OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 149
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Smith

Kathleen A. Luikart, Research Analyst

SUMMARY

- Prohibits "public utilities" (gas, natural gas, and electric light companies that are public utilities under Ohio law and their affiliates or subsidiaries) from recovering from their customers the costs of "political expenditures" which include, for example, lobbying expenditures, contributions to a political candidate, party, or committee, and contributions to certain tax-exempt organizations.
- Authorizes the Public Utilities Commission (PUCO) to order a public utility to refund, with interest, customers charges that have been imposed in violation of the bill's prohibition against recovering political expenditure costs from customers.
- Subjects a public utility that violates this prohibition to a PUCO-ordered fine equal to 20 times the amount that the public utility charged to customers in violation of the bill.
- Creates the Political Activity Fine Fund in the state treasury consisting of the fines paid for violation of the bill and specifies that the fund must be used to assist customers in paying past-due public utility bills.
- Requires the Department of Development to administer the Political Activity Fine Fund and distribute the money in the fund through the Percentage of Income Payment Plan (PIPP) Program, which is the Department administered program to assist customers with paying utility bills.
- Requires public utilities, not later than January 1, to electronically submit to PUCO annual expenditure reports of political expenditures made during the preceding 12-month period and requires PUCO to post the reports on its website.
- Requires PUCO to compile into a single report the public utility political expenditure reports, submit the report to the General Assembly not later than February 1 each year, and post the report on its website.

- Requires PUCO to adopt (1) rules to implement the bill's provisions, (2) in conjunction with the Department, rules to establish a process within the PIPP Program for distributing the money collected from fines, and (3) rules specifying that the money must be used to assist customers with the payment of past-due public utility bills.
- Exempts rules adopted under the bill from the regulatory restriction limitation in existing law.

DETAILED ANALYSIS

Prohibition against cost recovery for political expenditures

The bill prohibits a "public utility" from recovering the cost of any "political expenditure" from its customers through any rate, rate mechanism, rental, toll, fee, rider, or other charge implemented under the Ohio laws regarding utility ratemaking, competitive retail electric service, or alternative rate plans for natural gas companies.[1]

"Public utility"

The bill's prohibition applies to a "public utility," which is one of the following that is regulated by the Public Utilities Commission (PUCO), including any affiliate or subsidiary of the company:

- An electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within Ohio, including supplying electric transmission service for electricity delivered to Ohio;
- A gas company, when engaged in the business of supplying artificial gas for lighting, power, or heating purposes to consumers within Ohio or when engaged in the business of supplying artificial gas to gas companies or to natural gas companies within Ohio;
- A natural gas company, when engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within Ohio.[2]

For the purposes of the bill, "public utility" does not include, for example, a PUCO-regulated utility that is a water-works company, sewage disposal system company, or telephone company.

"Political expenditure"

Under the bill, a "political expenditure," is any of the following:

- A contribution or gift to a political candidate, party, or committee, to a committee of the General Assembly, or to an organization working to promote the adoption or defeat of, or influence the outcome of an election for, a ballot issue or question;

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[1] R.C. 4933.52.

[2] R.C. 4933.51(A); R.C. 4905.02 and 4905.03, not in the bill.

- A contribution to a tax-exempt trade association, chamber of commerce, organization described under subsection 501(c)(6) of the U.S. Internal Revenue Code;
- A contribution to a nonprofit organization, which is defined as a tax-exempt organization described under subsection 501(c)(3) or 501(c)(4) of the U.S. Internal Revenue Code;
- Dues paid to any industry association of which the public utility is a member;
- An expenditure incurred for the purpose of lobbying any branch of government;
- Expenses incurred for the purpose of influencing public opinion about public policy issues or about the reputation of the public utility;
- Expenses incurred to fund any other political, charitable, or lobbying activity.[3]

PUCO orders regarding public utility violations

Public utilities that violate the bill's prohibition against recovering political expenditure costs are subject to PUCO orders to pay refunds to customers and to a pay a fine.

Order requiring refund of charges

If a public utility charges its customers in violation of the bill, the charges are subject to refund, plus interest. If PUCO determines that a violation occurred, PUCO must order the payment of refunds in a manner designed to allocate the refunds to customer classes in the same proportion as the charges were originally collected.[4]

Ordered imposing fine

If PUCO, after providing notice and a hearing, determines that a public utility has charged its customers in violation of the bill, PUCO must issue an order imposing a fine on the public utility. The bill requires the fine to equal 20 times the amount charged to the public utility's customers in violation of the bill's prohibition.[5]

Political Activity Fine Fund

The bill creates the Political Activity Fine Fund in the state treasury. The fund consists of the fines paid by public utilities as described above. Money in the fund must be used to assist customers in paying public utility bills that are past due. The assistance to customers must be done according to a process established by rules that PUCO must adopt.[6]

The Department of Development must administer the fund and distribute the money in the fund to customers through the Percentage of Income Payment Plan (PIPP) Program that the

[3] R.C. 4933.51(B) and (C); 26 United States Code 501, not in the bill.

[4] R.C. 4933.53.

[5] R.C. 4933.55.

[6] R.C. 4933.57.

Department administers. The distribution of the money must be done in accordance with rules that the bill requires PUCO to adopt.[7]

In Ohio, low-income customers, for their gas or electric utility service, may participate in the PIPP Program administered by the Department. Upon enrollment and proof of income eligibility, PIPP Program customers pay lower monthly payments that, if paid on time and in full each month, reduce the customers' outstanding balances.[8]

Public utility expenditure reports

As required by the bill, all public utilities must submit an annual expenditure report to PUCO not later than January 1. The expenditure report must list all political expenditures that the public utility made during the preceding 12-month period. The report must include, for each expenditure, the payee, amount, and purpose of the expenditure. It must be submitted to PUCO electronically, and upon its receipt, PUCO must post the report on its website.[9]

PUCO must compile the public utility expenditure reports into a single report and, not later than February 1 each year, submit the report to the General Assembly. PUCO must post the report on the PUCO website. And, the report must be submitted in accordance with the law regarding state agency report availability. In addition to requiring that the report be displayed on the agency's website, that law requires submitting the report to the General Assembly by electronic means.[10]

Rules

PUCO must adopt rules to implement the bill's provisions. PUCO also must adopt rules, in conjunction with the Department of Development, to establish a process within the PIPP Program for distributing the money collected from the PUCO-ordered fines that may be imposed under the bill. The bill requires the rules to specify that the money collected must be used to assist customers with the payment of past-due public utility bills.[11]

Rules adopted under the bill are exempt from the regulatory restriction limitation in existing law. Current law, unchanged by the bill, prohibits state agencies, including PUCO, from adopting a new regulatory restriction unless the agency simultaneously removes two or more existing regulatory restrictions until June 30, 2025. State agencies are also required to achieve a 30% total regulatory restriction reduction by June 30, 2025. Regulatory restrictions are state agency rules that include words such as "shall," "require," and "prohibit."[12]

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[7] R.C. 4933.58; R.C. 4928.53, not in the bill.

[8] R.C. 4928.51 to 4928.58, not in the bill; Percentage of Income Payment Plan (PIPP), available at the Department of Development's website: development.ohio.gov.

[9] R.C. 4933.59(A).

[10] R.C. 4933.59(B); R.C. 101.68, not in the bill.

[11] R.C. 4933.60(A).

[12] R.C. 4933.60(B); R.C. 121.95 to 121.952, not in the bill.

HISTORY

Action	Date
Introduced	09-05-23