

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 381**

**Representative DeVitis**

**Cosponsors: Representatives Henne, Householder, Johnson, Seitz, Slaby, Stein, Vitale, Faber, Patton, Young, Roegner, Sweeney, Retherford, Celebrezze, Keller**

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**A BILL**

To amend section 4928.02 and to enact sections 1  
4928.75, 4928.751, 4928.752, 4928.753, 4928.754, 2  
4928.755, 4928.756, 4928.757, 4928.7511, 3  
4928.7513, 4928.7514, 4928.7515, 4928.7520, 4  
4928.7521, 4928.7522, 4928.7523, 4928.7524, 5  
4928.7525, 4928.7526, 4928.7527, 4928.7532, 6  
4928.7533, and 4928.7540 of the Revised Code 7  
regarding the zero-emissions nuclear resource 8  
program. 9  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 4928.02 be amended and sections 11  
4928.75, 4928.751, 4928.752, 4928.753, 4928.754, 4928.755, 12  
4928.756, 4928.757, 4928.7511, 4928.7513, 4928.7514, 4928.7515, 13  
4928.7520, 4928.7521, 4928.7522, 4928.7523, 4928.7524, 14  
4928.7525, 4928.7526, 4928.7527, 4928.7532, 4928.7533, and 15  
4928.7540 of the Revised Code be enacted to read as follows: 16

**Sec. 4928.02.** It is the policy of this state to do the 17  
following throughout this state: 18

(A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;

(B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(C) Ensure diversity of electricity ~~the following~~:

(1) Electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;

(2) Resources, including zero-emissions nuclear resources as defined in section 4928.75 of the Revised Code, that provide fuel diversity and environmental and other benefits.

(D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;

(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;

(F) Ensure that an electric utility's transmission and

distribution systems are available to a customer-generator or 48  
owner of distributed generation, so that the customer-generator 49  
or owner can market and deliver the electricity it produces; 50

(G) Recognize the continuing emergence of competitive 51  
electricity markets through the development and implementation 52  
of flexible regulatory treatment, while simultaneously 53  
recognizing the need for nuclear energy resources, as defined in 54  
section 4928.75 of the Revised Code, and resources that provide 55  
fuel diversity and environmental and other benefits; 56

(H) Ensure effective competition in the provision of 57  
retail electric service by avoiding anticompetitive subsidies 58  
flowing from a noncompetitive retail electric service to a 59  
competitive retail electric service or to a product or service 60  
other than retail electric service, and vice versa, including by 61  
prohibiting the recovery of any generation-related costs through 62  
distribution or transmission rates; 63

(I) Ensure retail electric service consumers protection 64  
against unreasonable sales practices, market deficiencies, and 65  
market power; 66

(J) Provide coherent, transparent means of giving 67  
appropriate incentives to technologies that can adapt 68  
successfully to potential environmental mandates; 69

(K) Encourage implementation of distributed generation 70  
across customer classes through regular review and updating of 71  
administrative rules governing critical issues such as, but not 72  
limited to, interconnection standards, standby charges, and net 73  
metering; 74

(L) Protect at-risk populations, including, but not 75  
limited to, when considering the implementation of any new 76

advanced energy or renewable energy resource; 77

(M) Encourage the education of small business owners in 78  
this state regarding the use of, and encourage the use of, 79  
energy efficiency programs and alternative energy resources in 80  
their businesses; 81

(N) Facilitate the state's effectiveness in the global 82  
economy. 83

In carrying out this policy, the commission shall consider 84  
rules as they apply to the costs of electric distribution 85  
infrastructure, including, but not limited to, line extensions, 86  
for the purpose of development in this state. 87

Sec. 4928.75. As used in sections 4928.75 to 4928.7540 of 88  
the Revised Code: 89

(A) "Nuclear energy resource" means an electric generation 90  
unit fueled, in whole or in part, by nuclear power and licensed 91  
by the nuclear regulatory commission. 92

(B) "PJM" means the PJM Interconnection, L.L.C., or its 93  
successor. 94

(C) "Zero-emissions nuclear credit" means the attributes 95  
associated with one megawatt hour of electricity generated by a 96  
zero-emissions nuclear resource. 97

(D) "Zero-emissions nuclear resource" means a nuclear 98  
energy resource that meets the criteria of section 4928.754 of 99  
the Revised Code. 100

Sec. 4928.751. There is hereby created a zero-emissions 101  
nuclear resource program to enable the state to meet its policy 102  
goals and requirements under which zero-emissions nuclear 103  
credits are allocated to electric distribution utilities to 104

provide long-term energy security and environmental and other 105  
benefits to the region and to retail electric service customers 106  
in the state. An electric distribution utility in this state 107  
that has a zero-emissions nuclear resource located within its 108  
certified territory shall participate in the program. All 109  
electric distribution utilities in the same holding company 110  
system shall participate jointly and shall allocate revenue 111  
collection across all classes of each participating utility's 112  
customers. 113

**Sec. 4928.752.** (A) The zero-emissions nuclear resource 114  
program shall operate for successive two-year program periods 115  
beginning with the initial program period commencing on the 116  
effective date of this section and terminating on December 31, 117  
2030, unless extended by the general assembly. Following 118  
termination, any over-collection of revenue during the last 119  
program period shall be credited to customers. 120

(B) The public utilities commission shall conduct an 121  
inquiry in 2029 to determine whether it is in the public 122  
interest to continue the zero-emissions nuclear resource program 123  
after 2030, and shall report its findings to the general 124  
assembly. 125

**Sec. 4928.753.** To provide zero-emissions nuclear credits 126  
under the zero-emissions nuclear resource program, an entity 127  
that owns or operates a nuclear energy resource shall file with 128  
the public utilities commission a written notice verifying that 129  
the resource meets the criteria under section 4928.754 of the 130  
Revised Code. The entity shall file the written notice not later 131  
than ninety days after the commencement of the initial program 132  
period. 133

**Sec. 4928.754.** A nuclear energy resource that satisfies 134

<u>all of the following criteria is a zero-emissions nuclear</u>	135
<u>resource for purposes of zero-emissions nuclear credits:</u>	136
<u>(A) The resource is interconnected within the transmission</u>	137
<u>system of PJM.</u>	138
<u>(B) PJM has determined the resource is transmission</u>	139
<u>deliverable under the metrics by which PJM calculates</u>	140
<u>deliverability for purposes of capacity planning on a round-the-</u>	141
<u>clock baseload basis into the transmission zone or zones of</u>	142
<u>electric distribution utilities participating in the zero-</u>	143
<u>emissions nuclear resource program under sections 4928.75 to</u>	144
<u>4928.7540 of the Revised Code.</u>	145
<u>(C) (1) For in-state nuclear energy resources:</u>	146
<u>(a) The resource has benefited the air quality profile of</u>	147
<u>the state more than the predominant electric generation source</u>	148
<u>with similar capacity and baseload characteristics as the</u>	149
<u>resource as of the time the resource commenced operation.</u>	150
<u>(b) All of the following could occur if the resource</u>	151
<u>ceased operation and its capacity were replaced at the same</u>	152
<u>location by the then predominant electric generation source with</u>	153
<u>similar capacity and baseload characteristics as the resource:</u>	154
<u>(i) The ability of the state, or region of the state, to</u>	155
<u>maintain or decrease existing levels of volatile organic</u>	156
<u>compounds or to comply with one or more state or federal air</u>	157
<u>pollution control programs, standards, or goals is reduced.</u>	158
<u>(ii) The carbon dioxide emissions intensity of the state</u>	159
<u>is negatively impacted.</u>	160
<u>(iii) The ability of the state to maintain or decrease</u>	161
<u>existing levels of carbon monoxide, lead, ground-level ozone,</u>	162

particulate matter, nitrogen oxide, or sulfur dioxide is 163  
negatively impacted. 164

(2) For all other nuclear energy resources, each such 165  
resource is shown to provide no less than the same level of 166  
environmental benefits to the state as nuclear energy resources 167  
located within the state, pursuant to the requirements in 168  
division (C) (1) of this section. 169

(D) The resource, on or after January 1, 2017: 170

(1) Did not receive from another state tax exemptions, 171  
deferrals, exclusions, allowances, payments, credits, 172  
deductions, or reimbursements calculated in whole or in part 173  
using a metric that provides value for emissions not produced by 174  
the resource; 175

(2) Is not wholly owned by a municipal or cooperative 176  
corporation or a group, association, or consortium of those 177  
corporations; or 178

(3) Did not, during a program period described in section 179  
4928.752 of the Revised Code, recover some or all of the capital 180  
or operating costs of the resource through rates regulated by a 181  
state. 182

**Sec. 4928.755.** With respect to a written notice filed 183  
under section 4928.753 of the Revised Code relating to a nuclear 184  
energy resource located in this state, any interested person may 185  
file comments with the public utilities commission not later 186  
than twenty days after the written notice was filed. 187

**Sec. 4928.756.** An entity that owns or operates a nuclear 188  
energy resource may file with the public utilities commission a 189  
response to any comment made under section 4928.755 of the 190  
Revised Code, not later than ten days after the comment was 191

filed. 192

Sec. 4928.757. Not later than fifty days after the filing 193  
of a written notice under section 4928.753 of the Revised Code 194  
relating to a nuclear energy resource located in this state, the 195  
public utilities commission shall designate a resource that 196  
satisfies the criteria in section 4928.754 of the Revised Code 197  
as a zero-emissions nuclear resource and issue an order 198  
consistent with that designation. If the commission does not 199  
issue an order in the time required by this section, the 200  
resource shall be deemed to be a zero-emissions nuclear 201  
resource. 202

Sec. 4928.7511. The public utilities commission, under a 203  
procedure it adopts, shall determine and issue the appropriate 204  
order regarding whether a nuclear energy resource described in 205  
division (C)(2) of section 4928.754 of the Revised Code 206  
satisfies the criteria in section 4928.754 of the Revised Code 207  
as a zero-emissions nuclear resource. The nuclear energy 208  
resource shall submit an environmental study showing that the 209  
resource meets the criteria under section 4928.754 of the 210  
Revised Code. At minimum, the adopted procedure shall provide 211  
the opportunity for comment and response similar to the 212  
opportunities described under sections 4928.755 and 4928.756 of 213  
the Revised Code. 214

Sec. 4928.7513. A nuclear energy resource determined under 215  
section 4928.757 or 4928.7511 of the Revised Code to be a zero- 216  
emissions nuclear resource shall continue to be considered such 217  
a resource for all successive program periods as long as the 218  
resource continues to meet the criteria of divisions (A), (B), 219  
and (D) of section 4928.754 of the Revised Code. The provisions 220  
of sections 4928.75 to 4928.7540 of the Revised Code shall apply 221



to any person to which zero-emissions nuclear resources are 222  
sold, assigned, transferred, or conveyed. 223

**Sec. 4928.7514.** Zero-emission nuclear resources shall 224  
provide zero-emissions nuclear credits for the zero-emissions 225  
nuclear resource program. Not later than thirty days before a 226  
program period commences, each zero-emissions nuclear resource 227  
shall confirm with the public utilities commission its intent to 228  
continue to commit its credits under the program. 229

**Sec. 4928.7515.** All financial statements, financial data, 230  
and trade secrets submitted to or received by the public 231  
utilities commission for purposes of satisfying the criteria as 232  
a zero-emissions nuclear resource and any information taken for 233  
any purpose from the statements, data, or trade secrets are not 234  
public records under section 149.43 of the Revised Code. 235

**Sec. 4928.7520.** Not later than sixty days after the 236  
initial program period commences and not later than thirty days 237  
before a subsequent program period commences, the public 238  
utilities commission shall set the price for zero-emissions 239  
nuclear credits applicable for the period. For the initial 240  
program period the price shall be seventeen dollars per credit. 241  
For each subsequent program period, that price shall be adjusted 242  
for inflation using the gross domestic product implicit price 243  
deflator as published by the United States department of 244  
commerce, bureau of economic analysis, index numbers 2007=100. 245

**Sec. 4928.7521.** At the same time the public utilities 246  
commission sets the price for zero-emissions nuclear credits, 247  
the commission shall determine the maximum number of credits to 248  
be allocated to participating electric distribution utilities 249  
during the program period. The amount the commission sets shall 250  
equal one-third of the total "Total End User Consumption" in 251

megawatt-hours over the previous two calendar years as shown on 252  
PUCO Form D1 of each participating electric distribution 253  
utility's most recently filed long-term forecast report. 254

**Sec. 4928.7522.** Not later than seven days following the 255  
close of each quarter of a program period, each zero-emissions 256  
nuclear resource shall transfer all of its zero-emissions 257  
nuclear credits generated that quarter to the public utilities 258  
commission, which shall hold the credits for the sole purpose of 259  
administering the program. 260

**Sec. 4928.7523.** Not later than seven days after the zero- 261  
emissions nuclear resource transfers its credits, the public 262  
utilities commission shall allocate to the participating 263  
electric distribution utilities all of the zero-emissions 264  
nuclear credits transferred to the commission, up to the maximum 265  
number of credits determined for each participating utility 266  
under section 4928.7521 of the Revised Code. The commission 267  
shall allocate the credits to each participating utility in 268  
proportion to the total "Total End User Consumption" in 269  
megawatt-hours over the previous two calendar years as shown on 270  
PUCO Form D1 of each participating utility's most recently filed 271  
long-term forecast report. The commission shall notify each 272  
participating utility of the allocation for that utility. 273

**Sec. 4928.7524.** (A) Except as provided in division (B) of 274  
this section, each participating electric distribution utility 275  
shall collect, through a nonbypassable rider charged to all of 276  
its retail electric service customers, an amount equal to the 277  
number of credits allocated to the utility under section 278  
4928.7523 of the Revised Code multiplied by the credit price 279  
established under section 4928.7520 of the Revised Code. 280

(B) (1) A residential customer's monthly nonbypassable 281

charge shall be set at two dollars and fifty cents. A 282  
nonresidential customer's monthly nonbypassable charge shall be 283  
set at the lesser of three thousand five hundred dollars or five 284  
per cent of the customer's total bill. The participating utility 285  
may adjust these charges downward if a lower rate will allow 286  
full collection of the total amount to be collected under 287  
division (A) of this section. 288

(2) Each participating utility shall transfer to the 289  
public utilities commission all revenues that it collects from 290  
its nonbypassable rider. During each program period, if the 291  
total revenues collected are less for that period than the total 292  
amount to be collected under division (A) of this section, the 293  
participating utility shall not be responsible for or required 294  
to transfer any amounts in excess of those collected from its 295  
nonbypassable rider. 296

(3) The participating utility shall apply for the 297  
establishment of the nonbypassable rider, which the commission 298  
shall approve not later than sixty days after the effective date 299  
of this section. 300

(C) If the owner, as of December 31, 2016, of a zero- 301  
emissions nuclear resource sells or transfers the zero-emissions 302  
nuclear resource, the commission shall reduce the number of 303  
zero-emissions nuclear credits to be allocated from that 304  
resource during the program period and, if necessary, successive 305  
program periods, to reflect an adjustment equal to one-half of 306  
the dollar amount of any net proceeds available after the 307  
payment or provision for the seller's known obligations, but in 308  
no instance shall this adjustment apply to a sale or transfer 309  
under the United States Bankruptcy Code, including, but not 310  
limited to, sections 363 and 1123, 11 U.S.C. sections 363 and 311

<u>1123.</u>	312
<u>Sec. 4928.7525. The public utilities commission shall</u>	313
<u>deposit all revenues received for credits under section</u>	314
<u>4928.7524 of the Revised Code into the zero-emissions nuclear</u>	315
<u>resources fund created under section 4928.7532 of the Revised</u>	316
<u>Code.</u>	317
<u>Sec. 4928.7526. Not later than seven days after receipt of</u>	318
<u>utility revenues, the public utilities commission shall use all</u>	319
<u>amounts in the zero-emissions nuclear resources fund to pay to</u>	320
<u>each zero-emissions nuclear resource the total revenues received</u>	321
<u>for each of the resource's zero-emissions nuclear credits.</u>	322
<u>Sec. 4928.7527. Credits allocated to participating</u>	323
<u>electric distribution utilities may not be transferred, sold, or</u>	324
<u>allocated to any other entity.</u>	325
<u>Sec. 4928.7532. There is hereby created the zero-emissions</u>	326
<u>nuclear resources fund that shall be in the custody of the</u>	327
<u>treasurer of state but shall not be part of the state treasury.</u>	328
<u>The fund shall consist of all revenues received by the public</u>	329
<u>utilities commission from participating electric distribution</u>	330
<u>utilities for their allocations of zero-emissions nuclear</u>	331
<u>credits. The amounts deposited into the fund shall be used to</u>	332
<u>compensate the zero-emissions nuclear resources that generated</u>	333
<u>the credits. All investment earnings from the fund shall be</u>	334
<u>transferred by the treasurer to the general revenue fund in the</u>	335
<u>state treasury.</u>	336
<u>Sec. 4928.7533. During each program period in which a</u>	337
<u>zero-emissions nuclear resource receives payment for credits</u>	338
<u>under section 4928.7526 of the Revised Code, an entity that owns</u>	339
<u>or operates that zero-emissions nuclear resource and that has</u>	340

its corporate headquarters located in this state shall continue 341  
to maintain its corporate headquarters in this state. 342

**Sec. 4928.7540.** (A) For purposes of this section: 343

(1) "Employment levels" means the number of full-time 344  
employees regularly providing services at the location of a 345  
zero-emissions nuclear resource. 346

(2) "Full-time employee" means an individual who is 347  
employed for consideration for at least thirty-five hours per 348  
week, or who renders any other standard of service generally 349  
accepted by custom or specified by contract as full-time 350  
employment. 351

(B) During each program period in which a zero-emissions 352  
nuclear resource receives payment for zero-emissions nuclear 353  
credits under section 4928.7526 of the Revised Code, the 354  
employment levels at that zero-emissions nuclear resource shall 355  
continue to be similar to that of nuclear energy resources 356  
constructed prior to 1990 in the United States with the same 357  
reactor type, similar nameplate capacity, and single-unit 358  
location. 359

**Section 2.** That existing section 4928.02 of the Revised 360  
Code is hereby repealed. 361