

**Law Office of  
Terry Jonathan Lodge**

**316 North Michigan Street, Ste. 520  
Toledo, Ohio 43604-5627  
lodgelaw@yahoo.com**

**Phone (419) 205-7084  
Fax (419) 932-6625  
tjlodge50@yahoo.com**

May 23, 2023

RE: Opposition of Ohio Nuclear Free Coalition to the proposed Ohio Nuclear Development Authority (HB 33, pp. 1887-1898, lines 57892 to 58193)

Chair Dolan, Vice-Chair Cerino, Ranking Member Craig and members of the Senate Finance Committee:

The statewide Ohio Nuclear Free Network (ONFN) opposes the proposal contained in HB 33, the Biennial Budget Bill, to create the Ohio Nuclear Development Authority (ONDA). ONDA would function as a nonprofit organization almost completely outside of the Ohio government to promote and finance the design and construction of next-generation nuclear power reactors. This nearly invisible agency would have unaccountable power to act on behalf of the State and would have access to hundreds of millions of taxpayer dollars, taxpayer-guaranteed bonds and other forms of corporate welfare to launch risky, complicated, experimental technologies. The State has no prior history of regulating or managing nuclear technology. Combining promotion and regulation into the same agency poses an unworkable conflict of interest. Add to that the advantage of near-complete secrecy, and corruption is guaranteed.

ONDA's creation and operations will violate Ohio Const. Art. XIII, § 1 because HB 33 is a special act conferring corporate powers.<sup>1</sup> Ohio Const. Art. XIII, § 2 requires all corporations to be created under the general laws,<sup>2</sup> which ONDA would not be. Ohio Const. Art. VIII, § 4 prohibits the state from making equity investments and from lending the credit of the State to a private corporation,<sup>3</sup> which is what would happen here. ONDA passage would violate Ohio Const. Art. VIII, § 2h by authorizing the state to exceed its bond limit, which is constitutionally limited.<sup>4</sup> Creating ONDA out of HB 33 will violate Ohio's single-subject constitutional requirement, Ohio Const. Art. II, § 15(D).<sup>5</sup>

ONDA would illegally outsource the spending and regulatory power of Ohio's executive branch to an industry-controlled corporation. ONDA would have a completely self-interested governing board that cannot be reached or held to account under Ohio's public records, governmental ethics, and sunshine laws. ONDA's investment and promotion of next-generation nuclear power reactors will

---

1 "The general assembly shall pass no special act conferring corporate powers."

2 "Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed."

3 "The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever."

4 "The State may, from time to time, borrow not to exceed two hundred ninety million dollars and issue bonds or other obligations thereof for any one or more of the following purposes. . . ."

5 "No bill shall contain more than one subject, which shall be clearly expressed in its title."

disqualify it from being assigned regulatory powers by either the U.S. Nuclear Regulatory Commission or the U.S. Department of Energy.

This proposal is illegal at its core. It will expose Ohio taxpayers and bondbuyers to great liability from an inherently dangerous activity, and those exposures will be engineered by a nearly invisible entity with governmental immunity to insulate it from the consequences of its acts.

When JobsOhio (which appears to be where ONDA will be located) was challenged in court years ago as an example of illegal privatization of government, the Ohio Supreme Court refused to rule on the issue, finding only that the plaintiffs did not have legal standing. The Court dismissed the suit but said, “A proper party—*i.e.*, one with legal standing—may unquestionably contest the constitutionality of JobsOhio. As to that proper party, the courthouse doors remain open.”<sup>6</sup>

We have identified proper parties to bring suit.

Ohio Nuclear Free Network urges the Committee to remove the ONDA proposal from HB 33.

Sincerely,

*/s/ Terry J. Lodge*

Counsel for Ohio Nuclear Free Network

---

<sup>6</sup> *ProgressOhio.org, Inc. v. JobsOhio*, 139 Ohio St. 3d 520 534, 2014-Ohio-2382, 13 N.E.3d 1101 (2014).