



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [Sub. S.B. 310 of the 130th G.A.](#)

**Date:** May 28, 2014

**Status:** As Enacted

**Sponsor:** Sen. Balderson

**Local Impact Statement Procedure Required:** No

**Contents:** To make changes to alternative energy, energy efficiency, and peak demand reduction requirements and to create a study committee

### State Fiscal Highlights

- The Energy Mandates Study Committee is tasked with considerable duties, including a required cost-benefit analysis, but the bill does not specify a funding source for support of the Committee.

### Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

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## Detailed Fiscal Analysis

S.B. 310 modifies the alternative energy resource, energy efficiency, and peak demand reduction provisions established in the competitive retail electric service law enacted in Am. Sub. S.B. 221 of the 127th General Assembly. The 2008 legislation enacted Section 4928.64 of the Revised Code, which sets annual benchmarks requiring electric distribution utilities (EDUs) to provide a portion of their electricity supply from renewable energy resources. The annual benchmarks increase through the end of 2024, at which point 12.5% of the electricity supply will be provided from renewable energy. Current law requires half of the renewable benchmarks to be met through facilities in Ohio.

Separately, S.B. 221 enacted provisions requiring each EDU to implement energy efficiency (EE) programs that achieve energy savings equivalent to a percentage of the total, annual average, and normalized kilowatt hour sales of the EDU during the preceding three calendar years to customers in this state. Current law sets annual benchmarks, in percentage terms, for the annual energy savings requirements. The benchmarks escalate from 2009 until the end of 2025.

In general, S.B. 310 holds the renewable and solar energy benchmarks constant at the 2014 level for two additional years (2015 and 2016). Future renewable and solar energy benchmarks in current law resume in 2017 after the two-year delay with the current 2015 requirement taking effect in 2017, the current 2016 requirement taking effect in 2018, etc., through 2027. Similarly, the bill holds the amount of solar energy compliance payments at the 2014 level for two additional years (2015 and 2016) before resuming the current law method of decreasing the payment amount by \$50 every subsequent two years.

The bill modifies the electricity consumption baseline against which a utility or competitive retail supplier must measure compliance for renewable energy benchmarks. Under the bill the electricity provider may select from the baseline in current law (i.e., the previous three calendar years of kilowatt hour sales) or a baseline equal to kilowatt hour sales in the previous calendar year.

S.B. 310 requires EDUs to identify on customers' bills, beginning in January 2015, the cost of compliance with state laws concerning renewable energy, EE, and peak demand reduction (PDR).

S.B. 310 repeals the in-state requirement that mandates half of the renewable energy be sourced from Ohio. Instead, the bill requires that all renewable energy be deliverable into Ohio.

The bill expands the definition of renewable energy to include two new energy sources: (1) "heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas," (2) energy produced from a "run-of-the-river

hydroelectric facility<sup>1</sup> placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts." Elsewhere, S.B. 310 specifies that hydroelectric generating facilities must produce "power that can be shown to be deliverable into this state." The bill also provides that renewable energy resources do not have to be converted to electricity in order to be eligible to receive renewable energy credits.

S.B. 310 sets the cumulative requirement of EE savings achieved since 2009 equal to 4.2% of the most recent three-year average of total kilowatt hours sold to Ohio retail electric customers, and continues the 4.2% cumulative requirement through 2016. Beginning in 2017, the EE requirements escalate, and by 2027, the bill requires that cumulative EE energy savings equal 22%. Additionally, the bill modifies the criteria, beginning in January 2015, by which certain customers can opt out of the EE and PDR programs governed by state law. The provision only applies to those customers that use large<sup>2</sup> amounts of electricity. The bill adjusts the baseline for energy savings to exclude all utility customers that the bill exempts from the EE and PDR requirements. Separately, the bill expands the scope of programs that qualify as EE and PDR savings. The bill establishes a method the Public Utilities Commission of Ohio (PUCO) must use when computing EE and PDR savings and the corresponding shared savings (if applicable).

The bill eliminates the advanced energy requirements from current law. S.B. 221 required EDUs to provide 12.5% of electricity from "advanced energy" sources, which included nuclear (generation III technology), clean coal technology, and cogeneration technology among other things. The advanced energy requirements do not have annual benchmarks in current law; the requirements apply to 2025 and years thereafter.

The bill prevents the Director of Development from imposing a waiting period<sup>3</sup> before enrolling an eligible customer in the Percentage of Income Payment Plan (PIPP), now known as PIPP Plus. PIPP Plus is an extended payment arrangement that requires regulated gas and electric companies to accept payments based on a percentage of the household income in lieu of the actual monthly bill for residential utility service. The Office of Community Assistance within the Development Services Agency oversees the PIPP Plus program for eligible electric utility customers.

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<sup>1</sup> According to information presented to the House Public Utilities Committee on May 27, 2014, this definition would apply to a facility operated by the city of Hamilton. Although the city operates a municipal electric utility and is not subject to the alternative energy portfolio standards enacted in S.B. 221, the city would be eligible to receive (and sell) renewable energy credits for producing renewable energy from its hydroelectric facilities. Under continuing law, a hydroelectric facility currently is classified as a renewable energy resource, but only if it has a placed-in-service date after January 1, 1998.

<sup>2</sup> Refer to R.C. 4928.6610(A) for more detailed information.

<sup>3</sup> According to information presented to the House Public Utilities Committee on May 27, 2014, this provision will eliminate the one-year waiting period that is currently imposed on prospective PIPP households.

S.B. 310 creates the 13-member Energy Mandates Study Committee, composed of six members from the House of Representatives, six members from the Senate, and the chairperson of PUCO. The Committee is tasked to study: (a) Ohio's renewable energy, EE, and PDR mandates, (b) the risk of increased grid congestion due to the anticipated retirement of coal-fired generation capacity and other factors, (c) whether there are alternatives for the development of advanced energy resources, (d) the inclusion of a "change of law provision" in renewable energy procurement contracts, (e) the environmental impact of the renewable energy, EE, and PDR mandates on reductions of greenhouse gas and fossil fuel emissions, and (f) payments made by EDUs to third-party administrators to promote EE and PDR programs under the terms of the utilities' portfolio plans.

The bill requires the Committee to submit a report to the General Assembly by September 30, 2015, including a cost-benefit analysis of the mandates, a recommendation of a standard for future review of the mandates, and recommendations regarding opt-in and opt-out systems for the mandates. S.B. 310 does not establish a funding source for the Committee, does not specify whether Committee members or outside personnel potentially assisting the Committee would be compensated or be reimbursed for expenses related to Committee work, and it abolishes the Committee effective October 1, 2015.

S.B. 310 proposes numerous changes to existing law, and a comprehensive review of all the changes can be found in the LSC Bill Analysis for S.B. 310. Although none of the provisions have a direct fiscal effect on state agencies and political subdivisions, the bill may impact electricity prices paid by consumers, including those paid by government agencies. A variety of variables determine the price of electricity, and some of those determinants are impacted by S.B. 310.

### **Fiscal effect**

The provisions in the bill do not have a direct fiscal effect on either the state or local authorities, but some provisions may have an indirect effect on electricity expenditures made by state agencies and political subdivisions. In FY 2013, state agencies spent a total of \$102.8 million, which is inclusive of both GRF and non-GRF funds, on electricity. Therefore, a 1% increase (or decrease) in electricity costs could increase (or decrease) state expenditures by \$1.0 million, and roughly \$0.5 million of that amount would be incurred by the GRF.

S.B. 221 enacted benchmarks for alternative energy resources, energy efficiency, and peak demand reduction, but given the duration these benchmarks have been effective, the available research regarding their impact on Ohio electricity prices is limited beyond what the utilities submitted to PUCO in their compliance plans. According to PUCO testimony in the House Public Utilities Committee, the agency has not made any explicit estimates to quantify the impact of renewable energy requirements on consumers' rates because there are so many variables involved. The prices of energy resources have changed in recent years, which prevents measurements

from being applicable to future time periods. In August 2013, PUCO issued a study attempting "to quantify the price suppression effects that are associated with new utility-scale renewable projects," but the study "does not purport to comprise an overall cost-benefit analysis of these projects."

S.B. 310 imposes no new duties on PUCO or the Office of Consumers' Counsel, and so is unlikely to affect their costs. The Energy Mandates Study Committee is tasked with considerable duties, including a required cost-benefit analysis, but the bill does not specify a funding source for support of the Committee.

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