



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 320 of the 131st G.A.

Date: November 15, 2016

Status: As Introduced

Sponsor: Sen. Seitz

Local Impact Statement Procedure Required: No

Contents: To revise utility laws pertaining to renewable energy and energy efficiency standards, special energy improvement districts, and to authorize a new cost recoverable from ratepayers

State Fiscal Highlights

- The bill requires the Public Utilities Commission (PUCO) to issue a report to the General Assembly within two years that includes recommendations regarding implementing certain policies related to transmission and distribution of electricity. PUCO officials report that they can satisfy this requirement within existing budgetary resources.
- The bill imposes certain limits on the Environmental Protection Agency (EPA). Agency officials report that their preliminary analysis indicates that the bill would have no fiscal effect on EPA.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

S.B. 320 modifies several different aspects of public utility law. Please refer to the LSC Bill Analysis for a comprehensive listing of the bill's provisions. The topics addressed below are those bill provisions with the most relevant fiscal effect – albeit indirect – on state and local government expenditures.

Renewable portfolio standard

The bill extends for three years (2017, 2018, and 2019), the renewable energy benchmarks at the 2016 level in current law, which requires that 2.5% of the electricity supply must be from renewable energy resources, including 0.12% from solar energy resources, the same level as required since 2014. The bill also includes advanced energy resources as a qualifying renewable energy resource that may be used to meet the benchmarks.

The bill requires benchmarks for both renewable and solar energy resources to resume in 2020, but instead of annual benchmarks as in current law, the bill establishes benchmarks for every third year beginning in 2022 until 2028, and sets a final benchmark for 2029 that applies to each year thereafter. The revised benchmarks are extended for three years to accommodate the three-year freeze, with the result being that Ohio's electric distribution utilities (EDUs) and electric services companies (ESCs) must provide 12.5% of their electricity supply from renewable energy resources, including 0.5% from solar energy resources, by January 1, 2030.

According to the Energy Mandate Study Committee Co-Chairs' Report,¹ "PUCO determined the average monthly charge for the renewables mandate as \$0.001142 per kilowatt hour, which averaged out to the following monthly costs for each customer class" as seen in Table 1.

Table 1. Typical Monthly Bill Cost for Alternative Energy Rider for Electric Distribution Utility Service Areas (as of December 4, 2014)							
Customer Class (typical usage)	Columbus Southern Power	Ohio Power	Dayton Power and Light	Duke Energy Ohio	Cleveland Electric Illuminating	Ohio Edison	Toledo Edison
Residential (750 kWh)	\$1.31	\$0.77	\$0.62	\$0.27	\$1.30	\$1.01	\$0.77
Commercial (300,000 kWh)	\$506.52	\$298.65	\$248.04	\$109.20	\$501.60	\$388.20	\$297.30
Industrial (6,000,000 kWh)	\$9,928.80	\$5,854.20	\$4,960.80	\$2,184.00	\$9,738.00	\$7,536.00	\$5,778.00

¹ <http://emsc.legislature.ohio.gov/>.

The bill expands the definition of renewable energy resources to include a "combined heat and power system placed into service or retrofitted on or after September 10, 2012," and expands an existing category of renewable energy resource, the category of fuel derived from solid wastes. These changes may reduce the future cost of the alternative energy rider.

Energy efficiency and peak demand reduction

S.B. 320 changes the existing law regarding energy efficiency and peak demand reduction savings achieved by customers.

According to the Energy Mandate Study Committee Co-Chairs' Report:²

"Unlike the renewables mandate, Ohio's energy efficiency and peak demand reduction mandates apply only to EDUs. The costs associated with complying with the energy efficiency and peak demand reduction mandates are recovered by an EDU through a non-bypassable rider. That rider is recovered from all customers of an EDU regardless of whether they shop for electric generation with the exception of those mercantile customers that obtained a rider exemption from the PUCO pursuant to SB221."

As of December 2014, the Public Utilities Commission (PUCO) determined the average monthly charge for the energy efficiency and peak demand reduction mandates as \$0.007225 per kilowatt hour. PUCO only provided the range of the costs of the energy efficiency and peak demand reduction mandates for residential customers, which ranged from \$0.00189 to \$0.004566 per kilowatt hour. PUCO determined the average monthly costs of the energy efficiency and peak demand reduction mandates for the following customer classes to be:

Table 2. Typical Monthly Bill Cost for Energy Efficiency and Peak Demand Rider for Electric Distribution Utility Service Areas (as of December 4, 2014)							
Customer Class (typical usage)	Columbus Southern Power	Ohio Power	Dayton Power and Light	Duke Energy Ohio	Cleveland Electric Illuminating	Ohio Edison	Toledo Edison
Residential (750 kWh)	\$3.42	\$3.42	\$3.43	\$2.58	\$3.31	\$2.37	\$1.42
Commercial (300,000 kWh)	\$1,001.70	\$1,001.70	\$762.27	\$501.00	\$512.40	\$582.30	\$948.90
Industrial (6,000,000 kWh)	\$5,719.80	\$5,719.80	\$13,050.60	\$10,020.00	\$5,076.00	\$14,496.00	\$15,606.00

Despite the costs to ratepayers associated with these riders, economic theory would predict cost savings from energy efficiency and peak demand reduction that could partially (or even potentially fully) offset those costs. The Energy Mandate Study Committee did not receive any definitive data from PUCO on the projected future costs of the energy efficiency and peak demand reduction mandates. In a letter from PUCO to the Study Committee dated September 14, 2015, PUCO stated that they do not currently

² *Ibid.*

have the capability to independently forecast the costs of implementing the energy efficiency mandates in future years with a high level of significance.

Advanced energy analytics technology

S.B. 320 authorizes a new charge that may be recovered by ratepayers of an electric distribution utility. Upon approval by PUCO, a utility may recover its costs relating to the procurement, deployment, or use of "advanced energy analytics technology," including a reasonable rate of return on those costs incurred by the utility for the procurement, deployment, or use of advanced energy analytics technology, provided the technology is used by the utility for purposes of realizing operational efficiencies, cost savings, enhanced energy management and customer engagement, improvements in system reliability, safety, and cyber security or other benefits to ratepayers.

The bill describes advanced energy analytics technology as "internet-based and cloud-based computing solutions and subscription licensing models, including software as a service that uses cyber-physical systems to allow the correlation of data aggregated from appropriate data sources and smart grid sensor networks, employs analytics and machine learning, or employs other advanced computing solutions and models."

State and local governments that pay this cost may realize offsetting cost savings based on the benefits of this technology.

Public Utilities Commission

The bill requires PUCO, by two years after the bill's effective date, to submit to the General Assembly a report with recommendations that includes the feasibility of implementing other constructs for EDU participation in distributed generation, incentives for residential smart thermostats, and market-based EE certification. According to PUCO, the agency can absorb this bill requirement into its existing budgetary expenditures.

Ohio Environmental Protection Agency

The bill specifically prohibits the Ohio Environmental Protection Agency (EPA) from deriving any new state statutory authority from the final guidelines limiting carbon dioxide emissions from fossil-fuel-fired power plants that exist on the effective date of S.B. 320 under section 111(d) of the federal Clean Air Act, consistent with the cooperative federalism model in that act. The bill also declares that "the final guidelines limiting carbon dioxide emissions from existing fossil-fuel-fired power plants under 42 U.S.C. 7411(d) do not expand the authority of the environmental protection agency to allow for the development, implementation, or regulation of electric dispatch protocols."

S.B. 320 states that without new and specific state statutory authority to do so, EPA is prohibited from regulating, establishing, dictating, or otherwise ordering actions regarding:

- any specific levels of natural gas utilization for any electric light company;
- the acquisition of any amounts of renewable energy;
- the awarding, allocation, assignment, or transfer of any carbon dioxide-emission allowance, with respect to a mass-based standard, or emission-rate credit, with respect to a rate-based standard, to any electric light company or to any operator of any existing fossil-fuel-fired power plant that is subject to the final guidelines limiting carbon dioxide emissions under federal law;³
- the achievement of any energy savings or peak demand reduction;
- the development and implementation of any trading program or any plan premised in any way on an allowance system, whether on a single-state or multi-state basis, as part of any state plan submitted to the federal EPA.⁴

According to preliminary feedback from a representative of Ohio EPA, the agency does not yet believe there will be any fiscal impacts from this bill. However, the agency continues to fully review the bill and research the implications of language contained therein.

Development Services Agency

S.B. 320 makes other changes concerning payments assessed on EDUs and ESCs for under-compliance or noncompliance with the requirements for renewable energy resources, energy efficiency savings, and peak demand reduction. The bill changes the benchmark period to once every three years and specifies those measurement years in which the compliance payment can be applied. In the case of solar renewable energy resource requirements, the compliance payment is lowered by \$50 per megawatt in 2023 and 2024.

Existing law states that compliance payments must be remitted to PUCO for deposit into the Development Services Agency's Advanced Energy Fund (Fund 5M50). Compliance payments to Fund 5M50 may be affected by the bill beginning in 2020. The Revised Code prohibits EDUs or ESCs from passing through the payment incurred by under-compliance or noncompliance with the renewable resource mandate to consumers.

Special energy improvement projects

The bill permits a property owner or owners to petition the legislative authority of any municipal corporation or township in which their property is located for authorization to develop and implement one or more special energy improvement projects that consist only of energy efficiency improvements. The person(s) proposing the project must ensure the petition includes the cost of the project and the method of

³ This prohibition also applies to PUCO and any other state agency.

⁴ *Ibid.*

assessment to be used and the time period during which the assessment will be levied. If the municipal corporation or township approves the petition, it must levy a special assessment on all real property subject to the petition to pay for the costs of the development and implementation of the special energy improvement project or projects. The municipal corporation or township must levy the special assessment for not more than 30 years from the first day of the year in which the special assessment is first imposed.

In order to develop and implement one or more special energy improvement projects, the person(s) proposing the development and implementation must submit to the municipal corporation or township a petition for the development and implementation of the project(s) signed by 100% of the property owners of the parcels to be assessed. The special energy improvement projects are deemed by S.B. 320 to be "a special benefit to any private property owners subject to the petition. The use of special assessments levied to benefit such property owners does not constitute expenditures made with public funds."

Any municipal corporation or township levying a special assessment for a special energy improvement project authorized by the bill may develop, finance, manage, or implement part or all of any project and may contract with any person, community improvement corporation, political subdivision, state agency, or port authority to develop, finance, manage, or implement part or all of the project. The municipal corporation or township may sell, transfer, lease, or convey any special energy improvement project owned by the municipal corporation or township upon a determination of its legislative authority that the project is not required to be owned exclusively by the municipal corporation or township.