



Ohio Legislative Service Commission

Bill Analysis

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S.B. 216

129th General Assembly
(As Introduced)

Sens. Jordan, Patton, Seitz

BILL SUMMARY

- Repeals the alternative energy resource requirements imposed on electric distribution utilities and electric services companies to provide, by 2025, 25% of their electricity supply from alternative energy resources (advanced energy and renewable energy resources) according to specific benchmarks.
- Eliminates the requirement in current law that the Public Utilities Commission (PUCO) impose renewable energy compliance payments for an EDU's or ESC's undercompliance or noncompliance with meeting the benchmarks.
- Repeals the provision permitting the use of renewable energy credits to meet the benchmarks and requiring that PUCO rules specify which system the state must use to register renewable energy credits.
- Deletes references in current law to the alternative energy resource requirements or renewable energy credits.

CONTENT AND OPERATION

Repeal of alternative energy resource requirements

The bill repeals the state's alternative energy resource requirement, commonly referred to as the "renewable energy portfolio standard." The bill removes the requirement that by 2025, and thereafter, an electric distribution utility (EDU) or an electric services company (ESC) must provide 25% of its electricity supply from alternative energy resources. The bill repeals the specific requirement that, by 2025, 12.5% of that total percentage *may* be from advanced energy and 12.5% *must* be from renewable energy. Also repealed under the bill are the solar energy benchmarks (.5%

by 2025) incorporated in the renewable energy resource benchmarks. (See "**Background**" below for chart and table showing annual benchmarks in current law.)

By repealing the alternative energy resource requirements, the bill eliminates the requirement that, of the renewable energy used to meet the benchmarks, one half must be implemented through facilities located in Ohio and one half must be met with resources that can be shown to be deliverable into Ohio.¹

Compliance

The bill removes the requirement in current law that the Public Utilities Commission (PUCO) impose renewable energy compliance payments in an amount based on megawatt hour of undercompliance or noncompliance with the benchmarks. Also eliminated by the bill are:

- The "cost cap" provision that exempts an EDU or ESC from the benchmark requirements to the extent that its reasonably expected cost of compliance exceeds, by three per cent or more, the EDU's or ESC's reasonably expected cost of otherwise producing or acquiring the electricity;
- The provision allowing the PUCO to modify the compliance obligation after making a force majeure determination regarding the reasonable availability in the marketplace of renewable energy resources in sufficient quantity for an EDU or ESC to comply with minimum benchmarks.²

Renewable energy credits

The bill repeals the provision permitting the use of renewable energy credits to meet the renewable energy resource benchmarks and requiring that PUCO rules specify which system the state must use to register renewable energy credits. Under current law, one unit of credit is equal to one megawatt hour of electricity derived from renewable energy resources. Credits for electricity generated by certain modified or retrofitted facilities that generate electricity principally from biomass energy are calculated based on a specific formula. Current law also allows a hydroelectric generating facility to be eligible for, and customer-sited projects or actions the opportunity to be eligible for, obtaining renewable energy credits.³

¹ R.C. 4928.64(B).

² R.C. 4928.64(C).

³ R.C. 4928.65.

Conforming changes in electric utility law

The bill makes several conforming changes to delete or modify references to renewable and alternative energy resources in current law.

Standard service offers of EDUs

The bill repeals references to alternative energy resource requirements in the law allowing EDUs to establish a standard rate of electric service through a market rate offer or electric security plan.⁴

Advanced energy fund

The bill repeals the requirement that the revenues from compliance payments, repealed by the bill, be included in the Advanced Energy Fund.⁵

Cost of compliance

The bill repeals references to a customer's payment of an EDU's cost of compliance with the alternative energy resource requirements in the governmental aggregation law. Current law requires customers that leave a governmental aggregation program and return to an EDU for competitive retail electric service to pay the utility's cost of compliance to serve the customer under the requirements.⁶

Alternative energy generating facilities at transportation facilities

The bill repeals a reference to alternative energy resource requirements in the law that permits the Director of Transportation to grant leases, easements, or licenses to a utility service provider or another appropriate local entity for alternative energy generating facilities at transportation facilities. Specifically, the bill eliminates the term "alternative energy generating facility service provider as defined by [the law governing alternative energy resource requirements]." In its place, the bill provides the term, "alternative energy generating facility," which the bill defines as a facility that uses advanced energy or renewable energy resources to produce electricity.⁷

⁴ R.C. 4928.142(D)(3) and 4928.143(B) and (D).

⁵ R.C. 4928.61(B)(4).

⁶ R.C. 4928.20(J).

⁷ R.C. 4928.01 (not in the bill) and R.C. 5501.311(A) and (G).

Qualified energy project sales of renewable energy credits

The bill removes the provision requiring the owner or lessee of a qualified energy project (for which tangible personal property is exempt from taxation) to offer to sell power or renewable energy credits from the project to EDUs or ESCs that are subject to the alternative energy resource requirements and that issue a request for proposals for the power or credits. The bill also removes exemptions from this provision and removes the provision allowing the owner or lessee to sell the power or credits to other persons in the case where no EDU or ESC (1) issues a request for proposals or (2) accepts an offer for power or credits within 45 days after the offer is submitted.⁸

Background

Sub. S.B. 221 of the 127th General Assembly, effective July 31, 2008, established the alternative energy resources requirements for EDUs and ESCs to provide 25% of their electricity supply from alternative energy resources by 2025. Under the law, alternative energy resource means the following:

- An advanced energy resource or a renewable energy resource that has a placed-in-service date of January 1, 1998 or after;
- A renewable energy resource created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or
- A new or existing mercantile customer-sited advanced energy resource or renewable energy resource that a mercantile customer (a commercial or industrial customer that consumes, for nonresidential use, more than 700,000 kilowatt hours of electricity per year or is part of a national multi-facility account) commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs.

Advanced energy resources include such resources as clean coal and advanced nuclear energy technology. Renewable energy resources include such resources as solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility, and geothermal energy.⁹

⁸ R.C. 5727.25(F)(8).

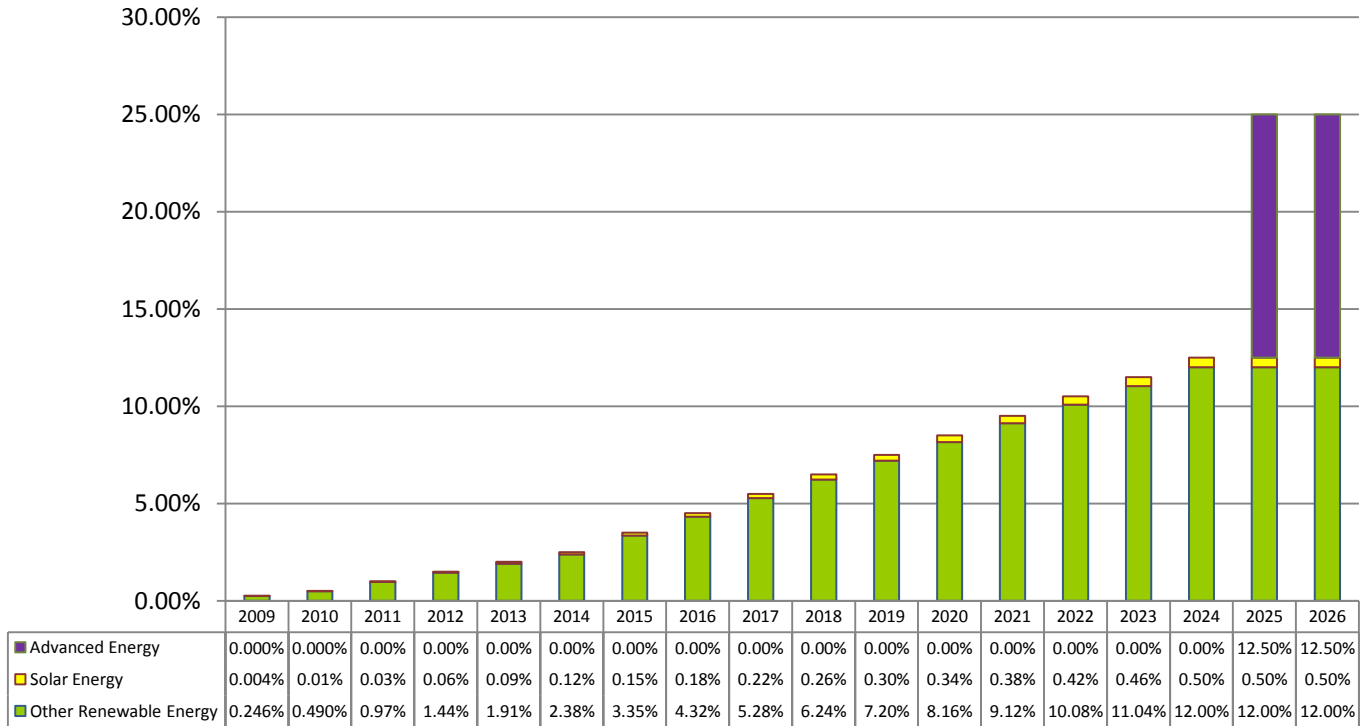
⁹ R.C. 4928.01 (not in the bill) and 4928.64(A) and (B).

Annual benchmarks under current law

The table below lists the annual benchmarks in current law for alternative energy resource requirements.

Alternative Energy Benchmarks

Portion of Electricity Supply
from Alternative Energy
Resources*



Year-by-Year Benchmarks for 25% by 2025 Alternative Energy Resources Requirement

*By 2025, half of the electricity supply may be from advanced energy resources.

HISTORY

ACTION

DATE

Introduced

09-07-11

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