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Civil Justice
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Energy and Natural Resources
State and Local Government
Finance – Corrections Subcommittee

MEMORANDUM

To: Senate Energy and Natural Resources Committee
From: Senator Bill Seitz
Date: May 11, 2016
Re: Senate Bill 320 Sponsor Testimony

Chairman Balderson, Vice Chair Jones, Ranking Member Gentile and members of the Senate Energy and Natural Resources committee:

Thank you for allowing me this opportunity to provide sponsor testimony today on Senate Bill 320.

This legislation is solely based upon recommendations which were made by the joint House and Senate Energy Mandates Study Committee (EMSC). The Energy Mandates Study Committee was created by Senate Bill 310 of the 130th General Assembly. The purpose of the joint legislative committee was to study Ohio's renewable energy, energy efficiency, and peak demand reduction mandates, concluding with the production of a report on recommendations for further legislative action, hence Senate Bill 320.

Within the EMSC report, five broad recommendations were made to the General Assembly. These recommendations included:

- Recommendation #1: *Extend the SB 310 Freeze Indefinitely;*

- Recommendation #2: *Provide an Expedited Process at the PUCO for the Review of New Utility Plans for Energy Efficiency;*
- Recommendation #3: *Investigate and Ensure Maximum Credit for All of Ohio's Energy Initiatives;*
- Recommendation #4: *Switch from Energy Mandates to Energy Incentives;* and
- Recommendation #5: *Declare that the General Assembly Retains Statutory Authority with Respect to Energy Policy and Dispatch Protocols.*

Senate Bill 320 addresses these recommendations, taking into account that a myriad of issues such as the now-stayed USEPA Clean Power Plan (CPP), which is pending further judicial review, and on-going cases at the Public Utilities Commission of Ohio (PUCO), are currently affecting what the final outcome of Ohio's energy policy future may look like dependent on what determinations are made. In spite of this, the Ohio legislature must move forward with a plan to enact laws based on the EMSC's recommendations before the state's "march up mandate mountain" resumes beginning on January 1, 2017.

To address the recommendations of the EMSC, provisions of SB 320 include:

1. Extending the freeze of the mandates though, and including, December 31, 2019. We currently do not know what the landscape of energy policy may look like due to the USEPA's Clean Power Plan (CPP). As litigation continues, it does not behoove Ohio's General Assembly to enact state mandates which could quite possibly put us in conflict with federal mandates. The choice of December 31, 2019 was the direct outcome of information provided to me and Chairman Balderson by OEPA Director Butler. He said that under the CPP, states could get (and Ohio would seek) a two year extension of the September 2016 date by which states were to have submitted CPP compliance plans to the USEPA. That takes us to September 2018. He then said he expects the USEPA to take a year after that to approve, reject, or modify the state's plan. That takes us to September 2019. He said that by that time, the USEPA would have finalized its rulemaking on what a Federal Implementation Plan (FIP) would look like for states that did not submit a state plan, or whose state plan was rejected. He also said that by that time the litigation over the legality of the CPP would be concluded, at least in part. And all this happened BEFORE the United States Supreme Court ordered a stay of the

entire CPP pending full judicial review—an unprecedented (but welcome) order that further delays the CPP timetable and has caused many states to “put down their pencils” on developing state implementation plans for at least another year.

2. Under Senate Bill 310 of the 130th General Assembly, the mandates would be completed by 2027, but since Senate Bill 320 of the 131st General Assembly will extend the freeze by three years the date for attaining completion of the mandates will be moved to 2030.
3. Stating that the CPP confers no new authority on the State’s Executive Branch to increase energy efficiency or renewables mandates, nor to implement any kind of cap and trade program, without the approval of the General Assembly. These provisions DO NOT require General Assembly approval of any State Implementation Plan (SIP) that Ohio may submit for CPP compliance purposes. But it DOES reinforce that the Executive Branch and state agencies must operate within existing statutory authority unless we confer new statutory authority.
4. Incentivize, rather than mandate, electric distribution utilities (EDUs) and competitive retail electric supplier (CRES) providers to voluntarily offer cost effective energy savings programs; to allow negotiations of lowered prices for net metered electricity on projects being built which can be net metered so long as the utility provides substantial financial assistance to those customers in helping them to fund the capital cost of installing the net metered resource; and to expand the Property Assessed Clean Energy (PACE) financing program as provided in my pending Senate Bill 185 which is supported by, among others, NOPEC, port authorities, regional economic development agencies, and environmental advocates. Also included in SB 320 are new and expanded programs to promote EE programs in low income housing (something the CPP rewards bonus points for if undertaken after 2020), to encourage utilities to deploy cloud-based analytics to improve grid reliability and fend off cyber security threats, and to order the PUCO to report on the feasibility of an EE “white credits” program (establishing a renewable energy credits (REC) market for EE projects), and of a state-run program to fund the widespread residential deployment of smart thermostats that reduce electricity usage by 10-15%.
5. Ensuring that maximum credit is given for all forms of emerging renewable resources, advanced energy and energy efficiency initiatives by counting such projects toward compliance benchmarks.

Within SB 320 this includes allowing combined heat and power (CHP) to count as either energy efficiency or towards the renewable portfolio standards; grants counting through additional measures for EE projects such as projects that improve the efficiency of water and sewer systems; and to count advanced energy projects and advanced energy resources toward the 12.5% renewables benchmark that EDUs and CRES providers must obtain.

6. Allowing for all mercantile customers to choose to opt-out of their portfolio plan beginning on January 1, 2020 in order for those mercantile customers to invest in any energy efficiency programs or projects in which they elect will best benefit their business in a competitive market. This is what we permit large industrial users to do beginning January 1, 2017 so we are simply offering the same opportunity for all mercantile customers when the freeze ends on December 31, 2019.

SB 320 is a way of moving Ohio towards a cleaner energy future while keeping all our options open based on the final outcome of the CPP. This legislation is constructed solely on the framework that the Energy Mandates Study Committee set forth in its recommendations. We must work to advance the energy policy of the state while at the same time ensuring that ratepayers are not being unduly burdened with high costs tacked onto their utility bills through mandated measures which may prove costly and unattainable.

I thank you for the opportunity to provide sponsor testimony on Senate Bill 320. With the possibility of reinstatement of Ohio's march up mandate mountain looming in the near future, I strongly urge you to favorably consider this bill. I am now happy to answer any questions the committee may have.