



# OEC [ Action Fund ]

**House Energy and Natural Resources Committee  
OPPONENT TESTIMONY - Written Only  
House Bill 192 (Cutrona)  
May 6, 2021**

Chair Stephens, Vice Chair Stewart, Ranking Member Weinstein, and members of the House Energy and Natural Resources Committee; I am Randi Leppla, Vice President of Energy Policy 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 written only opponent testimony on House Bill 192 (HB 192). While I wish I could present this testimony in person to be able to have a more meaningful dialogue with you, the ongoing pandemic prevents me from safely doing so, and virtual testimony is still not an option.

OEC Action Fund is opposed to House Bill 192. This broadly worded, fourteen line bill infringes upon the ability of local communities to make choices for themselves about the source of their energy usage. HB 192 would ban townships, counties, and municipal corporations from “prohibit[ing] or limit[ing]” the “use of any fossil fuel for the purpose of electricity generation” as well as “prohibit or limit” the “construction or use of a pipeline for the transportation of oil or gas”.<sup>1</sup> This bill is a dramatic overreach into Municipal Home Rule, guaranteed in the Ohio Constitution.<sup>2</sup> The Legislative Services Commission’s own analysis calls into question the constitutionality of the legislation given that Municipal Home Rule gives municipal corporations “the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations as are not in conflict with general laws”, as well as “the power to acquire, construct, own, lease, and operate a public utility to serve the municipal corporation or its inhabitants and others”, which “means that all municipal corporations can generally control their utilities and how they operate.”<sup>3</sup>

HB 192, as well as two other bills currently introduced of similar nature (Senate Bill 127 and House Bill 201), is a solution in search of a problem. The bill sponsor has argued we need to protect the right of individuals to choose fossil fuels despite the fact that no city in Ohio has passed a ban of this nature through resolution or building code updates.

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<sup>1</sup> Lines 7-13.

<sup>2</sup> Ohio Constitution, Article XVIII, Section 3.

<sup>3</sup> See *Legis. Svcs. Comm. Analysis* at 1, citing Ohio Constitution, Article XVIII, Sec. 3; 4; 6.

Further, such legislation isn't necessary to protect the rights of individual residents and businesses to shop for their energy supplier in Ohio, which permits them to choose the generation source their energy is coming from. And just as Ohioans can make those choices, communities can choose where their energy comes from as well. What we have begun to see in Ohio are communities moving toward 100% clean energy goals, because they recognize the dangers and impacts that climate change is imposing on their communities. These communities have moved toward clean energy by voting on and passing community choice aggregation. These communities have the right to make that choice because Ohio is an energy choice state, and the decision to do so is subject to a vote. Additionally, if a community member does not wish to be part of the aggregated block, they are permitted to opt out and choose their energy supplier for themselves, which means that customer still has the right to choose non-renewable energy if they choose.

Unfortunately, HB 192 and the other pending bills appear to be another backdoor route to block Ohioans and Ohio communities from choosing to move toward renewable energy as their chosen energy source. Despite the fact that many decision makers in Ohio argue for all of the above energy choices in Ohio, the state has a long way to go to create a truly level playing field for all forms of generation as an energy choice state. Right now, there are two bills pending (HB 118 and SB 52) that would permit local communities to reject solar and wind facilities exclusively -- yet we are sitting here today talking about making sure local communities cannot prohibit or limit fossil fuels or pipeline infrastructure. If Ohio truly wants to have a competitive, free market for energy, then this body needs to remove the artificial barriers it has placed on renewable energy and recognize that it must stop meddling in the free market, instead leaving it up to the agencies that have been given the authority and have the expertise to oversee statewide energy planning and approvals. The legislature should remove artificial barriers for renewables, including restoring the long-term intent of the state's renewable portfolio standard, making the payment in lieu of tax or PILOT (PILOT) permanent for renewable energy projects, and removing overly burdensome regulations that are blocking Ohio's wind potential in place because of a last minute budget bill amendment that received no public testimony in 2014.

If Ohio really wants to ensure lower energy costs, we should not just be talking about ensuring access to different types of generation, we should be talking about ensuring Ohioans have access to energy waste reduction and efficiency services and programs so that homeowners and small businesses can save money. These programs were ended as part of House Bill 6, and will cause Ohioans' air to be dirtier and bills to increase as a result if we don't reinstate programming that helps Ohioans reduce their energy consumption.

The OEC Action Fund looks forward to the opportunity to discuss what a balanced, competitive energy framework looks like for Ohio. Thank you again for the opportunity to submit testimony, and our team looks forward to working with you.