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## Bill Analysis

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**Primary Sponsors:** Reps Denson and Weinstein

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### SUMMARY

#### Ohio Clean Air Program

- Creates the Ohio Clean Air Program, to be administered by the Ohio Air Quality Development Authority (Authority).
- Allows only Davis-Besse and Perry nuclear electric generating facilities, if they meet the bill's definition of a clean air resource, to apply to be a certified clean air resource.
- Provides that only certified clean air resources are eligible for participation in the Ohio Clean Air Program.
- Provides that a clean air resource retains certification as such as long as it continues to meet the definition of clean air resource and is not sold to a new owner (requires a new owner to apply for certification).
- Requires customers of an electric distribution utility to pay a per-account monthly charge to fund the Ohio Clean Air Program. Those charges are to be established by the PUCO in accordance with financial disclosures submitted under the bill and capped at the following amounts:
  - For customers classified by the utility as residential, \$1.25/month;
  - For customers classified by the utility as commercial, \$15/month;
  - For customers classified by the utility as industrial, \$200/month.
- Creates the Ohio Clean Air Program Fund, where all the moneys collected via the Ohio Clean Air Program monthly per-customer charges are remitted.
- Requires the Authority to adopt rules for the implementation and administration of the Ohio Clean Air Program.

- Allows the Authority to decertify a clean air resource if it determines certification is not in the public interest, after allowing the resource to provide additional information in support of retaining certification and holding a public hearing and allowing public comment.
- Requires an owner of a clean air resource to report to the Authority the number of megawatt hours the resource produced in the preceding month.
- Specifies that certified clean air resources earn a clean air credit for each megawatt hour of electricity produced.
- Requires the Authority to direct the State Treasurer to remit money to owners of certified clean air resources from the Ohio Clean Air Program Fund based on the number of credits earned, at a credit price established by the Authority in accordance with information from the financial disclosures.
- Requires the money from clean air credits to be used only for the operation and maintenance of the clean air resource and to cover any shortfalls regarding that operation or maintenance.
- Prohibits the money from clean air credits from being applied to subsidize any profit, return on investment, or earned rate of return.
- Requires each owner of a certified clean air resource to submit, beginning on July 1, 2021, and every six months thereafter, a financial disclosure to the Authority, providing financial information, including employee wages, salaries, and benefits, and also demonstrating compliance with the bill's restrictions on the use of funds.
- Terminates the Ohio Clean Air Program and per-customer charges on December 31, 2029.
- Requires that if a clean air resource closes or is sold before the termination of the Ohio Clean Air Program, the customer charges must be refunded to the customers that paid them.
- Prohibits a clean air resource that receives a clean air credit from receiving a renewable energy credit for the same megawatt hour of electricity, but states that a clean air resource may still purchase or sell a renewable energy credit in another state.
- Requires the Ohio Clean Air Program to be audited by the Authority on an annual basis.
- Requires an owner of a clean air resource receiving clean air credits to annually, beginning February 1, 2021, provide to the Governor, the General Assembly, and the Authority a report on jobs created, carbon dioxide emissions prevented, annual tax disbursements, and megawatts of electricity produced and sold.
- Expands the public policy of the state through the operation of the Authority to include the Ohio Clean Air Program priorities.

## Wind turbine setback

- Returns the wind-turbine setback to what it was before Am. Sub. H.B. 483 of the 130th General Assembly (specifically, changing the measurement point for the 1,125-foot setback from the *property line* of the nearest adjacent property to the *exterior of the nearest habitable residential structure*, if any, located on adjacent property.

## Ohio Generation and Jobs Incentive Program

- Renames the current renewable energy requirements as the Ohio Generation and Jobs Incentive Program.
- Modifies the current renewable energy standards (both the overall renewable percentages and the solar-portion percentages) and extends them to 2050.
- Requires at least half of the solar percentage to be met through distributed solar projects of not more than 25 megawatts of baseload capacity.
- Requires at least half of the renewable percentage to be met through facilities located in Ohio, with the remainder being met with resources that can be shown to be deliverable into Ohio.
- Requires the PUCO to identify specific types of renewable energy credits based on the bill's requirements.

## Energy savings

- Repeals a number of requirements for how and what savings and reductions must be counted toward the current energy efficiency savings and peak demand reduction requirements, pertaining to federal standards, measurement methods, and new construction.
- Renames energy efficiency programs as “energy performance and waste reduction programs” and makes related terminology changes.
- Requires the PUCO to ensure that energy performance and waste reduction programs and peak demand reduction programs are “cost-effective programs,” defined as programs that deliver savings to customers participating in the programs in amounts that exceed the customers’ costs for the programs.
- Requires the PUCO to adopt rules to develop methods for determining compliance with the energy performance and waste reduction program and peak demand reduction requirements, which methods must involve calculating energy savings and peak demand reduction based on the latest best practices.

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## DETAILED ANALYSIS

### Overview

The bill creates the Ohio Clean Air Program. The bill allows an electric generating facility fueled by nuclear power to apply for certification as a clean air resource in order to be eligible for participation in the Ohio Clean Air Program. The Ohio Clean Air Program is funded through a monthly per-account charge billed to all retail electric customers of Ohio electric distribution utilities. The bill caps the charges for various customer classes but requires that they be based on information provided by the resource owners in financial disclosures.

The bill institutes a clean air credit for clean air resources. A clean air resource earns a clean air credit for each megawatt hour of electricity it produces. The Ohio Air Quality Development Authority directs the Treasurer of State to remit money from the collected charges to each owner of a certified clean air resource in the amount equivalent to the number of credits earned by the resource during the previous month multiplied by the price of the credit. The credit price is to be determined based on the information in the financial disclosures.

The bill also returns the wind-turbine setback to what it was before Am. Sub. H.B. 483 of the 130<sup>th</sup> General Assembly, by changing the measurement point for the 1,125-foot setback to the exterior of the nearest habitable residential structure instead of to the property line.

The bill renames the current renewable energy requirements the Ohio Generation and Jobs Incentive Program. The bill also modifies the current renewable energy standards by extending them to 2050 and making other changes, mainly related to solar resources and in-state resources.

Finally, the bill makes four changes regarding the current energy efficiency and peak demand reduction requirements. First, it changes terminology, removing references to energy efficiency in favor of references to energy savings and energy performance and waste reduction. Second, it repeals a number of current requirements for savings and reductions. Third, it requires that programs be cost effective. Fourth, it requires the PUCO to adopt methods, based on the latest best practices, for determining compliance with the law.

### Ohio Clean Air Program

#### **Definition: clean air resource**

“Clean air resource” means an electric generating facility in this state that is fueled by nuclear power. The resource must satisfy all of the following criteria to meet the definition:

1. The facility is not wholly or partially owned by a municipal or cooperative corporation or a group, association, or consortium of those corporations;
2. 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;
3. Either of the following:

- a. The facility has made a significant historical contribution to the air quality of the state by minimizing emissions that result from electricity generated in this state;
  - b. The facility will make a significant contribution toward minimizing emissions that result from electric generation in this state.
4. The facility is interconnected with PJM interconnection, L.L.C., or its successor organization;
  5. The facility is an electric generating plant in this state with associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more.<sup>1</sup>

### **Program creation and timeline**

The bill creates the Ohio Clean Air Program, which is required to terminate on December 31, 2029. The bill permits any person that owns or controls an electric generating facility and meets the definition of a clean air resource to submit a written application to the Ohio Air Quality Development Authority for certification as a clean air resource. Certification enables the resource to participate in the Ohio Clean Air Program. Applications for the program must be submitted by February 1 for any program year beginning in June of the same calendar year.<sup>2</sup> Under the bill, “program year” means the twelve-month period beginning June 1 and ending May 31 of the following year.<sup>3</sup>

### **Application process**

An application for the Ohio Clean Air Program must include all of the following:

1. The in-service date and estimated remaining useful life of the resource;
2. For an existing resource, the quantity of megawatt hours generated by the resource annually during each of the previous five calendar years during which the resource was generating and the “annual capacity factor” (defined as the actual energy produced in a year divided by the energy that would have been produced if the facility was operating continuously at the maximum rating<sup>4</sup>) for each of those calendar years;
3. A forecast estimate of the annual quantity of megawatt hours to be generated by the resource and the projected annual capacity factor over the remaining useful life of the resource;
4. A forecast estimate of the emissions that would occur in Ohio during the remaining useful life of the resource if the resource discontinued operations prior to the end of the resource’s useful life;

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<sup>1</sup> R.C. 3706.40(A) and 4906.01(B)(1)(a).

<sup>2</sup> R.C. 3706.42(A) and (B).

<sup>3</sup> R.C. 3706.40(B).

<sup>4</sup> R.C. 3706.40(D).

5. Verified documentation demonstrating all of the following:
  - a. That certification as a clean air resource and participation in the Ohio Clean Air Program will permit the resource to reduce future emissions per unit of electrical energy generated in Ohio;
  - b. That without certification as a clean air resource, the positive contributions to the air quality of Ohio that the resource has made and is capable of making in the future may be diminished or eliminated;
  - c. That the clean air resource meets the definition of a clean air resource;<sup>5</sup>
  - d. That the person seeking certification owns or controls the resource.
6. The resource's nameplate capacity;
7. Any other data or information that the Authority requests and determines is necessary to evaluate the application or to demonstrate that certification would be in the public interest.

The bill requires the Authority to post all applications and nonconfidential supporting materials on the Authority's website. The bill allows interested persons to file comments on the applications not later than 20 days after an application has been placed on the website. All comments must be posted on the website. The bill allows an applicant to respond to the comments not later than ten days after the comments are posted.<sup>6</sup>

The bill requires the Authority to review all timely submitted applications. The Authority must, on or before March 31, issue an order certifying a clean air resource if the clean air resource meets the definition of a clean air resource. A certified clean air resource must generally remain certified as long as the resource continues to meet the definition of a clean air resource.

If the Authority fails to issue an order on or before March 31, the bill requires that each electric generating facility included in a timely and properly filed application be deemed a clean air resource.<sup>7</sup>

### **Decertification**

The bill allows the Authority to decertify a clean air resource at any time if the Authority determines that certification is not in the public interest. Before decertifying a resource, the Authority must do both of the following: (1) allow the resource to provide additional

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<sup>5</sup> A corrective amendment is needed to remove a reference to "reduced emissions resources."

<sup>6</sup> R.C. 3706.42(C), (D), and (E).

<sup>7</sup> R.C. 3706.44(A) and (B).

information in support of remaining certified and (2) hold a public hearing and allow for public comment.<sup>8</sup>

### **New owners required to reapply for certification**

The bill requires that if a certified clean air resource is sold to a new owner, the new owner must reapply to the Authority for certification as a clean air resource.<sup>9</sup>

### **Reporting the number of megawatt hours produced**

Every owner of a certified clean air resource must report the number of megawatt hours the resource produced in the preceding month to the Authority not later than seven days after the close of each month.<sup>10</sup>

### **Rulemaking**

The bill requires the Authority to adopt rules necessary to begin implementation of the Ohio Clean Air Program not later than 90 days after the bill's effective date. The rules adopted must include provisions for tracking the number of clean air credits earned by each certified clean air resource during each month of a program year, based on the information required to be reported under the bill.

Additionally, the bill requires the Authority to adopt additional rules necessary for the further implementation and administration of the Ohio Clean Air Program not later than 275 days after the effective date of the bill.<sup>11</sup>

## **Funding under the Ohio Clean Air Program**

### **Customer charges**

The bill requires, beginning January 1, 2020, and ending on December 31, 2029, each retail electric customer of an electric distribution utility in Ohio to pay a per-account monthly charge that is billed and collected by each electric distribution utility. The charges are to be remitted to the State Treasurer for deposit in the Ohio Clean Air Program Fund, which the bill creates. Under continuing law, "electric distribution utility" means an electric utility that supplies at least retail electric distribution service. The monthly charges are to be established by the PUCO in accordance with the information provided by the Authority from the financial disclosures submitted under the bill (see "**Restriction on use of funds and financial disclosures**," below). The PUCO must periodically review the charges based on information from the most recent financial disclosures to determine the continued need for the charges and whether the charges are reasonable. The bill caps the charges to the following amounts:

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<sup>8</sup> R.C. 3706.44(C).

<sup>9</sup> R.C. 3706.44(D). A corrective amendment is needed to remove a reference to a "reduced emissions resource."

<sup>10</sup> R.C. 3706.48.

<sup>11</sup> R.C. 3706.50(B)(1) and (C).



- For customers classified by the utility as residential, \$1.25/month;
- For customers classified by the utility as commercial, \$15/month;
- For customers classified by the utility as industrial, \$200/month.

The bill further caps the charges by requiring them to cease upon reaching a total amount of \$160 million in the Ohio Clean Air Program Fund (see **Comment**).<sup>12</sup>

### **Clean air credits for clean air resources**

A certified clean air resource earns a clean air credit for each megawatt hour of electricity it produces. The price of a clean air credit is to be established by the Authority in accordance with the information from the financial disclosures required to be submitted under the bill. The bill requires the Authority to adjust the price as it determines necessary based on the most recent financial disclosures.<sup>13</sup>

The bill requires the Authority to direct the Treasurer to remit the money from the Ohio Clean Air Program Fund to each owner of a certified clean air resource in the amount equivalent to the number of credits earned by the resource in the previous month multiplied by the credit price. The remittance is to occur not later than 14 days after the close of each month in a program year. If the money in the fund is insufficient to pay for all of the credits earned by a resource, the unpaid credits must be paid first in the next monthly payment period.<sup>14</sup>

### **Restriction on use of funds and financial disclosures**

The bill requires the money from clean air credits to be used only for the operation and maintenance of the resource and to cover any shortfalls regarding that operation or maintenance, including shortfalls for employee wages, salaries, and benefits. The bill prohibits the money from being applied to subsidize any profit, return on investment, or earned rate of return.<sup>15</sup>

The bill requires each owner of a certified clean air resource to submit, beginning on July 1, 2021, and every six months thereafter, a financial disclosure to the Authority. The disclosures must provide financial information regarding the operation and maintenance of the resource, including employee wages, salaries, and benefits. The disclosures must also demonstrate compliance with the bill's restrictions on the use of funds, and must provide any other financial information required under rules adopted by the Authority. The bill requires those rules to be adopted not later than 90 days after the bill's effective date. The Authority must provide

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<sup>12</sup> R.C. 3706.40(C), 3706.47, and 4928.01(A)(6).

<sup>13</sup> R.C. 3706.40(E), 3706.481, and 3706.482(B).

<sup>14</sup> R.C. 3706.482(A).

<sup>15</sup> R.C. 3706.485.

information from the financial disclosures to the PUCO for the PUCO to establish per-customer charges for the program.<sup>16</sup>

### **Credits to be refunded in the case of a sale or closure**

The bill requires that if a clean air resource<sup>17</sup> closes or is sold before the termination of the Ohio Clean Air Program (December 31, 2029), the per-customer charges must be refunded to the customers that paid them. The bill requires the PUCO, in consultation with the Ohio Consumers' Counsel, to adopt rules, not later than 90 days after the bill's effective date, to determine the disbursement of refunds.<sup>18</sup>

### **Prohibition against receiving double credits**

The bill prohibits a clean air resource that receives a clean air credit from receiving a renewable energy credit for the same megawatt hour of electricity. However, the bill states that a clean air resource may still purchase or sell a renewable energy credit in another state.<sup>19</sup>

### **Registry for clean air credits**

The bill requires the Authority 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.<sup>20</sup>

### **Administration of the Ohio Clean Air Program Fund**

The bill requires the Ohio Clean Air Program Fund to be in the custody of the State Treasurer but not a part of the State Treasury. The fund is to consist of the per-customer charges collected under the bill. All interest generated by the fund is to be retained in the fund and used for funding the Ohio Clean Air Program. The bill requires the Treasurer to distribute the moneys in the fund in accordance with the directions provided by the Authority.<sup>21</sup>

### **Annual program audit**

The bill requires the Authority to audit the Ohio Clean Air Program annually. The audit must be conducted according to the rules the Authority is required to adopt no later than 90 days after the bill's effective date.<sup>22</sup>

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<sup>16</sup> R.C. 3706.486.

<sup>17</sup> A corrective amendment is needed to remove a reference to a "reduced emissions resource."

<sup>18</sup> R.C. 3706.52.

<sup>19</sup> R.C. 3706.484.

<sup>20</sup> R.C. 3706.483.

<sup>21</sup> R.C. 3706.46.

<sup>22</sup> R.C. 3706.50(A) and (B)(2).

## Annual report by owners of clean air resources

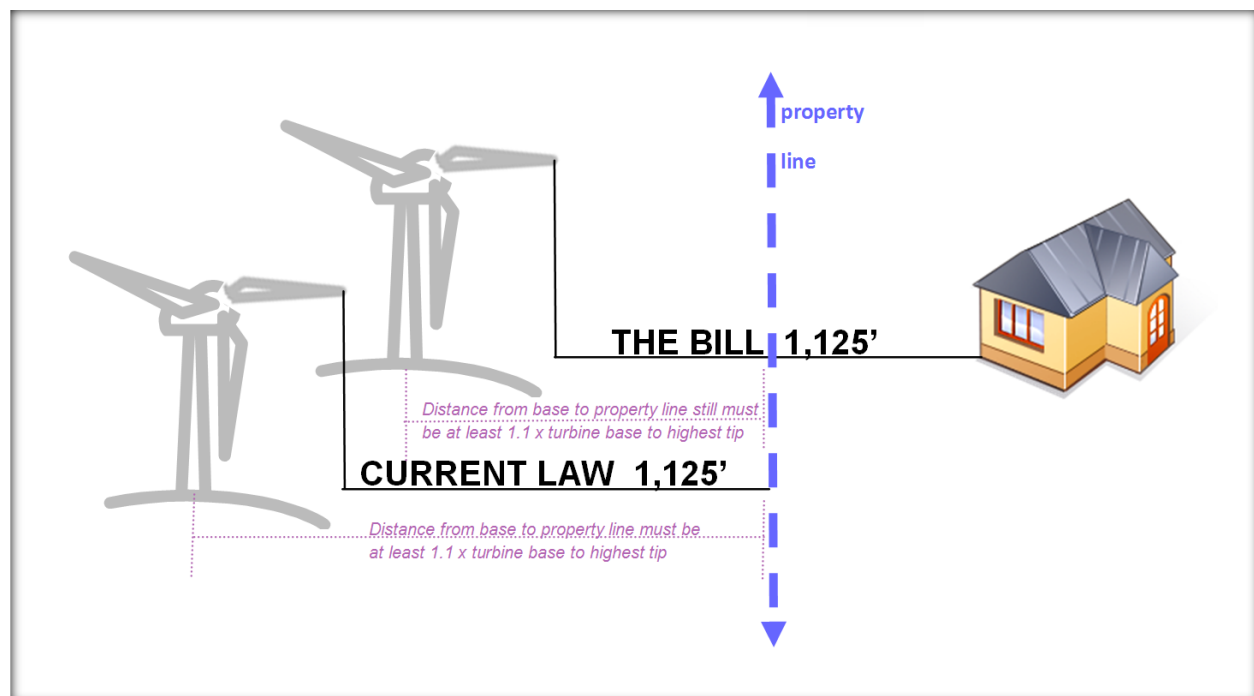
The bill requires an owner of a clean air resource receiving clean air credits to annually, beginning February 1, 2021, provide to the Governor, the General Assembly, and the Authority a report of the following information for the prior calendar year:

- The amount of jobs created in Ohio by the resource, and the wage and salary ranges of the jobs;
- The amount of carbon dioxide emissions prevented due to the use of the resource;
- Annual tax disbursements to or from Ohio and any political subdivision of Ohio;
- The number of megawatts of electricity produced and sold by the resource and the price per megawatt hour received by the resource.<sup>23</sup>

## Air Quality Development Authority public policy

The bill expands on Ohio's public policy applied through the operation of the Authority. The bill adds that it is Ohio policy to maintain operations of certified clean air resources, as defined by the bill, that, through continued operation, are expected to provide the greatest quantity of carbon-dioxide-free electric energy generation.<sup>24</sup>

## Changing the measurement point for the wind-turbine setback



<sup>23</sup> R.C. 3706.51.

<sup>24</sup> R.C. 3706.03.

The bill returns the wind-turbine setback to what it was before Am. Sub. H.B. 483 of the 130<sup>th</sup> General Assembly. Specifically, the bill changes the measurement point for the 1,125-foot setback from the *property line* of the nearest adjacent property to the *exterior of the nearest habitable residential structure*, if any, located on adjacent property at the time of the certification application.

Under continuing law, there are two minimum setbacks for wind turbines: (1) the 1,125-foot-minimum setback (or in certain cases, a 750-foot-minimum-grandfathered setback) measured from the turbine *blade*, affected by the bill as discussed above, and (2) a setback measured from the turbine *base*, unchanged by the bill. The setback measured from the turbine base requires a minimum setback distance from the turbine's base to the wind farm property line of at least 1.1 multiplied by the distance from the turbine's base to the tip of the highest blade.<sup>25</sup> The above diagram illustrates both setback requirements and the changes made by the bill to the setback under (1).

## **Applicability**

### **Wind farm size**

The bill's setback change applies to any wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of at least five megawatts.<sup>26</sup>

### **Amendments to existing certificates for wind farms**

The bill modifies continuing provisions that prescribe the setback for amendments to existing certificates for wind farms. The current provisions state that any amendment made to an existing certificate after September 15, 2014, must be subject to the setback in current law. The bill modifies these provisions to say that any amendment to an existing certificate after September 15, 2014, *and before the bill's effective date* must be subject to the setback in current law. So, an amendment made to an existing certificate between September 15, 2014, and the bill's effective date would be subject to the property-line setback. And an amendment made to an existing certificate after the bill's effective date would be subject to the residential-structure setback.<sup>27</sup>

### **Common law rights and remedies**

The bill states that its changes must not be construed to limit or abridge any rights or remedies in equity under the common law.<sup>28</sup>

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<sup>25</sup> R.C. 4906.20 and 4906.201.

<sup>26</sup> R.C. 4906.13(A), not in the bill, 4906.20(B)(2)(a), and 4906.201(A).

<sup>27</sup> R.C. 4906.20(B)(2)(b)(ii) and (iii) and 4906.201(B)(2) and (3).

<sup>28</sup> R.C. 4906.20(B)(2)(b)(iii) and 4906.201(B)(3).

## History of legislative changes affecting the wind-farm setback

The following is a summary of the legislative changes that have affected the wind-farm setback since its enactment:

Effective date	Bill	Action
June 24, 2008	Am. Sub. H.B. 562	Enacted the original setback, which applied only to wind farms of 5-50 megawatts: <ul style="list-style-type: none"> <li>▪ 750 feet from the tip of the turbine’s nearest blade at ninety degrees to the exterior of the nearest, habitable, residential structure; and</li> <li>▪ 1.1 times the total turbine height measured from its base to the tip of its highest blade.<sup>29</sup></li> </ul>
Sept. 10, 2012	Am. Sub. S.B. 315	Repealed provisions that made certificate approval expressly conditional on whether the wind farm would comply with (1) applicable rules, including the setback, and (2) certain airport rules for the height and location of structures. These provisions applied only to wind farms of 5-50 megawatts. <sup>30</sup>
Sept. 29, 2013	Am. Sub. H.B. 59	Changed the setback distance from 750 feet to 1,125 feet (but left the measurement point as the residential structure). Made the 1,125 setback applicable to <i>all</i> wind farms over 5 megawatts (not just wind farms of 5-50 megawatts). Grandfathered “existing certification applications” found to be in compliance with application rules before Sept. 23, 2013, which made those existing certificates and amendments subject to the 750-foot distance. <sup>31</sup>
Sept. 15, 2014	Am. Sub. H.B. 483	Changed the 1,125 foot measurement point from the residential structure to the property line. Made amendments to existing certificates subject to the new setback. <sup>32</sup>

<sup>29</sup> R.C. 4906.13(A), not in the bill, and 4906.20(B).

<sup>30</sup> R.C. 4906.13(A), not in the bill, 4906.20(C), repealed by S.B. 315, and 4561.32, not in the bill.

<sup>31</sup> R.C. 4906.20(B)(2) and 4906.201.

<sup>32</sup> R.C. 4906.20(B)(2)(a) and (B)(2)(b)(ii) and 4906.201(B)(2).

## Ohio Generation and Jobs Incentive Program

### Overview

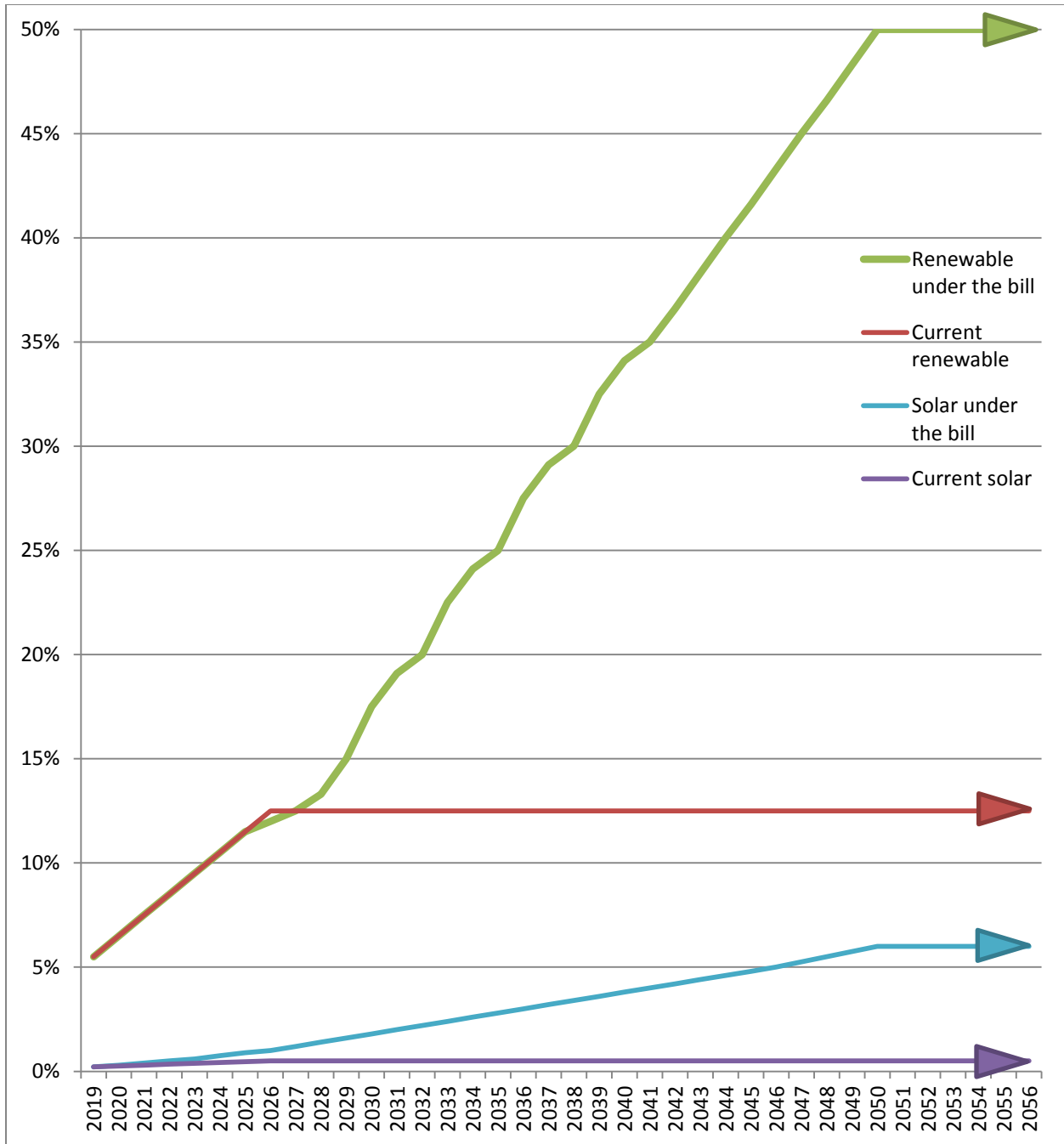
The bill renames the current renewable energy requirements the Ohio Generation and Jobs Incentive Program. The bill also modifies the current renewable energy standards by extending them to 2050, and makes other changes detailed below.

### Renewable energy standards

The bill modifies Ohio's renewable energy standards, under which electric distribution utilities and electric services companies must provide a certain percentage of their power supplies from qualifying renewable energy resources. The standards include a small portion of the renewable percentage that must be provided from solar resources. The graph below shows the current percentages and how the bill modifies them:<sup>33</sup>

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<sup>33</sup> R.C. 4928.64(B)(1) and (2); conforming change in R.C. 4928.64(C)(2)(a)(iv).



The bill also modifies the standards in three ways. First, it requires at least half of the solar percentage to be met through distributed solar projects of not more than 25 megawatts of baseload capacity.<sup>34</sup> Second, it requires *at least half* of the renewable percentage to be met through facilities located in Ohio, with the remainder being met with resources that can be shown to be deliverable into Ohio. Current law requires that the renewable resources be *either*

<sup>34</sup> R.C. 4928.64(B)(4).

located in this state or capable of being shown to be deliverable into this state, but current law does not preference one type more than the other.<sup>35</sup> Third, it requires the PUCO to adopt rules that require it to do all of the following with regard to certifying renewable energy credits:

- Identify solar renewable energy credits sourced from projects that are 25 megawatts or smaller;
- Identify all other solar renewable energy credits;
- Identify the renewable energy credits that are projects located in Ohio.<sup>36</sup>

### **Renaming and changes to terminology**

The bill requires the provisions of current law governing the renewable energy requirements to be collectively referred to as the Ohio Generation and Jobs Incentive Program, and the bill changes some references from the renewable energy *requirements* to the renewable energy *standards*. The bill updates related terminology accordingly.<sup>37</sup>

## **Energy savings**

### **Overview**

The bill makes four changes regarding energy savings. First, it changes terminology, removing references to energy efficiency in favor of references to energy savings and energy performance and waste reduction. Second, it repeals a number of requirements for savings and reductions for the current energy efficiency and peak demand reduction requirements. Under current law, electric distribution utilities are required to implement energy efficiency and peak demand reduction programs to meet certain annual percentage requirements. Third, it requires that programs be cost effective. Fourth, it requires the PUCO to adopt methods, based on the latest best practices, for determining compliance with the energy performance and waste reduction program and peak demand reduction requirements.

### **Changes to program requirements**

The bill repeals each of the following requirements:

- That energy efficiency savings and peak demand reduction achieved through actions taken by customers or through utility programs that comply with federal standards for either or both energy efficiency and peak demand reduction requirements be counted toward compliance with the current energy efficiency and peak demand reduction requirements;

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<sup>35</sup> R.C. 4928.64(B)(3).

<sup>36</sup> R.C. 4928.645(B)(3).

<sup>37</sup> R.C. 4928.20(J), 4928.61(B)(4), 4928.64(E) and (F), 4928.643, 4928.645, 4928.65, and 5727.75(F)(8).



- That energy efficiency savings and peak demand reduction achieved on and after the September 12, 2014, be measured on the higher of an as found or deemed basis (but a utility may opt to use this method for savings and reduction achieved since 2006);
- That for new construction, the energy efficiency savings and peak demand reduction be counted toward compliance with the current energy efficiency and peak demand reduction requirements based on 2008 federal standards, provided that when new construction replaces an existing facility, the difference in energy consumed, energy intensity, and peak demand between the new and replaced facility must be counted;
- That the PUCO count both energy efficiency savings and peak demand reduction on an annualized basis;
- That the PUCO count both energy efficiency savings and peak demand reduction on a gross savings basis.<sup>38</sup>

### **Changes to terminology**

The bill renames energy efficiency programs to “energy performance and waste reduction programs.” Likewise, the bill changes related terms, including references to energy efficiency (changed to “energy performance and waste reduction”); references to energy efficiency savings (changed to “energy savings”); and references to energy efficiency requirements (changed to “energy performance and waste reduction standards”).<sup>39</sup>

### **Requirement for programs to be cost-effective**

The bill requires the PUCO to ensure that energy performance and waste reduction programs and peak demand reduction programs are “cost-effective programs.” The bill defines a “cost-effective program” as a program that delivers savings to customers participating in the program in an amount that exceeds the customers’ costs for the program. The bill prohibits the PUCO from limiting the amount that an electric distribution utility may spend on cost-effective programs.<sup>40</sup>

### **PUCO methods**

The bill requires the PUCO to adopt rules to develop methods for determining compliance with the energy performance and waste reduction program and peak demand reduction requirements. The methods must involve calculating energy savings and peak demand reduction based on the latest best practices.<sup>41</sup>

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<sup>38</sup> R.C. 4928.662.

<sup>39</sup> R.C. 717.25, 1710.061, 4905.31(E), 4928.01, 4928.02(M), 4928.142(D)(3), 4928.143(B)(2)(i), 4928.621(C), 4928.64(A)(1)(e), 4928.65, 4928.66, 4928.662, and 4928.6612.

<sup>40</sup> R.C. 4928.663.

<sup>41</sup> R.C. 4928.662(B).

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## COMMENT

The bill caps the customer charges by requiring them to cease upon reaching a total amount of \$160 million in the Ohio Clean Air Program Fund. The bill does not address whether the charges are to resume when the amount of money in the fund goes back below \$160 million.<sup>42</sup>

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## HISTORY

Action	Date
Introduced	05-23-19

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H0260-I-133/ts

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<sup>42</sup> R.C. 3706.47(D).