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Office of Research and Drafting

Legislative Budget Office

H.B. 6
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 6's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Callender and Wilkin

Local Impact Statement Procedure Required: No

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Highlights

Fund	FY 2021	FY 2022	Future Years
Ohio Clean Air Program Fund (custodial fund)			
Revenues	$306 million	$306 million	$306 million
Expenditures	Commensurate with revenues	Commensurate with revenues	Commensurate with revenues

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill creates a new Ohio Clean Air Program, which will compensate certain electric generating facilities for their attributes. Electric consumers will fund this program through a dedicated monthly charge authorized by the bill. Revenue to the Ohio Clean Air Program Fund will consist of charges paid by customers of electric utilities.
- The bill revises the existing alternative energy portfolio standard, the existing energy efficiency and peak demand reduction benchmarks, and exempts consumers from the corresponding charges that fund these requirements.
- The Ohio Air Quality Development Authority (OAQDA) will incur new costs to oversee the Clean Air Program. LBO initially estimates that the Authority will need to hire six or more new technical and professional staff to administer the program. OAQDA will also likely need to expand its office space to house the new Clean Air Program staff. OAQDA is currently funded by a combination of bond financing fees paid by entities participating in its programs, as well as a portion of air permit fees collected by the Ohio Environmental Protection Agency.

Detailed Analysis

H.B. 6 creates the Ohio Clean Air Program, to be administered by the Ohio Air Quality Development Authority (OAQDA). Certain electric generating facilities that meet the criteria of "clean air resource" or "reduced emissions resource" may apply to the Ohio Clean Air Program for one or more program years, as determined by the Authority. The bill awards a "clean air credit" for each megawatt hour of electricity a clean air resource produces, and the owner of the facility will receive payment from a newly created fund for each of its credits. Similarly, OAQDA may pledge a portion of money in that fund, the Ohio Clean Air Program Fund, for the benefit of any reduced emissions resource, provided the resource agrees to be bound by the conditions OAQDA, in its sole discretion, may attach to the pledge.[1]

The bill authorizes a new charge on electric consumers of an electric distribution utility (EDU) while simultaneously exempting these same consumers from other existing charges for the alternative energy portfolio standard (AEPS) required by R.C. 4928.64 and the energy efficiency and peak demand reduction (EE/PDR) benchmarks authorized by R.C. 4928.66. The bill makes revisions to these standards and benchmarks. In general, both sections of the Revised Code subject an increasing percentage of baseline electricity consumption to certain requirements over a number of years. The bill significantly reduces the baseline against which compliance is measured by exempting all of the electricity customers that do not explicitly "opt in" to the respective charge.

Please refer to the LSC Bill Analysis for a full description of the contents of H.B. 6. Following this section is a brief description and summary analysis of the bill's fiscal effects. The major headings include (1) the Ohio Air Quality Development Authority, (2) the Ohio Clean Air Program Fund, (3) the Effect on ratepayers, (4) the Public Utilities Commission of Ohio, and (5) the Ohio Environmental Protection Agency (Ohio EPA).

Ohio Air Quality Development Authority

OAQDA's main role under the bill would be to certify electric generating facilities as "clean air resources" or "reduced emissions resources" eligible to participate in the Clean Air Program, which is newly authorized by the bill. The bill defines a "clean air resource" as an electric generating facility that (1) emits zero carbon dioxide, (2) is not wholly owned by a municipal or cooperative corporation, and (3) satisfies several additional requirements specified in the bill.

The bill will result in a significant rise in costs for OAQDA, in particular for hiring new staff to implement and oversee the Clean Air Program. As of March 2019, the Authority employed four full-time staff. Although it is difficult to assess staffing needs under the bill at this stage, OAQDA will probably be required to hire a handful of additional employees to run the new initiative. This would potentially include a program manager, engineers, and technical experts. An attorney conversant with utility and energy law and a public information officer may also be necessary.

[1] Section 3706.49(A).

There are also likely to be some costs at the outset for hiring technical consultants to study and develop Clean Air Program guidelines. In addition, more office space and new supplies and equipment would likely be needed to house the program. OAQDA currently rents office space in the LeVeque Tower at 50 West Broad Street in Columbus. The bill does not include funding to cover these additional personnel or office expenses.

FY 2019 spending for OAQDA's operating expenses is expected to be just over $630,000. H.B. 166, the pending main operating budget bill for the FY 2020-FY 2021 biennium, provides OAQDA with funding for operations totaling approximately $775,000 in FY 2020 and $790,000 in FY 2021. The increase would allow the Authority to hire one new permanent full-time employee to handle customer service and administrative duties. OAQDA's operating costs are supported by bond financing fees and a portion of air permit fees collected by the Ohio EPA.

OAQDA's current role is to assist businesses, political subdivisions, and not-for-profit entities in complying with the federal Clean Air Act. Its primary function is to help with clean air project financing, issuing revenue bonds to install clean air facilities, and helping them qualify for tax exemptions on the projects. OAQDA also awards grants to small businesses to buy clean air equipment. A seven-member board governs the Authority, of whom five are paid and two serve ex officio. The bill adds four legislative members, serving ex officio without compensation, bringing the total board membership from seven to 11.

Ohio Clean Air Program Fund (custodial fund)

The bill creates the Ohio Clean Air Program Fund for the purpose of funding benefits provided by the Ohio Clean Air Program. The fund would be in the custody of the state treasurer rather than be part of the state treasury; one implication of that is that expenditures from the fund would not require appropriations by the General Assembly. Revenues to the fund must consist of charges paid by customers of electric utilities provided in Section 3706.47 of the bill.

The bill authorizes three types of charges under Section 3706.47. The first of the three charges are estimated in Table 1, whereas the others are discussed in a qualitative analysis below:

1. A fixed monthly charge, depending on the customer type (refer to Table 1);
2. Costs prudently incurred for contractual obligations in reliance on the AEPS requirements or EE/PDR benchmarks, as they existed prior the effective date of the bill;
3. Costs prudently incurred by an EDU associated with programs approved by the Public Utilities Commission of Ohio (PUCO) for the AEPS or EE/PDR portfolio plans that are modified or eliminated as a result of H.B. 6, including any costs to discontinue those programs.

The bill exempts customers from other charges currently in place, as explained further in the next section of the Fiscal Note.

Table 1. Estimated Annual Revenue Raised from Fixed Monthly Charge in H.B. 6			
Customer Type	**Monthly Charge**	**Customer Bills (per year)**	**Annual Revenue**
Residential	$2.50	50,790,393	$126,975,983
Commercial	$20	6,342,449	$126,848,980
Industrial	$250	189,217	$47,304,250
Large customers*	$2,500	1,764	$4,410,000
Total	**N/A**	**57,323,823**	**$305,539,213**

*The $2,500 monthly charge applies to those commercial or industrial customers that exceeded 45 million kilowatt hours of electricity at a single location in the preceding year, as specified in Section 3706.47(B)(4). The threshold is identical to the delineation used by Ohio's kilowatt-hour tax for self-assessing purchasers. LBO relied upon North American Industry Classification System (NAICS) codes provided by applicable taxpayers to identify whether these large customers would be classified as commercial or industrial customers. The PUCO customer counts were modified accordingly.

The bill permits certain "contractual obligations" to be recovered from customers paying the fixed monthly charge authorized by the bill. LBO economists are aware of three contractual commitments that cost one EDU approximately $18.4 million in calendar year (CY) 2018, but LBO has not completed comprehensive research on every EDU, as of this writing. The likeliest source of "contractual obligations" are those related to renewable energy generation under the AEPS.

In general, an EDU's EE/PDR plan must be for three years, according to PUCO administrative law.[2] As of this writing, LBO is aware of circumstances unique to AEP Ohio, which extended its current EE/PDR portfolio plan for a fourth year through CY 2020. However, the other EDUs have plans for the three-year period ending at the close of CY 2019. Based on draft rules submitted by PUCO, the Commission will require EDUs to file their EE/PDR portfolio plans for CY 2020 by September 1, 2019.[3] Consequently, there is little reason to anticipate significant prudently incurred costs for EE/PDR plans that can be recovered from ratepayers under the bill. The exception may be for those discontinuation or modification costs incurred by AEP Ohio, but LBO does not know the circumstances of their contracts or what obligations they must honor in the event applicable state law governing EE/PDR plans is revised.

Effect on ratepayers

The fiscal effect on government expenditures is minimal. State agencies and local governments purchase electricity from a variety of providers, and those outside the service area of an electric distribution utility will not be affected. Refer to the map at the end of this Fiscal Note for a detailed illustration of EDU boundaries. The substantial majority of, if not all, government entities within EDU territories will likely be classified as commercial customers

[2] Ohio Administrative Code 4901:1-39-04.

[3] PUCO Case No. 12-2156-EL-ORD, *Finding and Order*, filed December 19, 2018.

under H.B. 6 (though under the bill, each EDU determines the classification of its customers). The bill imposes a $20 per month charge on these customers, which is equivalent to $240 per year. In conjunction with this new charge, the bill exempts customers from paying costs associated with the requirements under sections 4928.64 and 4928.66 of the Revised Code. This default exemption is optional, and the bill enables customers to submit written notice of intent to opt in to pay either or both the renewable energy monthly charge or the energy efficiency and peak demand reduction monthly charge to the EDU from which it receives service.[4]

The net result of the new charge and exemption from existing charges could be either an increase or a decrease in a governmental entity's monthly electric bill, depending on that entity's particular circumstances. The tables below illustrate the current charges from the EE/PDR rider (Table 2), the current alternative energy rider (Table 3), and the combined effect of both riders (Table 4) for three types of customer, assuming average electricity usage for each type. The electricity consumption of the typical customer was derived from 2017 statistics for the average Ohio customer, as reported by the U.S. Energy Information Administration. Notes in the table contain LBO's assumptions regarding all of these typical customers' kilowatt-hour (kWh) consumption, voltage delivery level, and their billing demand.

Table 2. Monthly Billing Amounts of Typical Customers for EE/PDR Requirements Authorized by R.C. 4928.66, as of April 2019

Electric Distribution Utility	Residential 833 kWh	Commercial 6,133 kWh	Industrial 226,151 kWh
AEP Ohio	$2.82	$20.06	$364.35
Cleveland Electric Illuminating Company	$5.39	$25.48	$451.40
Dayton Power and Light	$1.77	$23.89	$498.35
Duke Energy	$2.87	$10.24	$377.67
Ohio Edison	$3.17	$23.92	$791.98
Toledo Edison	$7.16	$32.02	$723.23
Statewide average	**$3.36**	**$20.84**	**$516.12**

Note: Assumptions for customers' respective service voltage and level of demand – Commercial: secondary, 25 kilowatt (kW); Industrial: primary, 500 kW. Statewide average weighted by each utility's share of total kWh consumption for each of the three general customer classifications: residential, commercial, industrial.

[4] Section 3706.471.

The EE/PDR rider identified in Table 2 is nonbypassable, which means it is paid by all customers of an EDU, regardless of whether they receive their generation supply from the default Standard Service Offer (SSO) or alternatively purchase from a competitive retail electric service (CRES) provider. However, there is an opt-out option available to certain SSO and CRES customers that meet the criteria under R.C. 4928.6610.

Table 3. Monthly Billing Amounts of Typical Customers for Alternative Energy Resource Requirements Authorized by R.C. 4928.64, as of April 2019

Electric Distribution Utility	Residential 833 kWh	Commercial 6,133 kWh	Industrial 226,151 kWh
AEP Ohio	$1.30	$9.57	$340.52
Cleveland Electric Illuminating Company	$0.52	$3.81	$140.44
Dayton Power and Light (embedded SSO charge)	$0.11	$0.83	$30.62
Duke Energy	$0.62	$4.56	$168.03
Ohio Edison	$0.52	$3.85	$141.80
Toledo Edison	$0.40	$2.96	$109.23
Statewide average	**$0.74**	**$5.78**	**$198.21**

Note: Assumptions for customers' respective service voltage and level of demand – Commercial: secondary, 25 kilowatt (kW); Industrial: primary, 500 kW. Statewide average weighted by each utility's share of total kWh consumption for each of the three general customer classifications: residential, commercial, industrial.

The AEPS rider is identified in Table 3, and this rider is bypassable, which means it is paid only by SSO customers. However, CRES providers are subject to the renewable portfolio standard, so they incur charges to comply with the law. Consequently, their customers likely pay some portion of these compliance costs, albeit indirectly. CRES providers differ from EDUs in that they do not seek approval of PUCO to recover costs through a rider on customers' electric bills.

Table 4. Monthly Billing Amounts of Typical Customers for Alternative Energy Resource and EE/PDR Requirements Authorized by R.C. 4928.64 and 4928.66, as of April 2019

Electric Distribution Utility	Residential 833 kWh	Commercial 6,133 kWh	Industrial 226,151 kWh
AEP Ohio	$4.12	$29.63	$704.87
Cleveland Electric Illuminating Company	$5.91	$29.29	$591.84
Dayton Power and Light	$1.88	$24.72	$528.97

Table 4. Monthly Billing Amounts of Typical Customers for Alternative Energy Resource and EE/PDR Requirements Authorized by R.C. 4928.64 and 4928.66, as of April 2019			
Electric Distribution Utility	Residential 833 kWh	Commercial 6,133 kWh	Industrial 226,151 kWh
Duke Energy	$3.49	$14.80	$545.70
Ohio Edison	$3.69	$27.77	$933.78
Toledo Edison	$7.56	$34.98	$832.46
Statewide average	**$4.10**	**$26.62**	**$714.33**

Note: Assumptions for customers' respective service voltage and level of demand – Commercial: secondary, 25 kilowatt (kW); Industrial: primary, 500 kW. Statewide average weighted by each utility's share of total kWh consumption for each of the three general customer classifications: residential, commercial, industrial.

Table 4 illustrates the combined cost of the AEPS and the EE/PDR rider on a typical customer's monthly electric bill. For the sake of simplicity, Table 4 assumes the typical customer is paying the AEPS rider, but empirical evidence indicates it is far more prevalent among residential consumers. The typical residential customer is less likely to shop for their electric supply from a CRES provider than a nonresidential customer, so the bypassable rider is more common among that particular segment.

Public Utilities Commission of Ohio

H.B. 6 specifies multiple duties for PUCO, which are enumerated below. Any marginal expenditures incurred by the agency to execute the tasks required by the bill will likely be borne by PUCO's primary revenue source, the Public Utilities Fund (Fund 5F60).

The bill requires PUCO, through its general authority under continuing law, to facilitate and encourage the establishment of retail purchased power agreements having a term of three years or more through which consumers commit to satisfy a portion of their electricity requirements from the output of a clean air resource.[5] The bill explicitly authorizes PUCO to exempt these purchasing customers from the charges authorized by the bill as well as those related to the AEPS and EE/PDR benchmarks.

If the Federal Energy Regulatory Commission authorizes a program by which Ohio may take certain actions associated with the organized wholesale electricity market, the bill requires PUCO to promptly review the program and submit a report of its findings to the General Assembly. The report must include any recommendations for legislation that may be necessary to permit the state to beneficially participate in the program.

H.B. 6 permits a utility to file an application with PUCO to update its base distribution rates for certain customers based on a decoupling mechanism described in the bill. PUCO must verify the corresponding rate schedules before approving the application, and it must ensure

[5] Section 4928.47.

the newly proposed rate design is aligned with the design of EDU's existing base distribution rates.

Ohio Environmental Protection Agency

The bill permits the Director of the Ohio EPA, no earlier than two years from the bill's effective date, to apply to the Administrator of the United States Environmental Protection Agency (USEPA) for an exemption from the decentralized motor vehicle inspection and maintenance program (E-Check) required under the federal Clean Air Act. The Director is required to request in the application that the Administrator of USEPA authorize implementation of the Ohio Clean Air Program established by the bill as an alternative to E-Check. The potential one-time cost for the Ohio EPA to prepare and submit the application is unclear, as the bill does not specify its form, manner, or content.

The Ohio EPA expends approximately $11 million annually to support the implementation, supervision, administration, operation, and enforcement of E-Check. About 80%, or $9 million, is allocated annually to pay Envirotest Systems, the contractor that actually operates the program. Under the executive budget for the FY 2020-FY 2021 biennium, the program is completely GRF funded.

E-Check started in January 1996 and is designed to identify motor vehicles that emit excessive levels of pollutants into the air. E-Check is a requirement that was developed as part of the federally approved State Implementation Plan and compliance with the federal Clean Air Act so as to avoid the loss of federal grant money and possible sanctions. These sanctions include requiring offsets from facilities building in nonattainment areas and the loss of federal highway funds.

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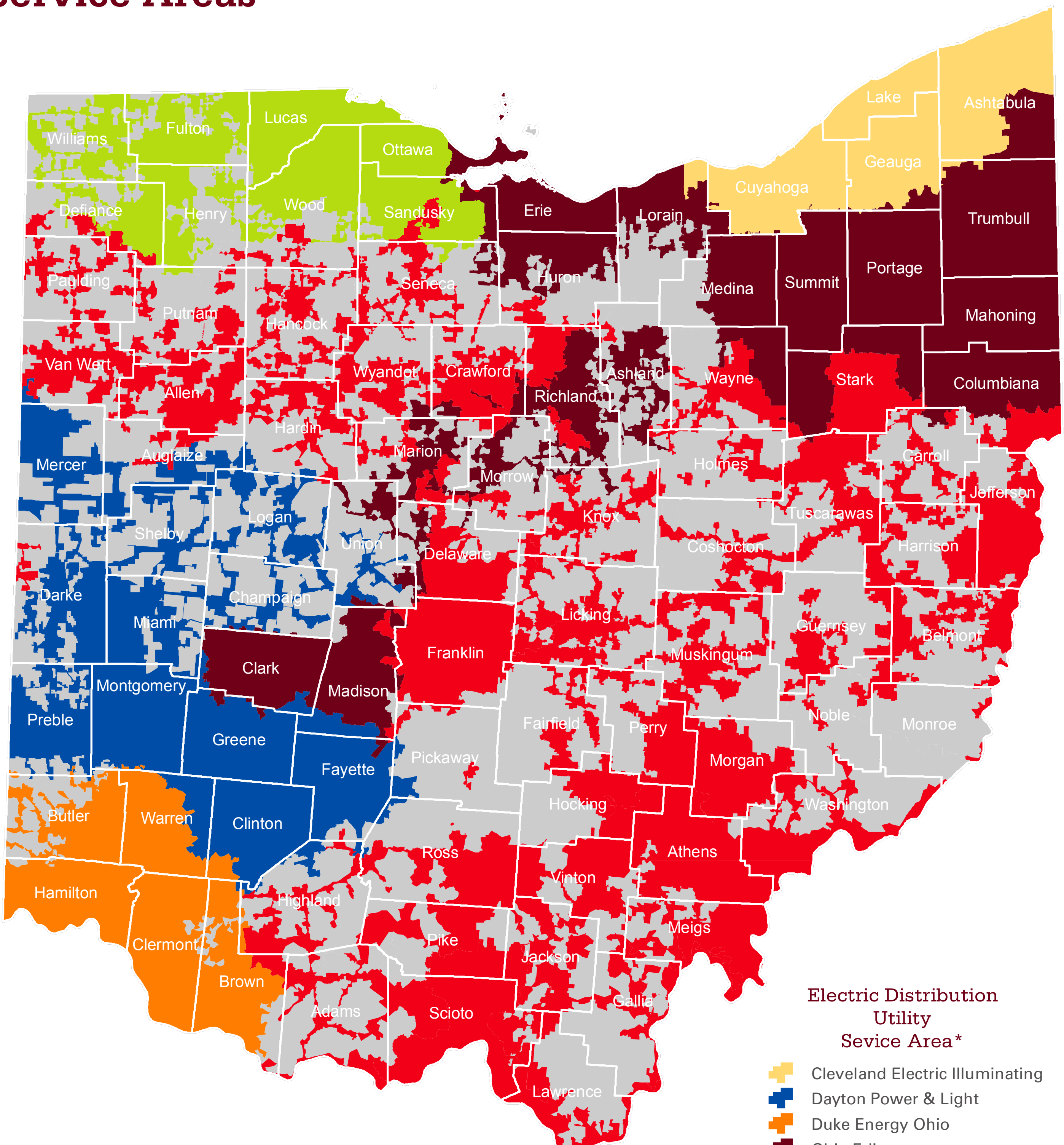
Electric Distribution Utilities
Service Areas



Electric Distribution Utility Sevice Area*

- Cleveland Electric Illuminating
- Dayton Power & Light
- Duke Energy Ohio
- Ohio Edison
- Ohio Power dba AEP Ohio
- Toledo Edison

- Electric Cooperative
- Ohio County

Source: Public Utitlities Commission of Ohio, shapefile
https://www.puco.ohio.gov/utility-maps/electric-maps/shapefile-of-electric-service-areas/ downloaded 4/16/2019.

*Data maintained by the PUCO. Electric service areas, or certified territories, are geographic regions within which an electric distribution utility (EDU) has the obligation and exclusive right to provide electric service. EDUs do not include municipalities that maintain their own electric systems.

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