



OEC [Action Fund]

**House Public Utilities Committee
OPPONENT TESTIMONY
House Bill 128 (Hoops/Stein)
February 23, 2021**

Chair Hoops, Vice Chair Ray, Ranking Member Smith, and members of the House Public Utilities 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 128 (HB 128). 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.

The OEC Action Fund appreciates that Chair Hoops and Representative Stein introduced this piece of legislation, which strengthens HB 798 from the last General Assembly, by fully removing the nuclear subsidies instead of creating a one year delay with audit provisions. Just as HB 798 proposed, HB 128 proposes to repeal the decoupling and significantly excessive earnings test (SEET) provisions that benefited FirstEnergy, and creates a PUCO-approved mechanism to refund money to ratepayers. All of these measures are steps in the right direction.

However, the OEC Action Fund does oppose House Bill 128, as we did HB 798, because it similarly fails to repeal House Bill 6 of the 133rd General Assembly in full. Instead it reaffirms the General Assembly's unwillingness to fully address legislation that was passed by corrupt means and restore the public's trust, and simultaneous failure to set a more forward-thinking and sustainable energy policy for Ohioans.

HB 128 will lead to bill increases and more air pollution.

HB 128 does nothing to encourage or enable energy waste reduction or renewables. Because of House Bill 6, Ohio's energy efficiency programs have shut down. Ohioans have lost the ability to take advantage of incentives and rebates that helped us save money on our electric bills by reducing our energy consumption. These programs were good for consumers' wallets and health, for the economy, and for the environment. These programs helped Ohioans save \$7.01 per month. By not restoring the efficiency standard or replacing it with a framework that encourages energy waste reduction, HB 128 forgoes the bill savings created by efficiency programs, leading to increased bills for customers. The cleanest and cheapest kilowatt hour is

the one we do not need to produce. To boot, by not having some kind of energy waste reduction framework, HB 128 perpetuates the risk of job loss to the over 83,000 Ohioans employed in the efficiency industry, some of which may have already been lost when the efficiency programs ended in 2020.

Furthermore, HB 128 ends the RPS in 2026 at 8.5% but does not end the coal subsidies for OVEC owners--in fact, it extended those subsidies through 2030. At a time when coal plants are closing because they simply are no longer competitive, and we can least afford to continue releasing emissions from fossil fuels into the air, Ohio has chosen to prop up two coal plants that no longer make economic or health sense for our state.

House Bill 128 also does nothing to address the deep corruption inherent in the process that made House Bill 6 law. We need a full repeal of HB6, and Ohioans also deserve to have additional measures implemented to assure that this never happens again. Ohio's electric distribution utilities are state-approved monopolies that exist to serve *all* Ohioans, and our laws and regulations should include provisions to ensure transparency and accountability from our utilities and to give our regulators the ability to enforce consequences for utilities that go astray. Strengthening the audit and investigation powers of the Public Utilities Commission of Ohio (PUCO) (or a third party), and creating corresponding remedies would provide the strong accountability mechanism and deterrent needed to keep utilities accountable to the public. There should be stronger oversight of rates and charges implemented through Electric Security Plans (ESPs), the framework under which charges pile up and bills rise for consumers without a holistic review. House Bill 6 also destroyed our energy efficiency programs, which served as an important mechanism to reduce bills and provide cost savings to Ohioans and reduce energy burden for those in our state who need it most. We must create a mechanism to ensure equitable treatment of all ratepayers in Ohio, including residential customers in at-risk communities with low incomes, and not just large industrial customers who can afford to intervene and pay someone to advocate for better rates for their customer class.

Repealing the coal and nuclear subsidies and enacting modest changes to encourage clean energy is the better path forward.

If the legislature wishes to restore the public's trust, it must fully repeal HB 6 and work to ensure Ohio's laws enable and support investments that reduce energy waste and encourage new renewable energy projects of all sizes. The legislature should remove artificial barriers for renewables and create a framework where energy waste reduction investments could still be made on a large scale. These critical changes include:

- **Restore the long-term intent of the state's renewable portfolio standard.** HB 6 weakened the state's RPS two-fold by reducing the cumulative target down to 8.5%, and eliminated the clause of "each calendar year thereafter" which amounts to the RPS "ending" in 2026. Renewable energy projects of any size typically require financing deals that span 15 to 20 years. For example, a new project that contracts with a buyer in 2020 will likely need that contract to go through 2035. If the RPS extinguishes prior to that date, the capital needed to finance projects coming online

within the next couple of years will dry up. Amending the Ohio Revised Code to restore the clause “each calendar year thereafter” in relation to the 2026 cumulative target year will go a long way to removing a market and financing barrier faced by project developers today.

- **Make the PILOT permanent for renewable energy projects.** Under current law, renewable energy projects can take advantage of an alternative to the tangible personal property (TPP) tax in order to provide a tax benefit to local communities in which new large-scale wind and solar projects are sited. The payment in lieu of tax or PILOT replaces the TPP so that tax revenue flows to local schools, townships, and county general revenue funds. In order to opt for the PILOT, renewable energy projects must meet hiring standards that ensure a specific amount of their labor force are Ohioans. The PILOT statute is scheduled to sunset in 2023, creating uncertainty that could reduce the economic potential of renewable energy in Ohio. This permissive statute should be made permanent to improve Ohio’s investment environment and to optimize job creation for Ohioans in one of the fastest growing sectors of our global economy.
- **Remove overly burdensome regulations that are blocking Ohio’s wind potential.** Because of a last minute budget bill amendment that received no public testimony in 2014, the minimum required distances that wind turbines must be sited from neighboring property lines and inhabitable structures were increased so dramatically that the policy change amounted to a full moratorium on new wind farms in Ohio (save for a handful of “grandfathered” projects). Restoring the pre-2014 law change minimum setback requirements could lead to as much as 3,000 MW of new wind projects by 2026, unlock \$4.2 billion in capital investment, and create one thousand direct jobs and an additional two thousand indirect jobs.¹
- **Create a new framework for energy waste reduction and efficiency services in which homeowners and small businesses can save money.** Despite the fact that Ohio’s energy efficiency standard was still very effective at saving people money and reducing carbon emissions in the power sector, the truth is that the original standard enacted over a decade ago was much stronger than the standard that was dismantled by HB 6. Due to changes in statute made over the years that eroded its effectiveness, and bad decisions at the PUCO that allowed utilities to offer sub-standard programs, the efficiency standard was not providing as much value as it once did to customers. We believe that there are some modifications/fixes that would have made the programs better, but those reasonable changes would be more effective if we still had utility-run efficiency programs. One option would be to retain some level of efficiency programs that would be adjusted to address the concerns over cost and value, or the legislature could simply codify the ability for utilities to get voluntary energy efficiency programs approved at the PUCO (which was assured as an option during the HB 6 debate, but in reality has been met with resistance and barriers at the PUCO).

¹ For more information about Ohio’s renewable energy potential, see the Powering Ohio report: http://www.poweringohio.org/files/2018/05/Powering-Ohio_FINAL-WEB.pdf.

But, if it is the will of the legislature to disallow utility-run efficiency programs, we recommend the creation of a new statewide framework that reduces energy that is wasted in the system, or Ohioans will perpetually miss out on cost-savings created by a more efficient home or business. There are several options and approaches that could work in Ohio. For example, some states adopt a third party approach in which customers receive rebates and incentives not from their utility but by a third party that is responsible for vetting program design, controlling costs, and approving efficiency measures that actually reduce costs and emissions. Another option could be to create a system for energy waste reduction and efficiency services similar to what we have for electricity supply. Currently, Ohio law allows competitive retail electric supply (CRES) providers to sell electricity supply to customers directly. Some of these providers offer services like small on-site renewable projects, while some offer energy management services. Additionally, governmental aggregators sometimes offer efficiency and energy waste reduction services through community choice aggregation programs. With some state oversight, and the ability to rely on expertise from third party service providers, Ohio law could enable these same providers to offer efficiency rebate and incentive programming. There is a lot of detail that needs fleshed out to figure out a way forward on that path, including rules around cost-effectiveness, ensuring a large enough pool of customer participation, quality controls and consumer protection to ensure service providers are not taking advantage of customers, and how such programs would be funded. Bottom line, however, is that without some state policy supporting energy waste reduction, we will miss out on energy savings and cost savings that would result in cleaner air and better health, as well as lower electric bills, for Ohioans.

While HB 128 bill is a modest step in the right direction, it is not a full fix. OEC Action Fund continues to urge this legislature to take action to fully repeal House Bill 6. We encourage a thoughtful and more measured discussion over energy policy that takes place without the cloud of the HB 6 scandal hanging over our state. Thank you again for the opportunity to submit testimony.