirements effective January 1, 2020, and makes conforming changes (<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>).</p>	<p>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. Reduces further compliance with renewable energy requirements by pooling kwh produced by solar resources receiving renewable credits from OAQDA under the bill and allocating to EDUs and ESCs a proportion relative to their compliance year baselines and subtracting the allocated amount from the EDU's or ESC's compliance amount. Provides for reduction of renewable energy requirements baselines for EDUs and ESCs regarding self-assessing purchasers under the Ohio Kwh Tax. Beginning January 1, 2020, prohibits a solar resource receiving renewable energy credits from OAQDA from being eligible to obtain a renewable energy credit for the renewable energy requirements for any megawatt of electricity for which the resource has been issued a renewable energy credit by OAQDA. (<i>R.C. 4928.64, 4928.642, 4928.644, and 4928.645.</i>)</p>
Renewable energy contract recovery	
<p>Requires an EDU to submit an application to OAQDA to be reimbursed from the Ohio Clean Air Program Fund for costs of existing renewable energy contractual obligations. Allows an EDU to recover the renewable energy contract costs from its retail customers as a distribution expense if the money in the Ohio Clean Air Program Fund is insufficient to cover costs. Requires a cost recovery mechanism for certain renewable energy</p>	<p>Specifies that costs for certain renewable energy contracts, which may be recovered under continuing law, may be recovered regardless of the bill's amendments to the renewable energy requirements (<i>R.C. 4928.641</i>).</p>

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<p>contract costs, permitted under continuing law, to be replaced with an accounting mechanism that is permitted by the bill and requires the mechanism to establish and adjust regulatory assets and liabilities. Allows the EDU to collect a carrying charge on regulatory assets beginning January 1, 2020. Requires PUCO to permit the EDU, in a subsequent rate proceeding, to recover as a distribution expense the regulatory assets existing at that time until its costs are fully recovered. Requires the PUCO to credit any revenue received by the EDU from the Ohio Clean Air Program Fund against net costs. <i>(R.C. 3706.485 and 4928.641.)</i></p>	
Renewable energy service purchase program	
<p>Allows an EDU to offer a customer the opportunity to purchase renewable energy services on nondiscriminatory basis for any purpose the customer elects through the establishment of a schedule or a schedule or a reasonable arrangement involving the production and supply of renewable energy. Prohibits PUCO from establishing a schedule or reasonable arrangement unless it determines there is no negative impact on nonparticipating customers and participating customers are solely responsible for the risks, costs, and benefits of any schedule or reasonable arrangement. <i>(R.C. 4928.647.)</i></p>	No provision.
Energy efficiency changes	
<p>Eliminates energy efficiency requirements for years 2021 through 2027 and terminates energy efficiency/peak demand reduction portfolio plans on December 31, 2020. Permits mercantile customers to opt out and later opt back into an EDU's energy efficiency/peak demand reduction plan, including the voluntary programs established by the utility under the bill. Repeals the requirement that customers that opt out of an EDU's energy efficiency/peak demand reduction portfolio plan submit initial and updated reports to PUCO staff regarding energy intensity reduction projects, actions, policies, and practices, and</p>	<p>Replaces the current energy efficiency benchmarks for years 2021 through 2027 with the 17.5% collective EDU compliance process and terminates energy efficiency/peak demand reduction portfolio plans on December 31, 2020. Extends portfolio plans (that would otherwise terminate earlier) until that date, with necessary changes to accomplish the extension. Permits mercantile customers to opt out and later opt back into an EDU's energy efficiency/peak demand reduction plan, including the 17.5% collective EDU compliance process. Repeals the same energy efficiency/peak demand reduction report</p>

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cumulative energy-intensity reductions achieved. Allows an EDU to apply to the PUCO for approval of programs to encourage energy efficiency/peak demand reduction, which programs may begin in 2021. (R.C. 4928.66, 4928.661, and 4928.6610; R.C. 4928.6616 (repealed).)	requirement as in Sub. H.B. 6, As Passed by the House. (R.C. 4928.66 and 4928.6610; R.C. 4928.6616 (repealed).)
5-20 megawatt wind farms under local control	
Subjects wind farms of 5-20 megawatts that are primarily dedicated to providing electricity to a single customer at a single location to local control (R.C. 303.213, 519.213, 713.081, and 4906.13).	Same.
Net metering for wind under 20 megawatts	
Qualifies the definition of “net metering system” by specifying that, for an industrial customer-generator with a net metering system that has a capacity of less than 20 megawatts and uses wind as energy, it satisfies the definition if it was sized so as to not exceed 100% of the customer-generator’s annual requirements for electric energy at the time of interconnection (R.C. 4928.01(A)(31)(d)).	Same.
Property tax exemption for energy projects	
Permits energy projects of up to 20 megawatts to be exempted from property taxation without the formal approval of a board of county commissioners (the current threshold is 5 megawatts). Releases such energy projects from other prerequisites for tax exemption, including repair of affected public infrastructure, training and equipping emergency responders, and career training. (R.C. 5727.75.)	Same.
Taxable property re: nuclear facility	
Permits an electric company with taxable property that is, or is part of, a certified clean air resource 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	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.

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<p>authority to grant, a reduction in taxable value below the taxable values for such property as of the bill's 90-day effective date (<i>R.C. 5727.47(G)</i>).</p>	<p>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>
Township referendum on PSB-certificated wind farms	
<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>
OVEC recovery	
<p>Permits an EDU to continue recovering, by a nonbypassable rate mechanism, through 2030, its national security generation resource net impact after the expiration of any mechanism authorized by the PUCO to recover that impact. Caps the recovery at \$2.50 per month per customer for residential customers and \$2,500 per month per customer for other customer classes. Makes the recovery subject to audit, reconciliation, a prudence review, wholesale market bidding, and a prohibition of its use in the EDU's standard service offer. Requires the PUCO to conduct an inquiry in 2029 to determine whether it is in the public</p>	<p>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. Caps monthly charges for the nonbypassable rate mechanism at \$1.50 for residential customers and \$1,500 for all other customer classes. Provides for periodic prudence reviews, deferral option, wholesale market bidding, and a prohibition of its</p>

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<p>interest to continue recovery of a national security generation resource net impact after 2030 and report its findings to the General Assembly. (R.C. 4928.01, 4928.147, and 4928.148.)</p>	<p>use in the EDU's standard service offer. (R.C. 4928.01 and 4928.148.)</p>
Power agreements with mercantile customers	
<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. 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. (R.C. 4928.47.)</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. 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. (R.C. 4928.47.)</p>
Reasonable arrangements	
<p>Requires 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 manufacturers when ruling on a reasonable arrangement application (R.C. 4905.311).</p>	<p>No provision.</p>
FERC program	
<p>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</p>	<p>No provision.</p>

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<p>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. 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>).</p>	
Decoupling	
<p>Allows certain EDUs to file with the PUCO an application for a decoupling mechanism (which requires the base distribution rates for residential and commercial customers to be decoupled to the base distribution revenue and revenue resulting from implementation of the energy efficiency and peak demand reduction provisions) (<i>R.C. 4928.471</i>).</p>	Same.
Tariff applicable to county fairs and agricultural societies	
<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>
HEAP waiver	
<p>Requires the Director of the Development Services Agency to submit in each fiscal year, beginning in FY 2021, a completed waiver request to expend 25% of federal low-income HEAP funds from the home energy assistance block grants for weatherization services (<i>R.C. 4928.75</i>).</p>	<p>Same, but also includes 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</p>

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	the Director of Development Services (<i>R.C. 4928.75 and Section 5</i>).
E-check	
<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>	No provision.
Severability clause	
<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>	No provision.