

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**S. B. No. 128**

**Senators Eklund, LaRose**

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**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, 4928.7530, 6  
4928.7532, 4928.7533, 4928.7534, and 4928.7540 7  
of the Revised Code regarding the zero-emissions 8  
nuclear resource program. 9  
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**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, 4928.7530, 4928.7532, 15  
4928.7533, 4928.7534, and 4928.7540 of the Revised Code be 16  
enacted to read as follows: 17

**Sec. 4928.02.** It is the policy of this state to do the 18  
following throughout this state: 19

(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 49  
owner of distributed generation, so that the customer-generator 50  
or owner can market and deliver the electricity it produces; 51

(G) Recognize the continuing emergence of competitive 52  
electricity markets through the development and implementation 53  
of flexible regulatory treatment, while simultaneously 54  
recognizing the need for nuclear energy resources, as defined in 55  
section 4928.75 of the Revised Code, and resources that provide 56  
fuel diversity and environmental and other benefits; 57

(H) Ensure effective competition in the provision of 58  
retail electric service by avoiding anticompetitive subsidies 59  
flowing from a noncompetitive retail electric service to a 60  
competitive retail electric service or to a product or service 61  
other than retail electric service, and vice versa, including by 62  
prohibiting the recovery of any generation-related costs through 63  
distribution or transmission rates; 64

(I) Ensure retail electric service consumers protection 65  
against unreasonable sales practices, market deficiencies, and 66  
market power; 67

(J) Provide coherent, transparent means of giving 68  
appropriate incentives to technologies that can adapt 69  
successfully to potential environmental mandates; 70

(K) Encourage implementation of distributed generation 71  
across customer classes through regular review and updating of 72  
administrative rules governing critical issues such as, but not 73  
limited to, interconnection standards, standby charges, and net 74  
metering; 75

(L) Protect at-risk populations, including, but not 76  
limited to, when considering the implementation of any new 77

advanced energy or renewable energy resource; 78

(M) Encourage the education of small business owners in 79  
this state regarding the use of, and encourage the use of, 80  
energy efficiency programs and alternative energy resources in 81  
their businesses; 82

(N) Facilitate the state's effectiveness in the global 83  
economy. 84

In carrying out this policy, the commission shall consider 85  
rules as they apply to the costs of electric distribution 86  
infrastructure, including, but not limited to, line extensions, 87  
for the purpose of development in this state. 88

Sec. 4928.75. As used in sections 4928.75 to 4928.7540 of 89  
the Revised Code: 90

(A) "Nuclear energy resource" means an electric generation 91  
unit fueled, in whole or in part, by nuclear power and licensed 92  
by the nuclear regulatory commission. 93

(B) "PJM" means the PJM Interconnection, L.L.C., or its 94  
successor. 95

(C) "Zero-emissions nuclear credit" means the attributes 96  
associated with one megawatt hour of electricity generated by a 97  
zero-emissions nuclear resource. 98

(D) "Zero-emissions nuclear resource" means a nuclear 99  
energy resource that meets the criteria of section 4928.754 of 100  
the Revised Code. 101

Sec. 4928.751. There is hereby created a zero-emissions 102  
nuclear resource program to enable the state to meet its policy 103  
goals and requirements under which zero-emissions nuclear 104  
credits are purchased by electric distribution utilities to 105

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

**Sec. 4928.752.** The zero-emissions nuclear resource program 114  
shall operate for successive two-year program periods beginning 115  
with the initial program period commencing on the effective date 116  
of this section and terminating on the last day of the eighth 117  
program period. 118

**Sec. 4928.753.** To provide zero-emissions nuclear credits 119  
under the zero-emissions nuclear program, an entity that owns or 120  
operates a nuclear energy resource shall file with the public 121  
utilities commission a written notice verifying that the 122  
resource meets the criteria under section 4928.754 of the 123  
Revised Code. The entity shall file the written notice not later 124  
than ninety days after the commencement of the initial program 125  
period. 126

**Sec. 4928.754.** A nuclear energy resource that satisfies 127  
all of the following criteria is a zero-emissions nuclear 128  
resource for purposes of zero-emissions nuclear credits: 129

(A) The resource is interconnected within the transmission 130  
system of PJM. 131

(B) PJM has determined the resource is transmission 132  
deliverable under the metrics by which PJM calculates 133  
deliverability for purposes of capacity planning on a round-the- 134

clock baseload basis into the transmission zone or zones of 135  
electric distribution utilities participating in the zero- 136  
emissions nuclear resource program under sections 4928.75 to 137  
4928.7540 of the Revised Code. 138

(C) (1) For in-state nuclear energy resources: 139

(a) The resource has benefited the air quality profile of 140  
the state more than the predominant electric generation source 141  
with similar capacity and baseload characteristics as the 142  
resource as of the time the resource commenced operation. 143

(b) All of the following could occur if the resource 144  
ceased operation and its capacity were replaced at the same 145  
location by the then predominant electric generation source with 146  
similar capacity and baseload characteristics as the resource: 147

(i) The ability of the state, or region of the state, to 148  
maintain or decrease existing intensity of fine particulate 149  
matter or to comply with one or more state or federal air 150  
pollution control programs, standards, or goals is reduced. 151

(ii) The carbon dioxide emissions intensity of the state 152  
is negatively impacted. 153

(iii) The ability of the state to maintain or decrease 154  
existing intensity of carbon monoxide, lead, ground-level ozone, 155  
particulate matter, nitrogen oxide, or sulfur dioxide is 156  
negatively impacted. 157

(2) For all other nuclear energy resources, each such 158  
resource is shown to provide no less than the same level of 159  
environmental benefits to the state as nuclear energy resources 160  
located within the state, pursuant to the requirements in 161  
division (C) (1) of this section. 162

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| <u>(D) The resource, on or after January 1, 2017:</u>                   | 163 |
| <u>(1) Did not receive from another state tax exemptions,</u>           | 164 |
| <u>deferrals, exclusions, allowances, payments, credits,</u>            | 165 |
| <u>deductions, or reimbursements calculated in whole or in part</u>     | 166 |
| <u>using a metric that provides value for emissions not produced by</u> | 167 |
| <u>the resource;</u>  | 168 |
| <u>(2) Is not wholly owned by a municipal or cooperative</u>            | 169 |
| <u>corporation or a group, association, or consortium of those</u>      | 170 |
| <u>corporations; or</u>   | 171 |
| <u>(3) Did not, during a program period described in section</u>        | 172 |
| <u>4928.752 of the Revised Code, recover some or all of the capital</u> | 173 |
| <u>or operating costs of the resource through rates regulated by a</u>  | 174 |
| <u>state.</u>   | 175 |
| <u><b>Sec. 4928.755.</b> With respect to a written notice filed</u>     | 176 |
| <u>under section 4928.753 of the Revised Code relating to a nuclear</u> | 177 |
| <u>energy resource located in this state, any interested person may</u> | 178 |
| <u>file comments with the public utilities commission not later</u>     | 179 |
| <u>than twenty days after the written notice was filed.</u>             | 180 |
| <u><b>Sec. 4928.756.</b> An entity that owns or operates a nuclear</u>  | 181 |
| <u>energy resource may file with the public utilities commission a</u>  | 182 |
| <u>response to any comment made under section 4928.755 of the</u>       | 183 |
| <u>Revised Code, not later than ten days after the comment was</u>      | 184 |
| <u>filed.</u>   | 185 |
| <u><b>Sec. 4928.757.</b> Not later than fifty days after the filing</u> | 186 |
| <u>of a written notice under section 4928.753 of the Revised Code</u>   | 187 |
| <u>relating to a nuclear energy resource located in this state, the</u> | 188 |
| <u>public utilities commission shall designate a resource that</u>      | 189 |
| <u>satisfies the criteria in section 4928.754 of the Revised Code</u>   | 190 |
| <u>as a zero-emissions nuclear resource and issue an order</u>          | 191 |

consistent with that designation. If the commission does not 192  
issue an order in the time required by this section, the 193  
resource shall be deemed to be a zero-emissions nuclear 194  
resource. 195

**Sec. 4928.7511.** The public utilities commission, under a 196  
procedure it adopts, shall determine and issue the appropriate 197  
order regarding whether a nuclear energy resource described in 198  
division (C) (2) of section 4928.754 of the Revised Code 199  
satisfies the criteria in section 4928.754 of the Revised Code 200  
as a zero-emissions nuclear resource. The nuclear energy 201  
resource shall submit an environmental study showing that the 202  
resource meets the criteria under section 4928.754 of the 203  
Revised Code. At minimum, the adopted procedure shall provide 204  
the opportunity for comment and response similar to the 205  
opportunities described under sections 4928.755 and 4928.756 of 206  
the Revised Code. 207

**Sec. 4928.7513.** A nuclear energy resource determined under 208  
section 4928.757 or 4928.7511 of the Revised Code to be a zero- 209  
emissions nuclear resource shall continue to be considered such 210  
a resource for all successive program periods as long as the 211  
resource continues to meet the criteria of divisions (A), (B), 212  
and (D) of section 4928.754 of the Revised Code. The provisions 213  
of sections 4928.75 to 4928.7540 of the Revised Code shall apply 214  
to any person to which zero-emissions nuclear resources are 215  
sold, assigned, transferred, or conveyed. 216

**Sec. 4928.7514.** Zero-emission nuclear resources shall 217  
provide zero-emissions nuclear credits for the zero-emissions 218  
nuclear resource program. Not later than thirty days before a 219  
program period commences, each zero-emissions nuclear resource 220  
shall confirm with the public utilities commission its intent to 221



continue to commit its credits under the program. 222

Sec. 4928.7515. All financial statements, financial data, 223  
and trade secrets submitted to or received by the public 224  
utilities commission for purposes of satisfying the criteria as 225  
a zero-emissions nuclear resource and any information taken for 226  
any purpose from the statements, data, or trade secrets are not 227  
public records under section 149.43 of the Revised Code. 228

Sec. 4928.7520. Not later than sixty days after the 229  
initial program period commences and not later than thirty days 230  
before a subsequent program period commences, the public 231  
utilities commission shall set the price for zero-emissions 232  
nuclear credits applicable for the period. For the initial 233  
program period the price shall be seventeen dollars per credit. 234  
For each subsequent program period, that price shall be adjusted 235  
for inflation using the gross domestic product implicit price 236  
deflator as published by the United States department of 237  
commerce, bureau of economic analysis, index numbers 2007=100. 238

Sec. 4928.7521. At the same time the public utilities 239  
commission sets the price for zero-emissions nuclear credits, 240  
the commission shall determine the maximum number of credits to 241  
be purchased by electric distribution utilities during the 242  
program period. The amount the commission sets shall equal one- 243  
third of the total "Total End User Consumption" in megawatt- 244  
hours over the previous two calendar years as shown on PUCO Form 245  
D1 of each participating electric distribution utility's most 246  
recently filed long-term forecast report. 247

Sec. 4928.7522. Not later than seven days following the 248  
close of each quarter of a program period, each zero-emissions 249  
nuclear resource shall transfer all of its zero-emissions 250  
nuclear credits generated that quarter to the public utilities 251

commission, which shall hold the credits for the sole purpose of 252  
administering the program. 253

Sec. 4928.7523. Not later than seven days after the zero- 254  
emissions nuclear resource transfers its credits, the public 255  
utilities commission shall notify each participating electric 256  
distribution utility of the total amount of zero-emissions 257  
nuclear credits received from zero-emissions nuclear resources. 258

Sec. 4928.7524. (A) Except as provided in division (B) of 259  
this section, all participating electric distribution utilities 260  
shall purchase all zero-emissions nuclear credits transferred to 261  
the public utilities commission up to the maximum number of 262  
credits determined under section 4928.7521 of the Revised Code. 263  
The commission shall allocate the amounts to be purchased by 264  
each participating utility based on the total "Total End User 265  
Consumption" in megawatt-hours over the previous two calendar 266  
years as shown on PUCO Form D1 of each participating electric 267  
distribution utility's most recently filed long-term forecast 268  
report. Each participating electric distribution utility shall 269  
pay the credit price for each credit purchased. 270

(B) If the owner, as of December 31, 2016, of a zero- 271  
emissions nuclear resource sells or transfers the zero-emissions 272  
nuclear resource, the commission shall reduce the number of 273  
zero-emissions nuclear credits to be purchased from that 274  
resource during the program period and, if necessary, successive 275  
program periods, to reflect an adjustment equal to one-half of 276  
the dollar amount of any net proceeds available after the 277  
payment or provision for the seller's known obligations, but in 278  
no instance shall this adjustment apply to a sale or transfer 279  
under the United States Bankruptcy Code, including, but not 280  
limited to, sections 363 and 1123, 11 U.S.C. sections 363 and 281

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| <u>1123.</u>  | 282 |
| <u>Sec. 4928.7525. The public utilities commission shall</u>            | 283 |
| <u>deposit all payments for credits into the zero-emissions nuclear</u> | 284 |
| <u>resources fund created under section 4928.7532 of the Revised</u>    | 285 |
| <u>Code.</u>  | 286 |
| <u>Sec. 4928.7526. Not later than seven days after receipt of</u>       | 287 |
| <u>utility payment, the public utilities commission shall pay to</u>    | 288 |
| <u>each zero-emissions nuclear resource the amount paid for each of</u> | 289 |
| <u>the resource's zero-emissions nuclear credits purchased from the</u> | 290 |
| <u>zero-emissions nuclear resources fund.</u>                           | 291 |
| <u>Sec. 4928.7527. Credits purchased by participating</u>               | 292 |
| <u>electric distribution utilities may not be transferred, sold, or</u> | 293 |
| <u>assigned to any other entity.</u>                                    | 294 |
| <u>Sec. 4928.7530. Each participating electric distribution</u>         | 295 |
| <u>utility shall recover any and all direct and indirect costs for</u>  | 296 |
| <u>the purchase of zero-emissions nuclear credits through a</u>         | 297 |
| <u>nonbypassable rider charged to all of its retail electric</u>        | 298 |
| <u>service customers, which rider shall be established not later</u>    | 299 |
| <u>than sixty days after the effective date of this section. The</u>    | 300 |
| <u>nonbypassable charge shall be designed such that no retail</u>       | 301 |
| <u>electric service customer shall have an increase resulting from</u>  | 302 |
| <u>the nonbypassable rider in the customer's total retail electric</u>  | 303 |
| <u>service bill of more than five per cent as compared to June</u>      | 304 |
| <u>2015. The participating electric distribution utility shall</u>      | 305 |
| <u>defer as a regulatory asset an amount equal to the revenue</u>       | 306 |
| <u>reduction resulting from the five per cent limit on customer</u>     | 307 |
| <u>bill increases and recover the deferral plus carrying charges</u>    | 308 |
| <u>through a nonbypassable charge assessed over a twelve-month</u>      | 309 |
| <u>period.</u>  | 310 |

Sec. 4928.7532. There is hereby created the zero-emissions nuclear resources fund that shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all money collected by the public utilities commission from purchases of zero-emissions nuclear credits. The amounts deposited into the fund shall be used to pay the credit purchase price to the resources that generated the credits. All investment earnings from the fund shall be transferred by the treasurer to the general revenue fund in the state treasury. 311  
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Sec. 4928.7533. During each program period in which a zero-emissions nuclear resource receives payment for credits under section 4928.7526 of the Revised Code, an entity that owns or operates that zero-emissions nuclear resource and that has its corporate headquarters located in this state shall continue to maintain its corporate headquarters in this state. 321  
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Sec. 4928.7534. During the sixth and eleventh years of the zero-emissions nuclear resource program, the public utilities commission shall evaluate the zero-emissions nuclear credit price established under section 4928.7520 of the Revised Code for the purpose of discerning whether the program is achieving the policy goals in section 4928.751 of the Revised Code and whether those policy goals are being met through other federal environmental laws, programs, rules or regulations, or through amendments to the federal tax code. Upon the conclusion of its evaluation, the commission shall report the results of its evaluation to the standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation. In no case shall the zero-emissions nuclear resource program terminate earlier than the last day of the second program period. 327  
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| <u>Sec. 4928.7540. (A) For purposes of this section:</u>               | 342 |
| <u>(1) "Employment levels" means the number of full-time</u>           | 343 |
| <u>employees regularly providing services at the location of a</u>     | 344 |
| <u>zero-emissions nuclear resource.</u>                                | 345 |
| <u>(2) "Full-time employee" means an individual who is</u>             | 346 |
| <u>employed for consideration for at least thirty-five hours per</u>   | 347 |
| <u>week, or who renders any other standard of service generally</u>    | 348 |
| <u>accepted by custom or specified by contract as full-time</u>        | 349 |
| <u>employment.</u>   | 350 |
| <u>(B) During each program period in which a zero-emissions</u>        | 351 |
| <u>nuclear resource receives payment for zero-emissions nuclear</u>    | 352 |
| <u>credits under section 4928.7526 of the Revised Code, the</u>        | 353 |
| <u>employment levels at that zero-emissions nuclear resource shall</u> | 354 |
| <u>continue to be similar to that of nuclear energy resources</u>      | 355 |
| <u>constructed prior to 1990 in the United States with the same</u>    | 356 |
| <u>reactor type, similar nameplate capacity, and single-unit</u>       | 357 |
| <u>location.</u>   | 358 |
| <b>Section 2.</b> That existing section 4928.02 of the Revised         | 359 |
| Code is hereby repealed.   | 360 |