



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **H.B. 114**

132nd General Assembly  
(As Introduced)

**Reps.** Blessing, Seitz, Rosenberger, Schuring, Pelanda, McColley, Hill, Conditt, Hambley, Retherford, Brinkman, Koehler, T. Johnson, Green, Stein, Thompson, Roegner, Schaffer, Slaby, Scherer, Wiggam, Huffman, Becker, Riedel, Zeltwanger, Vitale, Hood, Keller, Dean, Butler, Householder, Hughes, Brenner, Dever, DeVitis, Goodman, Kick, Landis, LaTourette, Lipps, Rezabek, Romanchuk, Ryan, R. Smith, Young, Patton, Ginter, Cupp, Carfagna, Cera, Greenspan, Perales, Arndt, Faber, Sprague

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## **BILL SUMMARY**

### **Energy efficiency and peak demand reduction**

- Effectively makes the energy efficiency requirements for 2017, 2018, 2020, 2021, 2023, 2024, and 2026 no longer true requirements.
- Decreases the energy efficiency benchmarks, resulting in a decrease to the current cumulative requirement from 22.2% to 17.2%.
- Seeks to clarify that the energy efficiency requirements terminate at the end of 2027.
- Effectively makes the peak demand reduction requirements for 2017 and 2018 no longer true requirements, but keeps the benchmarks for those years (and the two years that follow) at the levels in current law.
- Requires that electric distribution utilities (EDUs) be deemed in compliance with the energy efficiency and peak demand reduction requirements and eligible for incentives approved by the Public Utilities Commission (PUCO) in any year in which their "actual cumulative energy efficiency and peak demand reduction savings" meet or exceed the "cumulative mandates."
- Requires the following to be counted toward the energy efficiency and peak demand reduction requirements:

- Energy intensity reductions resulting from heat rate improvements at electric generating plants (also prohibited from qualifying for shared savings);
  - Energy efficiency savings and peak demand reductions that occur as a consequence of consumer reductions in water usage or reductions and improvements in wastewater treatment;
  - Nonelectric energy efficiency savings and nonelectric peak demand reductions that occur as a consequence of an EDU's energy efficiency and peak demand reduction portfolio plan;
  - The savings and reduction associated with heat rate improvements, other efficiency improvements, or other energy intensity improvements, if proposed by an EDU and achieved since 2006 from an electric generating plant that is either owned by the EDU or, in some cases, owned and operated by an EDU affiliate (also prohibited from qualifying for shared savings).
- Requires the following to be counted toward the energy efficiency requirements only: any plan, policy, behavior, or practice that reduces the energy intensity of a facility, pipeline, building, plant, or equipment; or any water supply function or water treatment function.
  - Adds mercantile customers to those customers that may, subject to a number of requirements, including requirements for customer reporting, opt out of an EDU's energy efficiency and peak demand reduction portfolio plan, effective January 1, 2019.
  - Modifies the current definition of energy intensity and broadens the definition's applicability.

## **Renewable energy**

- Permits, rather than requires, EDUs and electric services companies (ESCs) to provide portions of their electricity supplies from renewable energy resources, as long as their costs of providing those portions do not exceed a 3% cost cap.
- Permits, beginning January 1, 2019, and subject to rules that the bill requires the PUCO to adopt, all customers to opt out of paying any rider, charge, or other cost recovery mechanism designed to recover an EDU's or ESC's cost of providing electricity from renewable energy resources.

- Requires continued recovery from customers of ongoing costs associated with EDUs' contracts to procure resources to comply with the current renewable energy requirements, if those contracts were entered into before the bill's effective date.
- Requires, by January 1, 2018, the PUCO to adopt rules governing disclosure to customers of the costs of electricity provided after the bill's effective date from renewable energy resources.
- Permits EDUs and ESCs to request a force majeure determination with the PUCO for the reduction of a benchmark for the permissible provision of renewable energy rather than the reduction of a benchmark for the renewable energy requirements, though due to the bill's construction, this provision will likely be moot.

### **Reporting requirements**

- Beginning in 2018, requires every EDU to report to the PUCO, by July 1 of each year, its status of compliance for the prior calendar year with the energy efficiency and peak demand reduction provisions.
- Beginning in 2018, requires every EDU and ESC to report to the PUCO, by July 1 of each year, the amount of electricity that the EDU or ESC provided from renewable energy resources during the prior calendar year.
- Requires that if an EDU reports the amount of electricity provided from renewable energy resources as a portion of the supply required for its standard service offer, then that portion must be reported as a percentage of the baseline defined by the bill.
- Requires that if an ESC reports the amount of electricity provided from renewable energy resources as a portion of its electricity supply for Ohio retail consumers, then that portion must be reported as a percentage of the baseline defined by the bill.
- Defines the baseline discussed in the previous two dot points to exclude customers who opt out of paying any rider, charge, or other cost recovery mechanism designed to recover an EDU's or ESC's cost of providing electricity from renewable energy resources.
- Requires the PUCO to submit one report each year by August 1 to the General Assembly and the Ohio Consumers' Counsel detailing all of the following:
  - The amount of electricity provided by EDUs and ESCs from renewable energy resources during the year covered by the report, based on the

information provided in the EDUs' and ESCs' reports to the PUCO and any other information that is public;

- EDU compliance with the energy efficiency and peak demand reduction provisions, based on the information provided in the EDUs' reports to the PUCO and any other information that is public;
  - The average annual cost of renewable energy credits purchased by EDUs and ESCs for the year covered in the report;
  - Any strategy for encouraging the use of renewable energy resources in supplying Ohio's electricity needs in a manner that considers available technology, costs, job creation, and economic impacts.
- Requires the PUCO Chairperson to provide testimony, by September 1 of each year, on the August 1 report, to the standing committees of both houses of the General Assembly that deal with public utility matters.
  - Repeals current requirements governing two annual reports that the PUCO is required to make regarding the current renewable energy, energy efficiency, and peak demand reduction requirements, including repealing a provision requiring the PUCO to allow and consider public comments on the renewable-energy report.

### **Bypassability of generation costs**

- Expressly states that an EDU's costs for providing generation service, including all costs of providing electricity from renewable energy resources, are bypassable by any consumer that shops for an electric supplier.

### **Funding for home energy assistance**

- Changes funding allocations for federal funds from the Home Energy Assistance Block Grant; however, due to the effective date of the changes, they will likely have no effect.

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## CONTENT AND OPERATION

### Energy efficiency requirements

The bill makes two changes to the energy efficiency requirements on electric distribution utilities (EDUs): (1) it effectively makes the energy efficiency requirements for 2017, 2018, 2020, 2021, 2023, 2024, and 2026 no longer true requirements and (2) it decreases the energy efficiency benchmarks.

The bill effects the first change by doing the following:

- Specifying that noncompliance with the energy efficiency provisions is subject to forfeitures only for the requirements for years 2016, 2019, 2022, 2025, and 2027;
- Limiting the Public Utilities Commission's (PUCO's) requirement to assess forfeitures to only those years; and
- Specifying that the assessment of forfeitures is the sole penalty for noncompliance with the energy efficiency provisions.

The bill decreases the energy efficiency benchmarks as follows, resulting in a decrease to the current cumulative requirement from 22.2% to 17.2%:



Year	Current law	The bill
2017	1%	1%*
2018	1%	1%*
2019	1%	1%
2020	1%	1%*
2021	2%	1%*
2022	2%	1%
2023	2%	1%*
2024	2%	1%*
2025	2%	1%
2026	2%	2%*
2027	2%	2%
<i>*not true requirements</i>		

Finally, the bill seeks to clarify that the energy efficiency requirements terminate at the end of 2027 by repealing the language requiring savings of 2% "each year thereafter." Under current law this language might be interpreted to imply that the 2% requirement extends beyond 2027.<sup>1</sup>

### **Peak demand reduction requirements**

The bill effectively makes the peak demand reduction requirements on EDUs for 2017 and 2018 no longer true requirements. But it keeps the benchmarks for those years (and the two years that follow) at the levels in current law. The bill accomplishes this change by doing the following:

- Specifying that noncompliance with the peak demand reduction provisions is subject to forfeitures only for the requirements for years 2016, 2019, and 2020;
- Limiting the PUCO's requirement to assess forfeitures to only those years; and
- Specifying that the assessment of forfeitures is the sole penalty for noncompliance with the peak demand reduction provisions.<sup>2</sup>

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<sup>1</sup> R.C. 4928.66(A)(1)(a), (A)(1)(c), and (C).

<sup>2</sup> R.C. 4928.66(A)(1)(c) and (C).

## **Compliance with and incentives for energy efficiency and peak demand**

The bill requires an EDU to be deemed in compliance with the energy efficiency and "peak demand reduction savings" requirements and to be eligible for PUCO-approved incentives in any year in which the EDU's "actual cumulative energy efficiency and peak demand reduction savings" meet or exceed the "cumulative mandates" under provisions governing energy efficiency and peak demand reduction.<sup>3</sup> It is unclear, however, to what the PUCO-approved incentives refer.

## **Improvements counted as energy efficiency and peak demand reduction**

The bill requires the following to be counted toward the energy efficiency and peak demand reduction requirements:

- Energy intensity reductions resulting from heat rate improvements at electric generating plants (also prohibited from qualifying for shared savings);
- Energy efficiency savings and peak demand reductions that occur as a consequence of consumer reductions in water usage or reductions and improvements in wastewater treatment;
- Nonelectric energy efficiency savings and nonelectric peak demand reductions, required to be counted on a British-thermal-unit-equivalent basis, that occur as a consequence of an EDU's energy efficiency and peak demand reduction portfolio plan;
- The savings and reduction associated with heat rate improvements, other efficiency improvements, or other energy intensity improvements, if those savings and reduction are proposed by an EDU in its sole discretion and achieved since 2006 from an electric generating plant that is either owned by the EDU or owned and operated by an EDU affiliate, provided that the plant was previously owned, in whole or in part, by an Ohio EDU (also prohibited from qualifying for shared savings).

The bill requires the following to be counted toward the energy efficiency requirements only: any plan, policy, behavior, or practice that reduces either of the following:

- The total energy intensity of a facility, pipeline, building, plant, or equipment, regardless of the type of energy intensity reduction;

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<sup>3</sup> R.C. 4928.6621(B).

- The energy intensity of any water supply function or water treatment function.

The bill changes the current definition of energy intensity, and applies the bill's definition to the provisions discussed above. The bill defines energy intensity as the amount of energy used to produce a certain level of output or activity, measured by the quantity of energy needed to perform a particular activity, expressed as energy per unit of output, energy per unit of gross total floor space, or an activity measure of service. The current definition, which applies only to the customer-opt-out provisions, defines the term as the amount of energy, from electricity, used or consumed per unit of production.

The bill also defines water supply function to mean functions associated with raw water collection, purification, treatment, and storage; establishing or maintaining pressure to balance water supply and demand; and water delivery and transfer. Water treatment function is defined as any of the preliminary, secondary, tertiary, and advanced activities, whether physical, biological, or chemical, associated with removing contaminants from, or conditioning of, wastewater before recycling it or returning it to the environment.<sup>4</sup>

## **Mercantile customer opt out for energy efficiency and peak demand**

### **Mercantile opt out beginning in 2019**

Effective January 1, 2019, the bill adds mercantile customers to those customers that may opt out of an EDU's energy efficiency and peak demand reduction portfolio plan. Such an opt out would make them exempt from associated cost recovery and unable to participate in or directly benefit from the plan and associated programs.<sup>5</sup> Current law already permits certain large-usage customers to opt out of the portfolio plans. In general terms, the customers who may already opt out must either receive service above the EDU's "primary voltage level," or they must be commercial or industrial consumers of more than 45 million kilowatt hours (kWh) of electricity per year who has made a written request to self-assess under the kWh tax.<sup>6</sup> A mercantile customer is defined under continuing law as a commercial or industrial consumer of more than 700,000 kWh per year, or a commercial or industrial customer that is part of a

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<sup>4</sup> R.C. 4928.66(A)(2)(d)(i)(V) and (A)(2)(d)(ii), 4928.662, and 4928.6610(B).

<sup>5</sup> R.C. 4928.6610(A) and 4928.6611 and Section 6; R.C. 4928.6613, not in the bill.

<sup>6</sup> R.C. 4928.6610(A); R.C. 5727.81(C)(2), not in the bill.





national account involving multiple facilities in one or more states.<sup>7</sup> Average annual consumption for a residential utility customer is approximately 11,000 kWh.<sup>8</sup>

The bill subjects mercantile customers who opt out to the same requirements and restrictions as the large-usage customers who can already opt out. These requirements and restrictions include (1) providing the EDU a detailed notification of the intent to opt out, (2) submitting periodic reports to the PUCO on the projects, actions, policies, or practices that the customer implements to reduce energy intensity, and (3) time limitations on when the customer can opt back in.<sup>9</sup>

### **Baseline exclusion**

The bill modifies the law so that all customers who opt out of an EDU's energy efficiency and peak demand reduction portfolio plan are to be excluded from the baselines used for determining the actual kWh amounts for the energy efficiency and peak demand reduction requirements. Customers who can already opt out are already required to be excluded from the baseline. The bill adds the mercantile customers who may opt out beginning in 2019. The effect of these baseline exclusions is that the EDU's requirements for energy efficiency savings and peak demand reduction would be reduced proportionately to the baseline exclusions. Without exclusions, the baselines would be the average of the total kWh sold by the EDU in the preceding three calendar years.<sup>10</sup>

Using a 1% energy savings requirement as an example, if the three-year average (without exclusions) is 100 million kWh, but customers who opt out account for sales of 20 million kWh, then the savings requirement becomes 1% of 80 million kWh, or 800,000 kWh, rather than 1% of 100 million kWh, or 1 million kWh.

### **Renewable energy**

#### **Requirements changed to permissive provisions**

The bill permits, rather than requires, EDUs and electric services companies (ESCs) to provide certain portions of their electricity supplies from renewable energy resources, subject to a 3% cost cap. Specifically, the bill states that an EDU may, subject to the cost cap, provide from renewable energy resources a portion of the electric

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<sup>7</sup> R.C. 4928.01(A)(19), not in the bill.

<sup>8</sup> U.S. Energy Information Administration, "How much electricity does an American home use?" available at: <https://www.eia.gov/tools/faqs/faq.cfm?id=97&t=3>.

<sup>9</sup> R.C. 4928.6612, 4928.6614, and 4928.6616, not in the bill.

<sup>10</sup> R.C. 4928.66(A)(2)(a) and 4928.6610(A).



supply required for its standard service offer. And it states that an ESC may, subject to the cost cap, provide a portion of its electricity supply for Ohio retail consumers from renewable energy resources. These resources are defined as "qualifying renewable energy resources." The term encompasses a long list of resources in continuing law unchanged by the bill (e.g., solar, wind, hydroelectric facilities, geothermal, biomass, and many others). But to be "qualifying renewable energy resources," some of the resources must meet certain date restrictions on when the resources were placed in service, modified, or retrofitted.<sup>11</sup>

The bill further states that, subject to the cost cap, the portion may equal 12.5% of a baseline defined by the bill and may be generated in accordance with the following benchmarks. The benchmarks are expressed as percentages of the baseline.

By end of year	Overall renewable amount	Solar energy resources
2017	3.5%	0.15%
2018	4.5%	0.18%
2019	5.5%	0.22%
2020	6.5%	0.26%
2021	7.5%	0.3%
2022	8.5%	0.34%
2023	9.5%	0.38%
2024	10.5%	0.42%
2025	11.5%	0.46%
2026	12.5%	0.5%

The EDUs and ESCs arguably do not need legal permission to provide power currently from renewable energy resources. Giving them permission to do what they already can do, but at specific levels and with specific renewable energy resources, raises questions about the full implications of these changes.

The benchmarks in the table above and the 12.5% portion amount are currently required of EDUs and ESCs. Current law also requires that the 12.5% benchmark be maintained indefinitely by EDUs and ESCs on an annual basis after 2026. The bill neither expressly permits nor requires any benchmark to be achieved after 2026.<sup>12</sup>

<sup>11</sup> R.C. 4928.64(A), 4928.142, and 4928.20; R.C. 4928.01(A)(37), not in the bill.

<sup>12</sup> R.C. 4928.64(B)(1) and (2).



There is currently an annual compliance review by the PUCO and forfeitures that are imposed if the annual benchmarks are not met. Because the bill makes these benchmarks permissive, it removes the provisions governing the compliance review and forfeitures.<sup>13</sup> But the bill retains, for the 2016 compliance year only, the PUCO's current authority to conduct a compliance review and impose forfeitures.<sup>14</sup>

Under current law, forfeitures from noncompliance with the current renewable energy requirements (that the bill removes) contribute to funding for the Advanced Energy Program administered by the Department of Development Services.<sup>15</sup>

The bill permits the qualifying renewable energy resources to be either facilities located in Ohio or resources that can be shown to be deliverable into Ohio. This is a requirement in current law.<sup>16</sup>

### **3% cost cap**

While the bill permits EDUs and ESCs to provide certain portions of their electricity supplies from renewable energy resources, as explained above, it does so subject to a 3% cost cap. Specifically, the bill prohibits an EDU and ESC from providing a portion of its electricity from qualifying renewable energy resources if the EDU's or ESC's cost of providing that portion from those resources exceeds the EDU's or ESC's reasonably expected cost of otherwise producing or acquiring the same amount of electricity by 3% or more. The cost of providing the portion from qualifying resources must be calculated as though certain tax and assessment exemptions had not been granted.

As long as the cost of providing the portion from qualifying renewable energy resources does not exceed the cost cap, the bill expressly permits EDUs and ESCs to exceed the benchmarks outlined above.

The same 3% cost cap limits EDUs' and ESCs' obligations to comply with the renewable energy benchmarks under current law.<sup>17</sup>

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<sup>13</sup> R.C. 4928.64(C).

<sup>14</sup> Section 5.

<sup>15</sup> R.C. 4928.61 and 4928.62.

<sup>16</sup> R.C. 4928.64(C).

<sup>17</sup> R.C. 4928.64(D).

## **Force majeure provision**

The bill retains a provision of current law that allows an EDU or ESC to request a force majeure determination with the PUCO for the reduction of a renewable energy benchmark when there are insufficient resources available for the EDU or ESC to comply with the benchmark. But since the bill makes the benchmarks permissive rather than mandatory, the force majeure provision will likely be moot.<sup>18</sup>

## **Customer opt out**

The bill permits, beginning January 1, 2019, any customer of an EDU or ESC to opt out of paying any rider, charge, or other cost recovery mechanism designed to recover the EDU's or ESC's cost of providing electricity from qualifying renewable energy resources. It is unclear what, exactly, customers who opt out would avoid paying for under this provision. The broad terminology could be interpreted to allow customers who opt out to avoid paying for any portion of an EDU's or ESC's electricity supply that is provided from qualifying renewable energy resources, even if that customer is still receiving electricity generated from those resources.

The bill requires the PUCO to adopt rules by January 1, 2019, governing the customer opt out. But the bill does not provide any parameters for what the rules should include.<sup>19</sup>

The bill defines the baseline for the 12.5% portion and the benchmarks to exclude customers who opt out of paying the rider, charge, or other cost recovery mechanism. The baseline is currently the average of total kWh sold by the EDU or ESC in the preceding three calendar years.<sup>20</sup>

## **Recovery for long-term contracts**

The bill requires continued recovery from customers of ongoing costs associated with EDUs' contracts to procure resources to comply with the current renewable energy requirements, if those contracts were entered into before the bill's effective date. Currently, the same continued recovery is permitted for contracts entered into before April 1, 2014. The bill merely extends this date to cover contracts entered into between April 1, 2014, and the bill's effective date. Under continuing law, recovery is limited to costs associated with the original term of the contract. Recovery is not permitted for

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<sup>18</sup> R.C. 4928.64(E).

<sup>19</sup> R.C. 4928.647(A) and (C).

<sup>20</sup> R.C. 4928.643.



contract extensions, or for contract amendments if those amendments were made after the bill's effective date.<sup>21</sup>

The bill specifies that customers *cannot* opt out of cost recovery for these contracts.<sup>22</sup>

### **Renewable energy credits**

The bill permits EDUs and ESCs to use renewable energy credits to provide electricity from qualifying renewable energy resources. Under current law, EDUs and ESCs are permitted to use these credits for the purpose of complying with the renewable energy requirements. The bill does not alter current restrictions on when credits may be used or how credits are calculated and registered.<sup>23</sup>

### **Disclosure of customer costs on bills**

The bill requires, by January 1, 2018, the PUCO to adopt rules governing disclosure to customers of the costs of electricity provided after the bill's effective date from qualifying renewable energy resources. The rules must require that every EDU and ESC list, as a distinct line item on the customer's bill, the customer's individual cost for the applicable billing period. The bill also requires, by January 1, 2018, the PUCO to adopt rules governing disclosure to customers of any costs still paid by customers for the current renewable energy requirements, including costs associated with long-term contracts entered into before the bill's effective date (see "**Recovery for long-term contracts**," above). The rules must also require that EDUs and ESCs list this cost as a distinct line item for the individual customer and applicable billing period.

Current law required, by January 1, 2015, the PUCO to adopt rules governing the disclosure to customers of EDUs' and ESCs' costs of compliance with the current renewable energy requirements, as well as EDUs' costs of compliance with the current energy efficiency and peak demand reduction requirements. As of the date this analysis was written, those rules have not been adopted. The bill changes this date to January 1, 2018, which effectively gives the PUCO a new deadline for adopting the rules regarding customer cost disclosure for energy efficiency and peak demand reduction.<sup>24</sup>

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<sup>21</sup> R.C. 4928.641.

<sup>22</sup> R.C. 4928.647(B).

<sup>23</sup> R.C. 4928.645.

<sup>24</sup> R.C. 4928.65.

## Reporting requirements

### Utility and company reporting requirement

#### July 1 report required

The bill requires every EDU and ESC to submit an annual report for the prior calendar year to the PUCO not later than July 1 of each year. For an EDU, the report must detail the EDU's status of compliance with the energy efficiency and peak demand reduction provisions. For EDUs and ESCs, the report must detail the amount of electricity that the EDU or ESC provided from qualifying renewable energy resources during the calendar year covered by the report. The report is required for every year beginning with the July 1, 2018 report, even if the energy efficiency and peak demand reduction requirements for the year covered by the report are not true requirements.<sup>25</sup>

#### Requirement to use the bill's baseline in reporting renewable-energy percentages

Regarding renewable energy, the bill requires that if an EDU reports the amount of electricity that it provided from qualifying renewable energy resources as a portion of the supply required for its standard service offer (SSO), then that portion must be reported as a percentage of the baseline defined by the bill. Likewise, the bill requires that if an ESC reports the amount of electricity that it provided from qualifying renewable energy resources as a portion of its electricity supply for Ohio retail consumers, that portion must also be reported as a percentage of the baseline defined by the bill.

As discussed earlier (see "**Customer opt out**"), the bill defines the baseline as the average of total kWh sold by the EDU or ESC in the preceding three calendar years, excluding customers who opt out of paying any rider, charge, or other cost recovery mechanism for energy provided from qualifying renewable energy resources. In some cases, an EDU or ESC may choose an alternate baseline of the total kWh sold in the "applicable compliance year,"<sup>26</sup> but this alternate baseline must still exclude the opt-out customers.

To explain further, the effect of this baseline-usage requirement is that if an EDU, for example, claims to have provided 10% of its SSO supply from qualifying renewable energy resources, the amount actually provided must be 10% of the bill's *reduced* baseline. So, if the unreduced baseline is 100 million kWh, but customers who opt out account for sales of 20 million kWh, the reduced baseline becomes 80 million kWh and

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<sup>25</sup> R.C. 4928.6620(A).

<sup>26</sup> A corrective amendment may be needed to adjust this language; the term "compliance year" no longer makes sense as the renewable-energy provisions are permissive.

the EDU can report 10% only if the EDU provided 8 million kWh from qualifying renewable energy resources.<sup>27</sup>

### **PUCO rule modification**

The bill requires the PUCO to modify its rules in accordance with the EDU and ESC reporting requirement, including the filing date.<sup>28</sup>

### **PUCO report**

#### **Consolidated report required by August 1**

The bill requires the PUCO to make one annual report on renewable energy, energy efficiency, and peak demand reduction. Current law requires the PUCO to make two separate reports: one on renewable energy, and one on energy efficiency and peak demand reduction. The bill requires the consolidated report to be made by August 1 of each year (beginning in 2018). Current law requires that both the renewable-energy report and the energy-efficiency-and-peak-demand-reduction report be made annually, but current law does not specify a date by which either report must be made.

The bill requires the consolidated report to detail all of the following:

- The amount of electricity provided by EDUs and ESCs from qualifying renewable energy resources during the year covered by the report, based on the information provided in the EDUs' and ESCs' reports to the PUCO and any other information that is public;
- EDU compliance with the energy efficiency and peak demand reduction provisions, based on the information provided in the EDUs' reports to the PUCO and any other information that is public (this EDU-compliance information is currently required to be included in the PUCO's annual report on energy efficiency and peak demand reduction);
- The average annual cost of renewable energy credits purchased by EDUs and ESCs for the year covered in the report (this information is currently required to be included in the PUCO's annual report on renewable energy);
- Any strategy for encouraging the use of qualifying renewable energy resources in supplying Ohio's electricity needs in a manner that considers

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<sup>27</sup> R.C. 4928.643 and 4928.6620(A).

<sup>28</sup> R.C. 4928.6620(A).



available technology, costs, job creation, and economic impacts (this information is also currently required to be included in the PUCO's annual report on renewable energy).<sup>29</sup>

### **Repealed provisions regarding the current renewable energy report**

Regarding the annual report that the PUCO is currently required to make on renewable energy, the bill repeals a provision requiring the report to detail EDU and ESC compliance with the current renewable energy requirements. The bill also repeals a provision requiring the PUCO to allow and consider public comments on that report prior to its submission to the General Assembly. Finally, the bill repeals a provision specifying that nothing in that report is binding on any person.<sup>30</sup>

### **Report distribution**

The bill requires the PUCO to submit the consolidated report to the General Assembly and the Ohio Consumers' Counsel. Current law requires the annual report on renewable energy to go to the General Assembly, but not the Ohio Consumers' Counsel. On the other hand, current law requires the annual report on energy efficiency and peak demand reduction to be produced and docketed at the PUCO, with a copy provided to the Ohio Consumers' Counsel.<sup>31</sup>

### **PUCO testimony**

The bill requires the PUCO Chairperson to provide testimony on the consolidated report to the standing committees of both houses of the General Assembly that deal with public utility matters. The testimony must be provided by September 1 of the same year in which the report is submitted.<sup>32</sup>

### **Bypassability of generation costs**

The bill expressly states that an EDU's costs for providing generation service, including all costs of providing electricity from renewable energy resources, are bypassable by any consumer that shops for an electric supplier. The bill also clarifies

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<sup>29</sup> R.C. 4928.64(D) (as in current law), 4928.66(B) (as in current law), and 4928.6620(B).

<sup>30</sup> R.C. 4928.64(D) (as in current law).

<sup>31</sup> R.C. 4928.64(D) (as in current law), 4928.66(B) (as in current law), and 4928.6620(B).

<sup>32</sup> R.C. 4928.6620(C).



that an EDU's electric security plan must be consistent with this bypassability requirement.<sup>33</sup>

The bill repeals a similar provision that makes an EDU's costs incurred in complying with the current renewable energy requirements bypassable by customers that shop.<sup>34</sup>

## **Funding for home weatherization services**

The bill changes allocations for federal funds from the Home Energy Assistance Block Grant. However, due to the effective date of the changes, they will likely have no effect. These funding allocations are governed by appropriation language in the budget bill, which is in effect only for the current fiscal biennium, ending June 30, 2017. The effective date of the bill's changes is June 30, 2017. The funding allocations could be revised differently in the next budget bill, expected to take effect July 1, 2017.<sup>35</sup>

Under the current budget, about 15% of the federal block grant funds are set aside for weatherization projects for individuals eligible for the Home Energy Assistance Program (HEAP) – below 175% of the poverty line. HEAP is administered by the Development Services Agency (DSA). The rest of the funds are used for home heating assistance.<sup>36</sup> This 15% allocation for weatherization is allowed under federal HEAP guidelines. However, the federal guidelines allow states to apply for a waiver to raise the set-aside for weatherization to a maximum of 25%.<sup>37</sup> The bill requires DSA to allocate the full 25% for weatherization and apply for the federal waiver.<sup>38</sup>

## **Repeal of uncodified law enacted by S.B. 310**

The bill repeals uncodified sections that were enacted by Sub. S.B. 310 of the 130th General Assembly. These sections governed customer-opt-out provisions and

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<sup>33</sup> R.C. 4928.031 and 4928.143(B).

<sup>34</sup> R.C. 4928.64(E) (as in current law).

<sup>35</sup> Sections 7, 8, and 9; Section 257.80 of Am. Sub. H.B. 64 of the 131st General Assembly.

<sup>36</sup> Section 257.10 of Am. Sub. H.B. 64 of the 131st General Assembly, not in the bill; Home Energy Assistance Programs, available at: [http://development.ohio.gov/is/is\\_heap.htm](http://development.ohio.gov/is/is_heap.htm).

<sup>37</sup> Catalog of Federal Domestic Assistance, Program Information, available at: <https://www.cfda.gov/index?s=program&mode=form&tab=core&id=840aa020c9362cf61db9ace65dc0867b>; Office of Community Services, LIHEAP Q & As for Professionals, available at: <http://www.acf.hhs.gov/ocs/resource/professional-frequently-asked-questions>.

<sup>38</sup> Sections 7, 8, and 9; Section 257.80 of Am. Sub. H.B. 64 of the 131st General Assembly.



energy efficiency and peak demand reduction portfolio plans, but the applicability of the sections ended in 2016.<sup>39</sup>

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## HISTORY

ACTION	DATE
Introduced	03-07-17

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<sup>39</sup> Sections 3 and 4; Section 6 of Sub. S.B. 310 of the 130th General Assembly.

