

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 349**

**Representatives Smith, R., Ginter**

**Cosponsors: Representatives Amstutz, Blessing, Brenner, Buchy, Dever, Dovilla,  
Koehler, Reineke, Roegner, Schaffer, Speaker Rosenberger**

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**A BILL**

To enact section 3704.10 of the Revised Code to 1  
require the Environmental Protection Agency to 2  
submit a state plan governing carbon dioxide 3  
emissions to the General Assembly prior to 4  
submitting it to the United States Environmental 5  
Protection Agency, and to declare an emergency. 6

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

**Section 1.** That section 3704.10 of the Revised Code be 7  
enacted to read as follows: 8

**Sec. 3704.10.** (A) The environmental protection agency 9  
shall develop a state plan governing carbon dioxide emissions 10  
from existing power plants in accordance with the requirements 11  
of final rules adopted by the United States environmental 12  
protection agency under EPA-HQ-OAR-2013-0602. 13

(B) In developing the state plan, the environmental 14  
protection agency shall do all of the following: 15

(1) Examine witnesses, request the production of 16  
documents, and review such documents and other relevant evidence 17

<u>as needed;</u>	18
<u>(2) Conduct at least four public hearings in four</u>	19
<u>different locations in the state, including locations directly</u>	20
<u>affected by the final rules adopted by the United States</u>	21
<u>environmental protection agency under EPA-HQ-OAR-2013-0602;</u>	22
<u>(3) Accept written testimony and consider, as part of the</u>	23
<u>development of the state plan, all written and oral testimony</u>	24
<u>provided;</u>	25
<u>(4) Prioritize the components in the state plan based on a</u>	26
<u>least-cost compliance approach to benefit consumers of</u>	27
<u>electricity;</u>	28
<u>(5) Consider all of the following:</u>	29
<u>(a) If the environmental protection agency should rely</u>	30
<u>upon measures used by the United States environmental protection</u>	31
<u>agency to calculate the carbon dioxide emissions reduction goal</u>	32
<u>or other measures that were not a part of that goal setting</u>	33
<u>process;</u>	34
<u>(b) If the state should participate in multi-state</u>	35
<u>programs that currently exist or if a new multi-state carbon</u>	36
<u>dioxide emissions reduction program should be created;</u>	37
<u>(c) If the state should invest in energy efficiency</u>	38
<u>programs to assist in meeting the carbon dioxide emissions</u>	39
<u>reduction goal;</u>	40
<u>(d) If the state should work in partnership with other</u>	41
<u>states;</u>	42
<u>(e) When individual power plants must make reductions in</u>	43
<u>carbon dioxide emissions;</u>	44

<u>(f) How best to avoid stranded investments in existing affected power plants;</u>	45
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<u>(g) The necessity and value of a diverse generation fleet in ensuring electric reliability in the state;</u>	47
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<u>(h) The extent to which any of the following should be included in the state plan:</u>	49
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<u>(i) Demand-side energy efficiency programs;</u>	51
<u>(ii) Renewable energy standards;</u>	52
<u>(iii) Efficiency improvements at existing affected power plants;</u>	53
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<u>(iv) Co-firing or switching to natural gas;</u>	55
<u>(v) Transmission efficiency improvements;</u>	56
<u>(vi) Energy storage technologies;</u>	57
<u>(vii) The retirement or deactivation of existing affected electric generation units or facilities;</u>	58
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<u>(viii) The expansion of the use of non-emitting sources such as nuclear power;</u>	60
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<u>(ix) Market-based trading programs;</u>	62
<u>(x) Other energy conservation programs.</u>	63
<u>(C) (1) The environmental protection agency shall submit the state plan to the United States environmental protection agency in accordance with this section. Not later than one hundred days prior to June 15, 2016, the environmental protection agency shall submit the state plan to each chamber of the general assembly in the form of a resolution.</u>	64
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<u>(2) Each chamber of the general assembly shall either</u>	70

adopt or disapprove the resolution not later than twenty days 71  
after submission to the general assembly. 72

(3) If each chamber of the general assembly adopts the 73  
resolution, the environmental protection agency shall submit the 74  
state plan to the United States environmental protection agency 75  
for consideration. 76

(4) If either chamber of the general assembly disapproves 77  
the resolution, the environmental protection agency shall not 78  
submit the state plan to the United States environmental 79  
protection agency for consideration and the environmental 80  
protection agency shall do all of the following: 81

(a) Determine the reasons that the general assembly 82  
disapproved the resolution and modify the state plan 83  
accordingly; 84

(b) Resubmit the state plan in the form of a resolution to 85  
the general assembly within sixty days of the general assembly's 86  
disapproval of the resolution. The general assembly then shall 87  
proceed in accordance with divisions (C) (2) to (6) of this 88  
section, as applicable. 89

(c) If necessary, request the United States environmental 90  
protection agency to grant an extension of time for the 91  
submission of the state plan and, instead, submit a plan that 92  
meets the minimum requirements for an initial state plan, as 93  
specified by the United States environmental protection agency. 94  
If the environmental protection agency submits such an initial 95  
state plan to the United States environmental protection agency, 96  
it shall include with the initial state plan the following 97  
statement: 98

"Please be advised that the initial state plan submitted 99

by the Ohio Environmental Protection Agency has not yet met the 100  
requirements of section 3704.10 of the Ohio Revised Code, which 101  
requires affirmative approval of the state plan by the General 102  
Assembly of Ohio. It is the intent of the State of Ohio to 103  
submit a state plan that conforms to this requirement. Under 104  
section 111(d) of the Clean Air Act, states must be given an 105  
opportunity to meet United States environmental standards 106  
established by the United States Environmental Protection 107  
Agency. The State of Ohio hereby invokes this authority and in 108  
accordance with section 3704.10 of the Ohio Revised Code, will 109  
make a further filing with the United States Environmental 110  
Protection Agency." 111

(5) If either chamber of the general assembly does not 112  
vote to adopt or disapprove the resolution in accordance with 113  
division (C) of this section by June 15, 2016, the state plan is 114  
deemed approved by the general assembly for purposes of this 115  
section and the environmental protection agency immediately 116  
shall submit the state plan to the United States environmental 117  
protection agency for consideration. 118

(6) If either chamber of the general assembly does not 119  
vote to adopt or disapprove a resolution submitted in accordance 120  
with division (C) (4) of this section within sixty days of its 121  
submission to the general assembly, the state plan is deemed 122  
approved by the general assembly for purposes of this section 123  
and the environmental protection agency immediately shall submit 124  
the state plan to the United States environmental protection 125  
agency for consideration. 126

**Section 2.** This act is hereby declared to be an emergency 127  
measure necessary for the immediate preservation of the public 128  
peace, health, and safety. The reason for such necessity is that 129

the state plan for carbon dioxide emissions must be submitted to 130  
the United States Environmental Protection Agency in a timely 131  
manner to ensure the protection of the health and safety of the 132  
citizens of Ohio. Therefore, this act shall go into immediate 133  
effect. 134