

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 381

Representative DeVitis

Cosponsors: Representatives Henne, Householder, Johnson, Seitz, Slaby, Stein, Vitale, Faber, Patton, Young, Roegner, Sweeney, Retherford, Celebrezze, Keller

A BILL

To amend section 4928.02 and to enact sections 1
4928.75, 4928.751, 4928.752, 4928.753, 4928.754, 2
4928.755, 4928.756, 4928.757, 4928.7511, 3
4928.7513, 4928.7514, 4928.7515, 4928.7520, 4
4928.7521, 4928.7522, 4928.7523, 4928.7524, 5
4928.7525, 4928.7526, 4928.7527, 4928.7532, 6
4928.7533, and 4928.7540 of the Revised Code 7
regarding the zero-emissions nuclear resource 8
program. 9
10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4928.02 be amended and sections 11
4928.75, 4928.751, 4928.752, 4928.753, 4928.754, 4928.755, 12
4928.756, 4928.757, 4928.7511, 4928.7513, 4928.7514, 4928.7515, 13
4928.7520, 4928.7521, 4928.7522, 4928.7523, 4928.7524, 14
4928.7525, 4928.7526, 4928.7527, 4928.7532, 4928.7533, and 15
4928.7540 of the Revised Code be enacted to read as follows: 16

Sec. 4928.02. It is the policy of this state to do the 17
following throughout this state: 18

(A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;

(B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(C) Ensure diversity of electricity ~~the following~~:

(1) Electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;

(2) Resources, including zero-emissions nuclear resources as defined in section 4928.75 of the Revised Code, that provide fuel diversity and environmental and other benefits.

(D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;

(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;

(F) Ensure that an electric utility's transmission and

distribution systems are available to a customer-generator or 48
owner of distributed generation, so that the customer-generator 49
or owner can market and deliver the electricity it produces; 50

(G) Recognize the continuing emergence of competitive 51
electricity markets through the development and implementation 52
of flexible regulatory treatment, while simultaneously 53
recognizing the need for nuclear energy resources, as defined in 54
section 4928.75 of the Revised Code, and resources that provide 55
fuel diversity and environmental and other benefits; 56

(H) Ensure effective competition in the provision of 57
retail electric service by avoiding anticompetitive subsidies 58
flowing from a noncompetitive retail electric service to a 59
competitive retail electric service or to a product or service 60
other than retail electric service, and vice versa, including by 61
prohibiting the recovery of any generation-related costs through 62
distribution or transmission rates; 63

(I) Ensure retail electric service consumers protection 64
against unreasonable sales practices, market deficiencies, and 65
market power; 66

(J) Provide coherent, transparent means of giving 67
appropriate incentives to technologies that can adapt 68
successfully to potential environmental mandates; 69

(K) Encourage implementation of distributed generation 70
across customer classes through regular review and updating of 71
administrative rules governing critical issues such as, but not 72
limited to, interconnection standards, standby charges, and net 73
metering; 74

(L) Protect at-risk populations, including, but not 75
limited to, when considering the implementation of any new 76

advanced energy or renewable energy resource; 77

(M) Encourage the education of small business owners in 78
this state regarding the use of, and encourage the use of, 79
energy efficiency programs and alternative energy resources in 80
their businesses; 81

(N) Facilitate the state's effectiveness in the global 82
economy. 83

In carrying out this policy, the commission shall consider 84
rules as they apply to the costs of electric distribution 85
infrastructure, including, but not limited to, line extensions, 86
for the purpose of development in this state. 87

Sec. 4928.75. As used in sections 4928.75 to 4928.7540 of 88
the Revised Code: 89

(A) "Nuclear energy resource" means an electric generation 90
unit fueled, in whole or in part, by nuclear power and licensed 91
by the nuclear regulatory commission. 92

(B) "PJM" means the PJM Interconnection, L.L.C., or its 93
successor. 94

(C) "Zero-emissions nuclear credit" means the attributes 95
associated with one megawatt hour of electricity generated by a 96
zero-emissions nuclear resource. 97

(D) "Zero-emissions nuclear resource" means a nuclear 98
energy resource that meets the criteria of section 4928.754 of 99
the Revised Code. 100

Sec. 4928.751. There is hereby created a zero-emissions 101
nuclear resource program to enable the state to meet its policy 102
goals and requirements under which zero-emissions nuclear 103
credits are allocated to electric distribution utilities to 104

provide long-term energy security and environmental and other 105
benefits to the region and to retail electric service customers 106
in the state. An electric distribution utility in this state 107
that has a zero-emissions nuclear resource located within its 108
certified territory shall participate in the program. All 109
electric distribution utilities in the same holding company 110
system shall participate jointly and shall allocate revenue 111
collection across all classes of each participating utility's 112
customers. 113

Sec. 4928.752. (A) The zero-emissions nuclear resource 114
program shall operate for successive two-year program periods 115
beginning with the initial program period commencing on the 116
effective date of this section and terminating on December 31, 117
2030, unless extended by the general assembly. Following 118
termination, any over-collection of revenue during the last 119
program period shall be credited to customers. 120

(B) The public utilities commission shall conduct an 121
inquiry in 2029 to determine whether it is in the public 122
interest to continue the zero-emissions nuclear resource program 123
after 2030, and shall report its findings to the general 124
assembly. 125

Sec. 4928.753. To provide zero-emissions nuclear credits 126
under the zero-emissions nuclear resource program, an entity 127
that owns or operates a nuclear energy resource shall file with 128
the public utilities commission a written notice verifying that 129
the resource meets the criteria under section 4928.754 of the 130
Revised Code. The entity shall file the written notice not later 131
than ninety days after the commencement of the initial program 132
period. 133

Sec. 4928.754. A nuclear energy resource that satisfies 134

<u>all of the following criteria is a zero-emissions nuclear</u>	135
<u>resource for purposes of zero-emissions nuclear credits:</u>	136
<u>(A) The resource is interconnected within the transmission</u>	137
<u>system of PJM.</u>	138
<u>(B) PJM has determined the resource is transmission</u>	139
<u>deliverable under the metrics by which PJM calculates</u>	140
<u>deliverability for purposes of capacity planning on a round-the-</u>	141
<u>clock baseload basis into the transmission zone or zones of</u>	142
<u>electric distribution utilities participating in the zero-</u>	143
<u>emissions nuclear resource program under sections 4928.75 to</u>	144
<u>4928.7540 of the Revised Code.</u>	145
<u>(C) (1) For in-state nuclear energy resources:</u>	146
<u>(a) The resource has benefited the air quality profile of</u>	147
<u>the state more than the predominant electric generation source</u>	148
<u>with similar capacity and baseload characteristics as the</u>	149
<u>resource as of the time the resource commenced operation.</u>	150
<u>(b) All of the following could occur if the resource</u>	151
<u>ceased operation and its capacity were replaced at the same</u>	152
<u>location by the then predominant electric generation source with</u>	153
<u>similar capacity and baseload characteristics as the resource:</u>	154
<u>(i) The ability of the state, or region of the state, to</u>	155
<u>maintain or decrease existing levels of volatile organic</u>	156
<u>compounds or to comply with one or more state or federal air</u>	157
<u>pollution control programs, standards, or goals is reduced.</u>	158
<u>(ii) The carbon dioxide emissions intensity of the state</u>	159
<u>is negatively impacted.</u>	160
<u>(iii) The ability of the state to maintain or decrease</u>	161
<u>existing levels of carbon monoxide, lead, ground-level ozone,</u>	162

particulate matter, nitrogen oxide, or sulfur dioxide is 163
negatively impacted. 164

(2) For all other nuclear energy resources, each such 165
resource is shown to provide no less than the same level of 166
environmental benefits to the state as nuclear energy resources 167
located within the state, pursuant to the requirements in 168
division (C) (1) of this section. 169

(D) The resource, on or after January 1, 2017: 170

(1) Did not receive from another state tax exemptions, 171
deferrals, exclusions, allowances, payments, credits, 172
deductions, or reimbursements calculated in whole or in part 173
using a metric that provides value for emissions not produced by 174
the resource; 175

(2) Is not wholly owned by a municipal or cooperative 176
corporation or a group, association, or consortium of those 177
corporations; or 178

(3) Did not, during a program period described in section 179
4928.752 of the Revised Code, recover some or all of the capital 180
or operating costs of the resource through rates regulated by a 181
state. 182

Sec. 4928.755. With respect to a written notice filed 183
under section 4928.753 of the Revised Code relating to a nuclear 184
energy resource located in this state, any interested person may 185
file comments with the public utilities commission not later 186
than twenty days after the written notice was filed. 187

Sec. 4928.756. An entity that owns or operates a nuclear 188
energy resource may file with the public utilities commission a 189
response to any comment made under section 4928.755 of the 190
Revised Code, not later than ten days after the comment was 191

filed. 192

Sec. 4928.757. Not later than fifty days after the filing 193
of a written notice under section 4928.753 of the Revised Code 194
relating to a nuclear energy resource located in this state, the 195
public utilities commission shall designate a resource that 196
satisfies the criteria in section 4928.754 of the Revised Code 197
as a zero-emissions nuclear resource and issue an order 198
consistent with that designation. If the commission does not 199
issue an order in the time required by this section, the 200
resource shall be deemed to be a zero-emissions nuclear 201
resource. 202

Sec. 4928.7511. The public utilities commission, under a 203
procedure it adopts, shall determine and issue the appropriate 204
order regarding whether a nuclear energy resource described in 205
division (C)(2) of section 4928.754 of the Revised Code 206
satisfies the criteria in section 4928.754 of the Revised Code 207
as a zero-emissions nuclear resource. The nuclear energy 208
resource shall submit an environmental study showing that the 209
resource meets the criteria under section 4928.754 of the 210
Revised Code. At minimum, the adopted procedure shall provide 211
the opportunity for comment and response similar to the 212
opportunities described under sections 4928.755 and 4928.756 of 213
the Revised Code. 214

Sec. 4928.7513. A nuclear energy resource determined under 215
section 4928.757 or 4928.7511 of the Revised Code to be a zero- 216
emissions nuclear resource shall continue to be considered such 217
a resource for all successive program periods as long as the 218
resource continues to meet the criteria of divisions (A), (B), 219
and (D) of section 4928.754 of the Revised Code. The provisions 220
of sections 4928.75 to 4928.7540 of the Revised Code shall apply 221

to any person to which zero-emissions nuclear resources are 222
sold, assigned, transferred, or conveyed. 223

Sec. 4928.7514. Zero-emission nuclear resources shall 224
provide zero-emissions nuclear credits for the zero-emissions 225
nuclear resource program. Not later than thirty days before a 226
program period commences, each zero-emissions nuclear resource 227
shall confirm with the public utilities commission its intent to 228
continue to commit its credits under the program. 229

Sec. 4928.7515. All financial statements, financial data, 230
and trade secrets submitted to or received by the public 231
utilities commission for purposes of satisfying the criteria as 232
a zero-emissions nuclear resource and any information taken for 233
any purpose from the statements, data, or trade secrets are not 234
public records under section 149.43 of the Revised Code. 235

Sec. 4928.7520. Not later than sixty days after the 236
initial program period commences and not later than thirty days 237
before a subsequent program period commences, the public 238
utilities commission shall set the price for zero-emissions 239
nuclear credits applicable for the period. For the initial 240
program period the price shall be seventeen dollars per credit. 241
For each subsequent program period, that price shall be adjusted 242
for inflation using the gross domestic product implicit price 243
deflator as published by the United States department of 244
commerce, bureau of economic analysis, index numbers 2007=100. 245

Sec. 4928.7521. At the same time the public utilities 246
commission sets the price for zero-emissions nuclear credits, 247
the commission shall determine the maximum number of credits to 248
be allocated to participating electric distribution utilities 249
during the program period. The amount the commission sets shall 250
equal one-third of the total "Total End User Consumption" in 251

megawatt-hours over the previous two calendar years as shown on 252
PUCO Form D1 of each participating electric distribution 253
utility's most recently filed long-term forecast report. 254

Sec. 4928.7522. Not later than seven days following the 255
close of each quarter of a program period, each zero-emissions 256
nuclear resource shall transfer all of its zero-emissions 257
nuclear credits generated that quarter to the public utilities 258
commission, which shall hold the credits for the sole purpose of 259
administering the program. 260

Sec. 4928.7523. Not later than seven days after the zero- 261
emissions nuclear resource transfers its credits, the public 262
utilities commission shall allocate to the participating 263
electric distribution utilities all of the zero-emissions 264
nuclear credits transferred to the commission, up to the maximum 265
number of credits determined for each participating utility 266
under section 4928.7521 of the Revised Code. The commission 267
shall allocate the credits to each participating utility in 268
proportion to the total "Total End User Consumption" in 269
megawatt-hours over the previous two calendar years as shown on 270
PUCO Form D1 of each participating utility's most recently filed 271
long-term forecast report. The commission shall notify each 272
participating utility of the allocation for that utility. 273

Sec. 4928.7524. (A) Except as provided in division (B) of 274
this section, each participating electric distribution utility 275
shall collect, through a nonbypassable rider charged to all of 276
its retail electric service customers, an amount equal to the 277
number of credits allocated to the utility under section 278
4928.7523 of the Revised Code multiplied by the credit price 279
established under section 4928.7520 of the Revised Code. 280

(B) (1) A residential customer's monthly nonbypassable 281

charge shall be set at two dollars and fifty cents. A 282
nonresidential customer's monthly nonbypassable charge shall be 283
set at the lesser of three thousand five hundred dollars or five 284
per cent of the customer's total bill. The participating utility 285
may adjust these charges downward if a lower rate will allow 286
full collection of the total amount to be collected under 287
division (A) of this section. 288

(2) Each participating utility shall transfer to the 289
public utilities commission all revenues that it collects from 290
its nonbypassable rider. During each program period, if the 291
total revenues collected are less for that period than the total 292
amount to be collected under division (A) of this section, the 293
participating utility shall not be responsible for or required 294
to transfer any amounts in excess of those collected from its 295
nonbypassable rider. 296

(3) The participating utility shall apply for the 297
establishment of the nonbypassable rider, which the commission 298
shall approve not later than sixty days after the effective date 299
of this section. 300

(C) If the owner, as of December 31, 2016, of a zero- 301
emissions nuclear resource sells or transfers the zero-emissions 302
nuclear resource, the commission shall reduce the number of 303
zero-emissions nuclear credits to be allocated from that 304
resource during the program period and, if necessary, successive 305
program periods, to reflect an adjustment equal to one-half of 306
the dollar amount of any net proceeds available after the 307
payment or provision for the seller's known obligations, but in 308
no instance shall this adjustment apply to a sale or transfer 309
under the United States Bankruptcy Code, including, but not 310
limited to, sections 363 and 1123, 11 U.S.C. sections 363 and 311

<u>1123.</u>	312
<u>Sec. 4928.7525. The public utilities commission shall</u>	313
<u>deposit all revenues received for credits under section</u>	314
<u>4928.7524 of the Revised Code into the zero-emissions nuclear</u>	315
<u>resources fund created under section 4928.7532 of the Revised</u>	316
<u>Code.</u>	317
<u>Sec. 4928.7526. Not later than seven days after receipt of</u>	318
<u>utility revenues, the public utilities commission shall use all</u>	319
<u>amounts in the zero-emissions nuclear resources fund to pay to</u>	320
<u>each zero-emissions nuclear resource the total revenues received</u>	321
<u>for each of the resource's zero-emissions nuclear credits.</u>	322
<u>Sec. 4928.7527. Credits allocated to participating</u>	323
<u>electric distribution utilities may not be transferred, sold, or</u>	324
<u>allocated to any other entity.</u>	325
<u>Sec. 4928.7532. There is hereby created the zero-emissions</u>	326
<u>nuclear resources fund that shall be in the custody of the</u>	327
<u>treasurer of state but shall not be part of the state treasury.</u>	328
<u>The fund shall consist of all revenues received by the public</u>	329
<u>utilities commission from participating electric distribution</u>	330
<u>utilities for their allocations of zero-emissions nuclear</u>	331
<u>credits. The amounts deposited into the fund shall be used to</u>	332
<u>compensate the zero-emissions nuclear resources that generated</u>	333
<u>the credits. All investment earnings from the fund shall be</u>	334
<u>transferred by the treasurer to the general revenue fund in the</u>	335
<u>state treasury.</u>	336
<u>Sec. 4928.7533. During each program period in which a</u>	337
<u>zero-emissions nuclear resource receives payment for credits</u>	338
<u>under section 4928.7526 of the Revised Code, an entity that owns</u>	339
<u>or operates that zero-emissions nuclear resource and that has</u>	340

its corporate headquarters located in this state shall continue 341
to maintain its corporate headquarters in this state. 342

Sec. 4928.7540. (A) For purposes of this section: 343

(1) "Employment levels" means the number of full-time 344
employees regularly providing services at the location of a 345
zero-emissions nuclear resource. 346

(2) "Full-time employee" means an individual who is 347
employed for consideration for at least thirty-five hours per 348
week, or who renders any other standard of service generally 349
accepted by custom or specified by contract as full-time 350
employment. 351

(B) During each program period in which a zero-emissions 352
nuclear resource receives payment for zero-emissions nuclear 353
credits under section 4928.7526 of the Revised Code, the 354
employment levels at that zero-emissions nuclear resource shall 355
continue to be similar to that of nuclear energy resources 356
constructed prior to 1990 in the United States with the same 357
reactor type, similar nameplate capacity, and single-unit 358
location. 359

Section 2. That existing section 4928.02 of the Revised 360
Code is hereby repealed. 361