

**As Reported by the Senate Energy and Public Utilities Committee**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Sub. H. B. No. 201**

**Representatives Hillyer, Demetriou**

**Cosponsors: Representatives Seitz, Cross, Cutrona, Barhorst, Klopfenstein, Stein, Willis, Williams, McClain, Dobos, Carruthers, Johnson, Abrams, Bird, Brennan, Click, Creech, Edwards, Fowler Arthur, Gross, Hall, Holmes, Hoops, John, Jones, Kick, King, Lear, Lorenz, Loychik, Mathews, Merrin, Miller, K., Miller, M., Peterson, Plummer, Robb Blasdel, Rogers, Schmidt, Stoltzfus, Swearingen, Thomas, J., Wiggam, Young, T.**

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**A BILL**

To amend sections 4929.16, 4929.161, 4929.162, 1  
4929.163, and 4929.165 and to enact section 2  
3704.20 of the Revised Code to prohibit a state 3  
agency, county, or township from restricting the 4  
sale or use of a motor vehicle based on the 5  
energy source used to power the motor vehicle; 6  
to prohibit a state agency from adopting the 7  
California emissions standards for motor 8  
vehicles; and to change the requirements for 9  
natural gas company infrastructure development 10  
riders and economic development projects. 11

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

**Section 1.** That sections 4929.16, 4929.161, 4929.162, 12  
4929.163, and 4929.165 be amended and section 3704.20 of the 13  
Revised Code be enacted to read as follows: 14

**Sec. 3704.20.** (A) No state agency, township, or county 15

shall restrict the use or sale of a motor vehicle based on the 16  
energy source used to power the motor vehicle, including an 17  
energy source used for propulsion or used for powering other 18  
functions of the motor vehicle. 19

(B) The environmental protection agency or any other state 20  
agency shall not adopt any motor vehicle emissions standards 21  
that are established by California as a result of California 22  
having received a waiver pursuant to section 209(b) of the 23  
federal Clean Air Act. 24

**Sec. 4929.16.** As used in sections 4929.16 to 4929.167 of 25  
the Revised Code: 26

(A) "Infrastructure development" means constructing 27  
~~extensions of~~, upgrading, extending, or any other investment 28  
in, or associated with, transmission or distribution facilities 29  
that, except as provided for in division (B)(2)(b) of this 30  
section, a natural gas company owns and operates. 31

~~(B)(B)(1)~~ "Infrastructure development costs" means ~~the~~ 32  
costs associated with an investment in infrastructure 33  
development to which ~~both~~ either of the following apply: 34

~~(1) The investment is in infrastructure development.~~ 35

~~(2)(a)~~ The investment is for any deposit required by the 36  
natural gas company, as defined in the line-extension provision 37  
of the company's tariff, less any contribution in aid of 38  
construction received from the owner or developer of the 39  
project. 40

(b) The investment is designed to provide natural gas 41  
service to a site or economic development project that is 42  
supported by JobsOhio, any JobsOhio network or regional partner, 43  
or the department of development. 44

(2) "Infrastructure development costs" includes ~~planning,~~ 45  
all of the following: 46

(a) ~~Planning, development, and construction costs and, if~~ 47  
~~applicable, any allowance for funds used during construction,~~ 48  
including costs incurred prior to the approval of an economic 49  
development project pursuant to section 4929.163 of the Revised 50  
Code; 51

(b) Costs associated with establishing or upgrading any 52  
connections with any source of supply to serve an economic 53  
development project, including interstate or intrastate 54  
pipelines, regardless of ownership of the facilities; 55

(c) A return on all infrastructure development costs, with 56  
such return equal to the natural gas company's return on equity 57  
authorized in the natural gas company's most recently approved 58  
rate case under section 4909.18 of the Revised Code. 59

**Sec. 4929.161.** (A) A natural gas company may file an 60  
application with the public utilities commission for approval of 61  
an infrastructure development rider to recover prudently 62  
incurred infrastructure development costs of one or more 63  
economic development projects approved under section 4929.163 of 64  
the Revised Code. 65

(B) The commission shall approve a maximum of one 66  
infrastructure development rider per company. 67

(C) The commission shall not accept an application for 68  
infrastructure development costs described under division (B)(1) 69  
(b) of section 4929.16 of the Revised Code unless a natural gas 70  
company has obtained a notification by JobsOhio, any JobsOhio 71  
network or regional partner, or the director of development that 72  
the project should be considered. The commission shall not 73

approve an application for an economic development project that 74  
includes infrastructure development costs described under 75  
division (B) (1) (b) of section 4929.16 of the Revised Code filed 76  
beyond six years from the effective date of the amendment to 77  
this section by H.B. 201 of the 135th general assembly. 78

(D) Notwithstanding division (C) of this section, recovery 79  
of infrastructure development costs pursuant to section 4929.16 80  
of the Revised Code for any approved economic development 81  
projects filed within six years of the effective date of the 82  
amendment to this section by H.B. 201 of the 135th general 83  
assembly shall continue until such time as all costs eligible 84  
for recovery under sections 4929.16 to 4929.163 of the Revised 85  
Code are recovered. 86

**Sec. 4929.162.** Under an infrastructure development rider, 87  
in each monthly billing period: 88

(A) The natural gas company may not recover more than one 89  
dollar and fifty cents from any single customer in this state, 90  
for all projects that were approved under section 4929.163 of 91  
the Revised Code and for which recovery was authorized under 92  
that rider. 93

(B) The company shall recover the same amount from every 94  
customer. 95

(C) (1) If requested by the natural gas company, the public 96  
utilities commission shall approve a regulatory deferral, 97  
including carrying costs at the company's cost of long-term debt 98  
as approved in its most recent rate case or as otherwise 99  
provided in division (C) (2) of this section, for the 100  
infrastructure development rider revenue requirement in any year 101  
in which the approved customer charge exceeds or is expected to 102

exceed the limitation under division (A) of this section. Only 103  
new costs from that year may be considered a part of the cost 104  
contributing to the excess in customer charges. No costs from 105  
previous years shall contribute to that amount. 106

(2) If the natural gas company does not have a commission- 107  
approved cost of long-term debt, the company shall propose a 108  
rate for the carrying cost. The company may propose a rate or 109  
methodology for calculating carrying costs that differs from the 110  
company's cost of long-term debt approved in its most recent 111  
rate case. 112

(3) The commission shall permit the company to collect any 113  
deferred and unrecovered infrastructure development costs in the 114  
subsequent year and continuing thereafter, subject to division 115  
(C) (5) of this section, so long as the infrastructure 116  
development rider rate does not exceed the limit in division (A) 117  
of this section. Once costs have been applied to an approved 118  
regulatory deferral, the costs remain as part of that deferral 119  
and shall not be reallocated to a future deferral application. 120

(4) The commission shall permit carrying costs to accrue 121  
until such time as the entirety of the regulatory deferral and 122  
all carrying costs have been recovered, or until the termination 123  
of the deferral either by commission order, court order, or 124  
subject to division (C) (5) of this section. 125

(5) The commission may grant a deferral under this section 126  
not to exceed five years after its approval by the commission. 127  
The commission may grant a deferral under this section for less 128  
than five years. After the deferral period granted by the 129  
commission has ended, any remaining unrecovered costs shall not 130  
be subject to future deferral, a rate case, or other cost 131  
recovery mechanism. 132

(D) (1) The commission, for an applicant's economic 133  
development project, may approve the collection of any 134  
infrastructure development costs that are not funded through a 135  
disbursement from the all Ohio future fund under section 126.62 136  
of the Revised Code or through another rider or rate mechanism 137  
approved under section 4909.18 of the Revised Code. 138

(2) A natural gas company that is prohibited under 139  
division (D) (1) of this section from recovering infrastructure 140  
development costs for a particular site or project in an 141  
infrastructure development rider may recover infrastructure 142  
development costs for other sites or economic development 143  
projects under division (B) (1) (b) of section 4929.16 of the 144  
Revised Code that do not satisfy the requirements of division 145  
(D) (1) of this section. 146

**Sec. 4929.163.** (A) A natural gas company may file an 147  
application with the public utilities commission for approval of 148  
an economic development project, ~~including a project for which~~ 149  
~~an application has been made under section 122.9511 of the~~ 150  
~~Revised Code for certification under the SiteOhio certification~~ 151  
~~program for which the company will incur infrastructure~~ 152  
development costs. 153

(B) The company shall file the application for project 154  
approval prior to beginning the project. 155

(C) The application for project approval, to the extent 156  
applicable, shall contain a description of each of the 157  
following: 158

(1) The economic development project; 159

(2) The infrastructure development costs to be expended on 160  
the project; 161

(3) How the project meets the criteria set forth in rules adopted under division (D) of this section;	162 163
(4) The support for the project by an economic development entity or chamber of commerce. For purposes of this application requirement, "economic development entity" includes any of the following:	164 165 166 167
(a) JobsOhio or any JobsOhio network or regional partner;	168
(b) <del>Development services agency</del> <u>Department of development</u> ;	169
(c) Port authority created under Chapter 4582. of the Revised Code;	170 171
(d) Special improvement district created under Chapter 1710. of the Revised Code;	172 173
(e) Community urban redevelopment corporation qualified to operate under Chapter 1728. of the Revised Code;	174 175
(f) Community improvement corporation organized under Chapter 1724. of the Revised Code;	176 177
(g) New community authority organized under Chapter 349. of the Revised Code;	178 179
(h) Joint economic development district created under section 715.70 or 715.71 of the Revised Code;	180 181
(i) Development corporation organized under Chapter 1726. of the Revised Code;	182 183
(j) Municipal utility district designated under section 715.84 of the Revised Code.	184 185
<del>(D)</del> <u>(D)(1)</u> The commission shall adopt rules setting forth the criteria for project approval under this section.	186 187

(2) The commission may approve a project under this 188  
section that involves infrastructure development costs described 189  
in division (B) (1) (a) of section 4929.16 of the Revised Code if 190  
the infrastructure development costs, excluding the return set 191  
forth in division (B) (2) (c) of section 4929.16 of the Revised 192  
Code, are projected to generate a return on the company's 193  
investment that is less than the most recently authorized ~~rate~~ 194  
~~of return on equity~~. 195

(E) The commission shall adopt rules to provide for an 196  
accelerated review of an application filed under division (A) of 197  
this section. The rules shall provide for the automatic approval 198  
of the application not later than thirty days after the date of 199  
the application filing unless the commission suspends the 200  
application for good cause shown. If the application is 201  
suspended, the commission shall approve, deny, modify, or hold a 202  
hearing on the application not later than forty-five days after 203  
the date that the suspension begins. 204

**Sec. 4929.165.** (A) A natural gas company that has 205  
established an infrastructure development rider under section 206  
4929.161 of the Revised Code shall file an annual report with 207  
the public utilities commission. The report shall do both of the 208  
following: 209

~~(A)~~ (1) Detail the infrastructure development costs 210  
related to the applicable economic development project or 211  
projects; 212

~~(B)~~ (2) Set forth the rider rate for the twelve months 213  
following the annual report. 214

(B) The commission annually shall submit to the general 215  
assembly, in accordance with section 101.68 of the Revised Code, 216



<u>a report describing all of the following:</u>	217
<u>(1) The number of applications filed pursuant to division</u>	218
<u>(B)(1)(a) of section 4929.16 of the Revised Code and the number</u>	219
<u>of applications filed pursuant to division (B)(1)(b) of section</u>	220
<u>4929.16 of the Revised Code;</u>	221
<u>(2) The number of applications approved that were filed</u>	222
<u>pursuant to division (B)(1)(a) of section 4929.16 of the Revised</u>	223
<u>Code and the number of applications approved that were filed</u>	224
<u>pursuant to division (B)(1)(b) of section 4929.16 of the Revised</u>	225
<u>Code;</u>	226
<u>(3) The monetary amount approved for recovery through each</u>	227
<u>natural gas company infrastructure development rider and the</u>	228
<u>total monetary amount approved for recovery through all</u>	229
<u>infrastructure development riders for all natural gas companies;</u>	230
<u>(4) The number of approved economic development projects</u>	231
<u>on which all construction has been completed;</u>	232
<u>(5) A list containing the construction status of all</u>	233
<u>approved economic projects, including if construction has not</u>	234
<u>commenced or, if construction has commenced, but not completed,</u>	235
<u>a description of any structures on which construction has been</u>	236
<u>completed.</u>	237
<b>Section 2.</b> That existing sections 4929.16, 4929.161,	238
4929.162, 4929.163, and 4929.165 of the Revised Code are hereby	239
repealed.	240