



OEC [Action Fund]

**House Select Committee on Energy Policy & Oversight
OPPONENT TESTIMONY
House Bill 798 (Hoops)
December 3, 2020**

Chair Hoops, Vice Chair Abrams, Ranking Member Leland, and members of the House Select Committee on Energy Policy & Oversight; I am Trish Demeter, Chief of Staff for the Ohio Environmental Council Action Fund. Our organization works to secure healthy air, land and water for all who call Ohio home. Thank you for allowing me to submit opponent testimony on House Bill 798.

The OEC Action Fund strongly opposes House Bill 798, because it fails to repeal House Bill 6 in full, and instead affirms the nuclear and coal bailout, affirms the state's rejection of renewable energy and energy efficiency, and affirms the impacts of HB 6 - higher bills, dirtier air, and clean energy jobs at risk. My testimony will raise points on why HB 798 is insufficient in addressing the corruption and bad policy of HB 6, and I will also provide comments on what could be done to pave a better path forward to restore the public's trust as well as set a more forward-looking and sustainable energy policy for Ohioans.

House Bill 798 is not a simple delay in implementation of HB 6.

As drafted, House Bill 798 does nothing to compel the 134th General Assembly to make any further changes to the policies enacted as part of HB 6. Touting this bill as a simple one year delay in the effective date of the bill is misleading. Rather, it sets the stage for Energy Harbor to begin collecting the subsidy on January 1, 2022 instead of January 1, 2021. HB 798 proposes a suite of new policies and guidelines around the nuclear subsidies that one can only presume are provisions aimed at satisfying the skeptics that that nuclear bailout is even needed, or that Energy Harbor is deserving of taxpayer money despite the allegations of their participation in the bribery and racketeering scheme. First, the inclusion of new audit provisions¹ that would apply to Energy Harbor affirms the possibility that HB 6 will largely go into effect in 2022, as stronger audit provisions have been discussed in this committee as a possible remedy for ensuring Energy Harbor actually needs taxpayer money to keep the Davis Besse and Perry nuclear power plants open. HB 798 also seems to build in a contingency plan should PJM or the Federal Energy Regulatory Commission (FERC) make changes that could impact the viability of the nuclear plants in wholesale markets. Further, the inclusion of

¹ ORC Sec. 3706.61, pg 6 of House Bill 798

program administration funds of up to \$300,000 per fiscal year to the Ohio Air Quality Development Authority (OAQDA)² indicates the intent for HB 6's nuclear and solar charges to continue and/or resume at some point. This means that House Bill 6, the product of a corrupt legislative process, will likely still go fully into effect, and it is still bad policy that will hurt Ohioans.

HB 798 will lead to bill increases and more air pollution.

While we commend the bill's sponsor for including provisions that would prohibit homeowners' and condominium owners' associations from blocking their residents' ability to install rooftop solar projects, HB 798 does very little to nothing to encourage or enable efficiency and renewables. Because of House Bill 6, Ohio's energy efficiency programs are shutting down; as of October 1, 2020, Ohioans lost the ability to take advantage of incentives and rebates that helped us save money on our electric bills by reducing our energy consumption. These programs were good for consumers' wallets and health, for the economy, and they were good for the environment. These programs helped Ohioans save \$7.01 per month. By not restoring the efficiency standard or replacing it with a similar framework, HB 798 forgoes the bill savings created by efficiency programs, leading to increased bills for customers. To boot, not having some kind of efficiency framework, HB 798 perpetuates the risk to the over 85,000 Ohioans employed in the efficiency industry.

Furthermore, HB 798 does not end the coal subsidies for OVEC owners, despite including an insufficient provision requiring the OVEC owners to seek divestiture of the Indiana and Ohio coal plants. The PUCO has issued order after order requiring the same thing over the years to no avail.

House Bill 798 also does nothing to address the deep corruption inherent in the process that made House Bill 6 law. We need a full repeal of HB6, but Ohioans also deserve to have additional measures implemented to assure that this never happens again. Ohio's electric distribution utilities are state-approved monopolies that exist to serve *all* Ohioans, and our laws and regulation should include provisions to ensure transparency and accountability from our utilities and to give our regulators the ability to enforce consequences for utilities that go astray. Strengthening the audit and investigation powers of the Public Utilities Commission of Ohio (PUCO) (or a third party), and creating corresponding remedies would provide the strong accountability mechanism and deterrent needed to keep utilities accountable to the public. There should be stronger oversight of rates and charges implemented through Electric Security Plans (ESPs), the framework under which charges pile up and bills rise for consumers without a holistic review. House Bill 6 also destroyed our energy efficiency programs, which served as an important mechanism to reduce bills and provide cost savings to Ohioans and reduce energy burden for those in our state who need it most. We must create a mechanism to ensure equitable treatment of all ratepayers in Ohio, including residential customers in at-risk communities with low incomes, and not just large industrial customers who can afford to intervene and pay someone to advocate for better rates for their customer class.

² ORC Sec. 3706.491, pg. 4 of House Bill 798

Repealing the coal and nuclear subsidies and enacting modest changes to encourage clean energy is the better path forward.

If the legislature wishes to restore the public's trust, it must at a minimum eliminate the nuclear and coal subsidies altogether. One bill that has been introduced recently - House Bill 772 (Romanchuk) - gets to the root of the criminal conspiracy scheme that got HB 6 passed by proposing to eliminate the nuclear and coal subsidies altogether. House Bill 772's goal to create a fair marketplace for all forms of generation is a big step in the right direction. But, more needs to be done to ensure Ohio's laws enable and support investments that reduce energy waste and encourage new renewable energy projects of all sizes. With some amendments, an approach such as House Bill 772 could do more to remove artificial market barriers for renewables and to create a framework where energy waste reduction investments could still be made on a large scale. These fixes include:

- **Restore the long-term intent of the state's renewable portfolio standard.** HB 6 weakened the state's RPS two-fold by reducing the cumulative target down to 8.5%, and eliminated the clause of "each calendar year thereafter" which amounts to the RPS "ending" in 2026. Renewable energy projects of any size typically require financing deals that span 15 to 20 years. For example, a new project that contracts with a buyer in 2020 will likely need that contract to go through 2035. If the RPS extinguishes prior to that date, the capital needed to finance projects coming online within the next couple of years will dry up. Amending the Ohio Revised Code to restore the clause "each calendar year thereafter" in relation to the 2026 cumulative target year will go a long way to removing a market and financing barrier faced by project developers today.
- **Make the PILOT permanent for renewable energy projects.** Under current law, renewable energy projects can take advantage of an alternative to the tangible personal property (TPP) tax in order to provide a tax benefit to local communities in which new large-scale wind and solar projects are sited. The payment in lieu of tax or PILOT replaces the TPP so that tax revenue flows to local schools, townships, and county general revenue funds. In order to opt for the PILOT, renewable energy projects must meet hiring standards that ensure a specific amount of their labor force are Ohioans. The PILOT statute is scheduled to sunset in 2023, creating uncertainty that could reduce the economic potential of renewable energy in Ohio. This permissive statute should be made permanent to improve Ohio's investment environment and to optimize job creation for Ohioans in one of the fastest growing sectors of our global economy.
- **Remove overly burdensome regulations that are blocking Ohio's wind potential.** Because of a last minute budget bill amendment that received no public testimony in 2014, the minimum required distances that wind turbines must be sited from neighboring property lines and inhabitable structures were increased so dramatically that the policy change amounted to a full moratorium on new wind farms in Ohio (save for a handful of "grandfathered" projects). Restoring the pre-2014 law change minimum setback requirements could lead to as much as 3,000 MW of new wind

projects by 2026, unlock \$4.2 billion in capital investment, and create one thousand direct jobs and an additional two thousand indirect jobs.³

- **Create a new framework for energy waste reduction and efficiency services in which homeowners and small businesses can save money.** Despite the fact that Ohio's energy efficiency standard was still very effective at saving people money and reducing carbon emissions in the power sector, the truth is that the original standard enacted over a decade ago was much stronger than the standard that was dismantled by HB 6. Due to changes in statute made over the years that eroded its effectiveness, and bad decisions at the PUCO that allowed utilities to offer sub-standard programs, the efficiency standard was not providing as much value as it once did to customers. We believe that there are some modifications/fixes that would have made the programs better, but those reasonable changes would be more effective if we still had utility-run efficiency programs. One option would be to retain some level of efficiency programs that would be adjusted to address the concerns over cost and value, or the legislature could simply codify the ability for utilities to get voluntary energy efficiency programs approved at the PUCO (which was assured as an option during the HB 6 debate but in reality has been met with resistance and barriers at the PUCO).

But, if it is the will of the legislature to disallow utility-run efficiency programs, we recommend the creation of a new framework that reduces energy that is wasted in the system, or Ohioans will perpetually miss out on cost-savings created by a more efficient home or business. One option would be to create a system for energy waste reduction and efficiency services similar to what we have for electricity supply. Currently, Ohio law allows competitive retail electric supply (CRES) providers to sell electricity supply to customers directly. Some of these providers offer services like small on-site renewable projects, while some offer energy management services. Additionally, governmental aggregators sometimes offer efficiency and energy waste reduction services through community choice aggregation programs. With some state oversight, and the ability to rely on expertise from third party service providers, Ohio law could enable these same providers to offer efficiency rebate and incentive programming. There is a lot of detail that needs fleshed out to figure out a way forward on that path, including rules around cost-effectiveness, ensuring a large enough pool of customer participation, quality controls and consumer protection to ensure service providers are not taking advantage of customers, and how such programs would be funded. Bottom line, however, is that without some state policy supporting energy waste reduction, we will miss out on energy savings and cost savings that would result in cleaner air and better health, as well as lower electric bills, for Ohioans.

HB 798 bill is not a fix. It is not a temporary hold on HB 6 subsidies. This bill will not protect Ohioans. OEC Action Fund urges this legislature to take action to fully repeal House Bill 6,

³ For more information about Ohio's renewable energy potential, see the Powering Ohio report: http://www.poweringohio.org/files/2018/05/Powering-Ohio_FINAL-WEB.pdf.

rather than pretending that putting off the decision for another year will somehow rid the bill of its implications for Ohioans. We encourage a thoughtful and more measured discussion over energy policy that takes place without the cloud of the HB 6 scandal hanging over us. Thank you again for the opportunity to submit testimony and I would be happy to answer any questions at this time.