

As Passed by the Senate

135th General Assembly

Regular Session

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Am. Sub. H. B. No. 201

Representatives Hillyer, Demetriou

Cosponsors: Representatives Seitz, Cross, Cutrona, Barhorst, Klopfenstein, Stein, Willis, Williams, McClain, Dobos, Carruthers, Johnson, Abrams, Bird, Brennan, Click, Creech, Edwards, Fowler Arthur, Gross, Hall, Holmes, Hoops, John, Jones, Kick, King, Lear, Lorenz, Loychik, Mathews, Merrin, Miller, K., Miller, M., Peterson, Plummer, Robb Blasdel, Rogers, Schmidt, Stoltzfus, Swearingen, Thomas, J., Wiggam, Young, T.

Senators Reineke, Cirino, Brenner, McColley

A BILL

To amend sections 4929.16, 4929.161, 4929.162, 1
4929.163, and 4929.165 and to enact section 2
3704.20 of the Revised Code to prohibit a state 3
agency, county, or township from restricting the 4
sale or use of a motor vehicle based on the 5
energy source used to power the motor vehicle; 6
to prohibit a state agency from adopting the 7
California emissions standards for motor 8
vehicles; and to change the requirements for 9
natural gas company infrastructure development 10
riders and economic development projects. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4929.16, 4929.161, 4929.162, 12
4929.163, and 4929.165 be amended and section 3704.20 of the 13
Revised Code be enacted to read as follows: 14

Sec. 3704.20. (A) No state agency, township, or county shall restrict the use or sale of a motor vehicle based on the energy source used to power the motor vehicle, including an energy source used for propulsion or used for powering other functions of the motor vehicle. 15
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(B) The environmental protection agency or any other state agency shall not adopt any motor vehicle emissions standards that are established by California as a result of California having received a waiver pursuant to section 209(b) of the federal Clean Air Act. 20
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Sec. 4929.16. As used in sections 4929.16 to 4929.167 of the Revised Code: 25
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(A) "Infrastructure development" means constructing extensions of, upgrading, extending, or any other investment in, or associated with, transmission or distribution facilities that, except as provided for in division (B)(2)(b) of this section, a natural gas company owns and operates. 27
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~~(B)~~(B)(1) "Infrastructure development costs" means ~~the~~ costs associated with an investment in infrastructure development to which ~~both~~ either of the following apply: 32
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~~(1) The investment is in infrastructure development.~~ 35

~~(2)~~(a) The investment is for any deposit required by the natural gas company, as defined in the line-extension provision of the company's tariff, less any contribution in aid of construction received from the owner or developer of the project. 36
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(b) The investment is designed to provide natural gas service to a site or economic development project that is supported by JobsOhio, any JobsOhio network or regional partner, 41
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or the department of development. 44

(2) "Infrastructure development costs" includes ~~planning,~~ 45
all of the following: 46

(a) ~~Planning, development, and construction costs and, if-~~ 47
~~applicable, any allowance for funds used during construction,~~ 48
~~including costs incurred prior to the approval of an economic~~ 49
~~development project pursuant to section 4929.163 of the Revised~~ 50
~~Code;~~ 51

(b) Costs associated with establishing or upgrading any 52
connections with any source of supply to serve an economic 53
development project, including interstate or intrastate 54
pipelines, regardless of ownership of the facilities; 55

(c) A return on all infrastructure development costs, with 56
such return equal to the natural gas company's return on equity 57
authorized in the natural gas company's most recently approved 58
rate case under section 4909.18 of the Revised Code. 59

Sec. 4929.161. (A) A natural gas company may file an 60
application with the public utilities commission for approval of 61
an infrastructure development rider to recover prudently 62
incurred infrastructure development costs of one or more 63
economic development projects approved under section 4929.163 of 64
the Revised Code. 65

(B) The commission shall approve a maximum of one 66
infrastructure development rider per company. 67

(C) The commission shall not accept an application for 68
infrastructure development costs described under division (B) (1) 69
(b) of section 4929.16 of the Revised Code unless a natural gas 70
company has obtained a notification by JobsOhio, any JobsOhio 71
network or regional partner, or the director of development that 72

the project should be considered. The commission shall not 73
approve an application for an economic development project that 74
includes infrastructure development costs described under 75
division (B) (1) (b) of section 4929.16 of the Revised Code filed 76
beyond six years from the effective date of the amendment to 77
this section by H.B. 201 of the 135th general assembly. 78

(D) Notwithstanding division (C) of this section, recovery 79
of infrastructure development costs pursuant to section 4929.16 80
of the Revised Code for any approved economic development 81
projects filed within six years of the effective date of the 82
amendment to this section by H.B. 201 of the 135th general 83
assembly shall continue until such time as all costs eligible 84
for recovery under sections 4929.16 to 4929.163 of the Revised 85
Code are recovered. 86

Sec. 4929.162. Under an infrastructure development rider, 87
in each monthly billing period: 88

(A) The natural gas company may not recover more than one 89
dollar and fifty cents from any single customer in this state, 90
for all projects that were approved under section 4929.163 of 91
the Revised Code and for which recovery was authorized under 92
that rider. 93

(B) The company shall recover the same amount from every 94
customer. 95

(C) (1) If requested by the natural gas company, the public 96
utilities commission shall approve a regulatory deferral, 97
including carrying costs at the company's cost of long-term debt 98
as approved in its most recent rate case or as otherwise 99
provided in division (C) (2) of this section, for the 100
infrastructure development rider revenue requirement in any year 101

in which the approved customer charge exceeds or is expected to 102
exceed the limitation under division (A) of this section. Only 103
new costs from that year may be considered a part of the cost 104
contributing to the excess in customer charges. No costs from 105
previous years shall contribute to that amount, unless the costs 106
are associated with a previously approved deferral under this 107
division. 108

(2) If the natural gas company does not have a commission- 109
approved cost of long-term debt, the company shall propose a 110
rate for the carrying cost. The company may propose a rate or 111
methodology for calculating carrying costs that differs from the 112
company's cost of long-term debt approved in its most recent 113
rate case. 114

(3) The commission shall permit the company to collect any 115
deferred and unrecovered infrastructure development costs in the 116
subsequent year and continuing thereafter, subject to division 117
(C) (5) of this section, so long as the infrastructure 118
development rider rate does not exceed the limit in division (A) 119
of this section. Once costs have been applied to an approved 120
regulatory deferral, the costs remain as part of that deferral 121
and shall not be reallocated to a future deferral application. 122

(4) The commission shall permit carrying costs to accrue 123
until such time as the entirety of the regulatory deferral and 124
all carrying costs have been recovered, or until the termination 125
of the deferral either by commission order, court order, or 126
subject to division (C) (5) of this section. 127

(5) The commission may grant a deferral under this section 128
not to exceed five years after its approval by the commission. 129
The commission may grant a deferral under this section for less 130
than five years. After the deferral period granted by the 131

commission has ended, any remaining unrecovered costs shall not 132
be subject to future deferral, a rate case, or other cost 133
recovery mechanism. 134

(D)(1) The commission, for an applicant's economic 135
development project, may approve the collection of any 136
infrastructure development costs that are not funded through a 137
disbursement from the all Ohio future fund under section 126.62 138
of the Revised Code or through another rider or rate mechanism 139
approved under section 4909.18 of the Revised Code. 140

(2) A natural gas company that is prohibited under 141
division (D)(1) of this section from recovering infrastructure 142
development costs for a particular site or project in an 143
infrastructure development rider may recover infrastructure 144
development costs for other sites or economic development 145
projects under division (B)(1)(b) of section 4929.16 of the 146
Revised Code that do not satisfy the requirements of division 147
(D)(1) of this section. 148

Sec. 4929.163. (A) A natural gas company may file an 149
application with the public utilities commission for approval of 150
an economic development project, ~~including a project for which~~ 151
~~an application has been made under section 122.9511 of the~~ 152
~~Revised Code for certification under the SiteOhio certification~~ 153
~~program~~ for which the company will incur infrastructure 154
development costs. 155

(B) The company shall file the application for project 156
approval prior to beginning the project. 157

(C) The application for project approval, to the extent 158
applicable, shall contain a description of each of the 159
following: 160

(1) The economic development project;	161
(2) The infrastructure development costs to be expended on the project;	162 163
(3) How the project meets the criteria set forth in rules adopted under division (D) of this section;	164 165
(4) The support for the project by an economic development entity or chamber of commerce. For purposes of this application requirement, "economic development entity" includes any of the following:	166 167 168 169
(a) JobsOhio or any JobsOhio network or regional partner;	170
(b) Development services agency <u>Department of development</u> ;	171
(c) Port authority created under Chapter 4582. of the Revised Code;	172 173
(d) Special improvement district created under Chapter 1710. of the Revised Code;	174 175
(e) Community urban redevelopment corporation qualified to operate under Chapter 1728. of the Revised Code;	176 177
(f) Community improvement corporation organized under Chapter 1724. of the Revised Code;	178 179
(g) New community authority organized under Chapter 349. of the Revised Code;	180 181
(h) Joint economic development district created under section 715.70 or 715.71 of the Revised Code;	182 183
(i) Development corporation organized under Chapter 1726. of the Revised Code;	184 185
(j) Municipal utility district designated under section	186

715.84 of the Revised Code. 187

~~(D)~~ (D) (1) The commission shall adopt rules setting forth 188
the criteria for project approval under this section. 189

(2) The commission may approve a project under this 190
section that involves infrastructure development costs described 191
in division (B) (1) (a) of section 4929.16 of the Revised Code if 192
the infrastructure development costs, excluding the return set 193
forth in division (B) (2) (c) of section 4929.16 of the Revised 194
Code, are projected to generate a return on the company's 195
investment that is less than the most recently authorized ~~rate~~ 196
~~of return on equity~~. 197

(E) The commission shall adopt rules to provide for an 198
accelerated review of an application filed under division (A) of 199
this section. The rules shall provide for the automatic approval 200
of the application not later than thirty days after the date of 201
the application filing unless the commission suspends the 202
application for good cause shown. If the application is 203
suspended, the commission shall approve, deny, modify, or hold a 204
hearing on the application not later than forty-five days after 205
the date that the suspension begins. 206

Sec. 4929.165. (A) A natural gas company that has 207
established an infrastructure development rider under section 208
4929.161 of the Revised Code shall file an annual report with 209
the public utilities commission. The report shall do both of the 210
following: 211

~~(A)~~ (1) Detail the infrastructure development costs 212
related to the applicable economic development project or 213
projects; 214

~~(B)~~ (2) Set forth the rider rate for the twelve months 215

following the annual report.	216
<u>(B) The commission annually shall submit to the general</u>	217
<u>assembly, in accordance with section 101.68 of the Revised Code,</u>	218
<u>a report describing all of the following:</u>	219
<u>(1) The number of applications filed pursuant to division</u>	220
<u>(B) (1) (a) of section 4929.16 of the Revised Code and the number</u>	221
<u>of applications filed pursuant to division (B) (1) (b) of section</u>	222
<u>4929.16 of the Revised Code;</u>	223
<u>(2) The number of applications approved that were filed</u>	224
<u>pursuant to division (B) (1) (a) of section 4929.16 of the Revised</u>	225
<u>Code and the number of applications approved that were filed</u>	226
<u>pursuant to division (B) (1) (b) of section 4929.16 of the Revised</u>	227
<u>Code;</u>	228
<u>(3) The monetary amount approved for recovery through each</u>	229
<u>natural gas company infrastructure development rider and the</u>	230
<u>total monetary amount approved for recovery through all</u>	231
<u>infrastructure development riders for all natural gas companies;</u>	232
<u>(4) The number of approved economic development projects</u>	233
<u>on which all construction has been completed;</u>	234
<u>(5) A list containing the construction status of all</u>	235
<u>approved economic projects, including if construction has not</u>	236
<u>commenced or, if construction has commenced, but not completed,</u>	237
<u>a description of any structures on which construction has been</u>	238
<u>completed.</u>	239
Section 2. That existing sections 4929.16, 4929.161,	240
4929.162, 4929.163, and 4929.165 of the Revised Code are hereby	241
repealed.	242