



S.B. 247

126th General Assembly
(As Introduced)

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BILL SUMMARY

State energy policy

- Articulates a state policy regarding energy usage, production, and delivery in Ohio.
- Requires each state agency to implement that policy in carrying out its duties under Ohio law, and requires the Public Utilities Commission (PUCO) and the Power Siting Board (PSB) to be consistent with the policy when implementing the continuing statutory policy regarding competitive retail electric service and the bill's new policy on major utility facility siting, respectively.
- Requires the Department of Development (DOD) to coordinate state agency implementation of the energy policy; act as an ombudsperson to other state agencies to facilitate the development and delivery of energy in Ohio; improve the consistency of state energy agencies' regulatory methods and schedules; coordinate application processing by those agencies; and assist an applicant in mediating agency processing schedules regarding applications involving the same project.

Energy development and usage

- Requires the DOD to assist in developing facilities and technologies for the increased, environmentally sound use of renewable energy and Ohio coal, oil, and gas; assist developers and manufacturers in the commercial availability of fuel cells in Ohio; and assist developers of energy production, transportation, and transmission facilities in obtaining state and local incentives.

- Requires each state agency to seek ways to improve the energy efficiency of all of its owned or leased facilities and ensure best available, economically reasonable energy-efficient measures and energy-efficient products in agency projects.

Air quality funding

- Authorizes Ohio Air Quality Development Authority (OAQDA) funding for an air quality facility that promotes air contaminant reduction through the use of renewable energy as a primary energy source, an air quality project for which the DOD authorizes the use of money in the Energy Efficiency Revolving Loan Fund, or any structure or equipment used solely in manufacturing an air quality facility.

Gas meter readings

- Requires natural gas meter readings monthly, November through April, upon customer request.

Facility siting

- Redefines which gas, natural gas, and electric transmission facilities are "major utility facilities" that are subject to Power Siting Law, and replaces with a statutory definition PSB authority to define a "substantial addition" to a major utility facility.
- Establishes a state power siting policy with the objectives of issuing agency final determinations on a major utility facility project within applicable statutory periods, but not exceeding 180 days, and specifies an order of siting priority relative to certain types of land uses.
- Changes various filing and procedural requirements relative to applications and amended applications for, and amendments to, a PSB certificate.
- Expresses PSB authority as to only the location and construction of a major utility facility, and specifies the authority of the Environmental Protection Agency (EPA) as to a facility's operation.
- Requires a PSB decision on a distributed electric generation facility within 90 days after an application's filing date and within nine months in the case of any other major utility facility.

- Removes the PSB chairperson's, but retains the PSB's, authority to suspend activity under a certificate if there is a complaint against the certificate holder, and modifies the criminal penalty that is applicable to Power Siting Law violations.

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CONTENT AND OPERATION

Overview

Existing Electric Restructuring and Natural Gas Laws (R.C. Chapters 4928. and 4929.) each contain expressions of state policy regarding the services and suppliers covered by those Laws. The bill articulates an overarching state energy policy pertaining to a wider array of energy resources and energy production and delivery issues. It also makes changes to specific aspects of state energy regulation by modifying the authority of various state agencies that deal with energy issues, including the Department of Development (DOD), Ohio Air Quality Development Authority (OAQDA), Public Utilities Commission (PUCO), and Power Siting Board (PSB).

State energy policy

Bill's policy statement

(R.C. 156.15(A))

The bill articulates a state energy policy that has 11 objectives as follows: (1) ensure the availability and accessibility to consumers of adequate, diverse, flexible, reliable, affordable, and globally competitive energy in Ohio, (2) ensure adequate electric generation and promote development of diverse energy supplies

throughout Ohio, including, but not limited to, biomass, ethanol, fuel cell,¹ solar, soy diesel, wind energy, and nuclear energy, (3) encourage cogeneration² and distributed generation³ by removing barriers in the rate schedules of electric distribution utilities, and promote ease of access to that electricity by transmission and distribution lines, (4) provide flexible, streamlined, and cost-efficient regulatory treatment and expedited permitting for energy production, transportation, and transmission facilities, (5) ensure adequate, accessible, reliable, safe, and affordable means of energy transportation and transmission to persons in Ohio, (6) promote through the most cost-equitable and cost-effective measures the improvement and upgrading of the electric transmission grid serving Ohio, (7) ensure that electric transmission owners participate in an appropriate, regional transmission entity and advance reliability standards that are consistent with national standards, (8) consistent with reasonable land use and environmental policies, consonant with reasonable use of land and water resources, and considering available technology and the economics of available alternatives, support natural gas and oil exploration in Ohio, including, but not limited to, exploration on state-owned lands, and encourage oil and gas refining in Ohio, (9) recognize that nuclear oversight is properly a federal matter and not one that requires additional state regulation, (10) promote energy efficiency, conservation, and renewable energy programs, including, but not limited to, programs related to hydro, wind, and solar energy, and (11) encourage the production and use of energy-efficient products.

Energy policy historically

While a number of state agencies carry out statutorily imposed duties relating to energy, Ohio statutes do not contain a comprehensive energy policy statement. In 1974, a Task Force on Energy, commissioned by then-Lieutenant Governor John Brown in part to recommend a coordinated state energy policy, issued a report with recommendations on specific energy issues. In 1994, the

¹ *A fuel cell is a battery-like device that uses hydrogen and oxygen as energy resources to generate electricity and heat.*

² *"Cogeneration" is not defined in the bill, but generally refers to a generating facility that produces both electricity and another form of useful thermal energy, such as heat or steam, used for industrial, commercial, heating, or cooling purposes.*

³ *"Distributed generation" is not defined in the bill, but generally refers to a system using small generators located on a utility's distribution system for the purpose of meeting local (substation level) peak loads or displacing the need to build additional, or upgrade, local distribution lines. With the advent of small (less than 100 kw) microturbine generators, distributed generation is beginning to include customer- or marketer-owned capacity for single load customers or small groups of customers.*

Ohio Energy Strategy Task Force created by then-Governor George Voinovich pursued an interagency and public information-gathering process that resulted in the PUCO and numerous other state agencies, together with the Ohio House of Representatives, formulating a state energy policy and identifying initiatives and strategies to implement the policy. In April 2002, the House Public Utilities Committee and House Energy and Environment Committee combined as the House Energy Policy Committee to evaluate the state's energy resources and delivery systems. The Committee issued a report of recommended changes to specific policies early in 2003.

State agency duties

Generally (R.C. 156.15(B), (C), and (D)). The bill requires each department, bureau, institution, agency, board, commission, and office of state government (state agency)--with particular direction to the PUCO, PSB, DOD, Department of Natural Resources (DNR), and Ohio Environmental Protection Agency (EPA)--to implement the state energy policy established under the bill in carrying out their obligations under Ohio law. Additionally, it requires the PUCO to be consistent with the state energy policy when following the existing statutory policy regarding competitive retail electric service, and the PSB, EPA, DNR, and Department of Transportation (ODOT) to be consistent with the policy when following the bill's new policy on major utility facility siting (see "**Major utilities facilities and the PSB**," below).

The bill additionally requires each state agency to submit an annual report to the Governor and the General Assembly regarding the steps it has taken to implement the state energy policy. The report may be filed with the Governor as part of the annual reports otherwise required of the PUCO, DNR, DOD, EPA, or ODOT (R.C. 121.18 and 149.01). Any report to the General Assembly must be provided in accordance with existing law regarding the dissemination of such reports (R.C. 101.68).

Each state agency also must seek ways to improve the energy efficiency of all of its owned or leased facilities and ensure that the best available, economically reasonable energy-efficient measures are taken, and energy-efficient products installed, in every project that is wholly or partly funded by it or under its control.

Department of Development (R.C. 122.04(I), 122.10, and 156.15(E)). The bill charges the DOD with the duty to promote and coordinate the state energy policy. In that role, the DOD must recognize and promote the policy as a key element of economic development and job creation in Ohio and coordinate the implementation of the policy by each state agency. Under an existing law requiring the DOD and other state agencies to furnish information upon request

and requiring the DOD to coordinate its services and activities with those of other agencies, the bill adds state boards to the list of such other agencies.

Additionally, the bill replaces with several expanded energy duties a current requirement that the DOD assist in the development of facilities and technologies leading to increased and environmentally sound use of Ohio coal. Under the bill, the DOD must assist in the development of facilities and viable technologies that will lead to increased and environmentally sound use of biomass, ethanol, hydro, soy diesel, solar, wind, and other renewable energy sources and of Ohio coal, oil, and gas, and it must assist developers and manufacturers of fuel cells and fuel cell components to make their products commercially available in Ohio.

The DOD also must assist developers of energy production, transportation, or transmission facilities in obtaining state and local incentives. And, upon request, it must act as an ombudsperson with departments, bureaus, institutions, agencies, boards, commissions, and offices of state or local government to facilitate the development and the transportation or transmission of adequate, reliable, affordable, and globally competitive energy in Ohio.

Additionally, the DOD must promote the use of collaborative processes and programs and encourage the assistance of entities such as the State Review of Oil and Natural Gas Environmental Regulations, Inc.,⁴ to improve the consistency of regulatory methods and schedules among the state agencies that have jurisdiction over energy issues.

Further, upon request of an applicant, the DOD must coordinate the processing of an application made to the PSB and EPA, DNR, or ODOT and the processing of an application made by a developer of distributed generation to the EPA and DNR. Also upon request, the DOD must assist the applicant in mediating with the applicable agencies if the applications involve the same project and processing schedules are not consistent with an expeditious application process or if the requirements conflict with or overlap one another. The Director of Development must seek the assistance of the Office of the Governor to resolve any impasse in a dispute.

⁴ *The State Review of Oil and Natural Gas Environmental Regulations, Inc., is described on its web site as a "non-profit, multi-stakeholder organization whose purpose is to assist states in documenting the environmental regulations associated with the exploration, development and production of crude oil and natural gas." Review teams consisting of representatives from the oil and gas industry, state environmental regulatory programs, and environmental/public interest groups review state oil and gas waste management programs against a set of guidelines developed and agreed to by all the participating parties. Additional information about the organization is available at <http://www.strongerinc.org>.*

Energy regulation

Air quality facilities

(R.C. 3706.01)

Current air quality law provides for the issuance of state revenue bonds and the related award of grants or loans by the OAQDA for the installation of a process or property that qualifies as an "air quality facility." Included within the definition of that term are: (1) any method, any modification or replacement of property, or any process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants or substances containing contaminants or that renders less noxious or reduces the concentration of contaminants in the ambient air, and (2) all or part of any property used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste resulting from anything named in item (1).⁵ The bill specifies that the contaminant or other pollution control activities described in items (1) and (2) can occur "prior to, during, or after the combustion of any energy source."

Also qualifying as an air quality facility is any property, device, or equipment that promotes air contaminant reduction through energy efficiency or conservation or, under language added by the bill, through the use of renewable energy as a primary energy source. "Renewable energy" is defined under the bill as energy produced from biofuel⁶ or wind, solar, or geothermal resources. The bill additionally specifies as an air quality facility any air quality project⁷ for which the Director of Development authorizes the use of money in the Energy Efficiency Revolving Loan Fund created under the Electric Restructuring Law.

⁵ *Not affected by the bill, but also qualifying as "air quality facilities" are motor vehicle inspection stations and equipment used to comply with Ohio law and ethanol and other biofuel facilities and equipment (R.C. 3706.01(G)(2) and (3)).*

⁶ *"Biofuel" is defined under current law as any fuel made from cellulosic biomass resources, including renewable organic matter, crop waste residue, wood, aquatic plants and other crops, animal waste, solid waste, or sludge, and that is used for the production of energy for transportation or other purposes (R.C. 3706.01(T)).*

⁷ *Under continuing law, an "air quality project" is any air quality facility, including any undivided or other interest, acquired or to be acquired, or constructed or to be constructed, by OAQDA or by another governmental agency or person with all or part of the cost paid from an OAQDA loan or grant. The term includes all buildings and facilities, and all property, rights, easements, and interests, necessary for the project's operation.*

Further, current law specifies that an air quality facility includes any property or system wholly or partly used for any qualifying air quality facility regardless of whether another purpose also is served as well as any property or system incidental to or having to do with, or the end purpose of which is, any qualifying air quality facility. The bill adds to these specifications of an air quality facility any structure or equipment used solely for the manufacture of a qualifying air quality facility.

Gas meter readings

(R.C. 4905.76)

The bill prohibits a public utility natural gas company from failing to read a retail customer's meter monthly, November through April, if the company has received a request from the customer for such a monthly reading. Currently, pursuant to a PUCO order issued in a complaint case,⁸ there is a legal requirement of an annual meter reading. The requirement is included in each natural gas utility's tariff filing with the PUCO. Reportedly, some natural gas utilities serving rural customers may read meters only once a year, but most utilities as a matter of practice read meters every two months.

Major utility facilities and the Power Siting Board

"Major utility facility" (R.C. 4906.01(B) and (E) and 4906.05). Current Power Siting Law defines "major utility facility" as including an electric generating plant and its associated facilities if the plant is designed for or capable of operation at a capacity of 50 megawatts (MW) or more. Also defined as a major utility facility is an electric transmission line and its associated facilities if the line has a design capacity of 125 kilovolts (kv) or more.

As to electric transmission lines, the bill narrows which lines are to be classified as major utilities facilities. Under the bill, a 125 kv or more electric transmission line and associated facilities are a major utility facility only if the line and facilities are located outside an existing electric transmission right-of-way. However, a 346 kv or more line and associated facilities are a major utility facility only if located within an existing electric transmission right-of-way.

A gas or natural gas transmission line and its associated facilities are considered a major utility facility under current law if the line is designed for or capable of transporting gas or natural gas at pressures exceeding 125 pounds per

⁸ *In the Matter of the Complaint of Marcella Fallucco, Complainant, v. The East Ohio Gas Company, Respondent, Case No. 84-361-GA-CSS (June 4, 1985); rehearing denied July 23, 1985.*

square inch. The bill narrows this classification so that only such a gas or natural gas transmission line nine inches or greater in outside diameter is a major utility facility.

Additionally, among facilities expressly excluded under current law as major utility facilities are gas or natural gas transmission lines over which a federal agency has exclusive jurisdiction. The bill changes this exclusion by specifying that it covers gas or natural gas transmission lines over which a federal agency has permitting authority.

The bill also removes PSB authority to define what constitutes a "substantial addition" to a major utility facility already in operation. Such an addition, under current law, requires a PSB certificate. Instead, the bill defines "substantial addition" in statute as being: (1) an improvement or addition that increases the capacity of an electric generating plant and associated facilities by 50 MW or more, or (2) an improvement or addition to an electric, gas, or natural gas transmission line and associated facilities that requires an increase of ten feet or more in the width of the permanent right-of-way.

State siting policy (R.C. 4906.011). The bill establishes a new state policy that applies to the siting of major utility facilities by the PSB as well as various approvals by other state agencies. The first objective of the policy places a general time limit on final determinations for state agency approvals of major utility facility applications. Specifically, the bill states that it is state policy to ensure, with the assistance of the Director of Development, interagency consistency in authorization requirements and processing procedures for applications so that applicants that timely file applications regarding a major utility facility with the PSB, EPA, DNR, and ODOT receive consistent, final determinations within the period otherwise established under their respective enabling statutes, but not to exceed 180 days.

Secondly, the bill states that it is state policy to promote, to the extent feasible and consistent with economic and engineering considerations and protection of the environment, the use of the following corridors, in the stated order of priority, when siting electric transmission lines qualifying as major utility facilities: (1) existing utility corridors, (2) highway and railroad corridors, (3) recreational trails to the extent that the line or associated facilities can be constructed below ground and in a manner that does not significantly adversely impact environmentally sensitive areas, and (4) new corridors.

Required applications for and amendments to PSB certificates (R.C. 4906.05 and 4906.06(B)(2) and (F)(2)). Under current law unchanged by the bill, an individual, corporation, business trust, association, estate, trust, or partnership, any officer, board, commission, department, division, or bureau of the state or a

political subdivision, or any other entity that desires to construct a major utility facility in Ohio must first receive a certificate from the PSB. The certificate is obtained by filing an application. Current law and the bill also authorize the filing of an amended application as well as an application for an amendment to a certificate already issued by the PSB.

Under current law, the PSB must hold a public hearing on an amendment to a certificate if two criteria are met (R.C. 4906.07(B)). The bill removes this hearing requirement and also applies the criteria to a different purpose. That is, the bill prohibits the PSB from requiring an amendment to a certificate unless a proposed change in the major utility facility would result in: (1) a material increase in the facility's environmental impact, or (2) a substantial relocation of all or part of the facility from its site. Further, an amendment to a certificate must be amended and refiled only in the case of a substantial relocation of all or part of the facility to a site other than one set forth in the pending amendment.

Similarly under the bill, an amended application for a PSB certificate must be filed only if a proposed change in the major utility facility would result in: (1) a material increase in the facility's environmental impact, or (2) a substantial relocation of all or a portion of the facility to a site other than one set forth in a pending application for a certificate.

The bill also removes provisions in current law that exempt from siting certification any major utility facility already under construction during the two-year period beginning October 23, 1972, or in operation on that date, and that state that the exemption does not extend to requirements of other state or local laws.

Application information requirements (R.C. 4906.06(A)). Under existing law, an amendment to a certificate must be in the form and contain the information that the PSB requires. However, current law specifies the inclusion of certain information in an application for a certificate. Among that information is a summary of any studies made of the environmental impact of the facility. The bill modifies this requirement so that the summary focuses on the environmental impact of the construction of the facility.

Another information requirement is a statement explaining the need for the facility. The bill requires such a statement only if the facility is an electric, gas, or natural gas transmission line.

Additionally, current law requires a statement of how a facility fits into an applicant's long-term supply and demand forecast filed with the PUCO. The bill requires this statement only if the applicant is a public utility as defined in public utility law (R.C. 4905.02).

Under current law, the PSB can specify other information to be included in an application. The bill, however, provides that any applicant that does not have the power to appropriate private property cannot be required to submit information regarding alternative sites.⁹ Additionally, a nonutility applicant cannot be required to provide in the application information reported under the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission (FERC) or information considered to be a trade secret unless the PSB protects the trade secret information from disclosure.

Application filing period and hearing date (R.C. 4906.06(A) and 4906.07(A)). The bill removes a provision of current law prescribing when a certificate application can be filed. Currently, an application can be filed not earlier than one year nor more than five years before planned construction although the PSB may waive this limitation for good cause shown.

Additionally, the bill removes a provision of current law that requires the PSB, not less than 60 or more than 90 days after receipt of an application for a certificate, to fix a date for a public hearing.

Completeness determinations (R.C. 4906.06(B)(1)). New to the Power Siting Law are the bill's provisions regarding a completeness determination of each application for a PSB certificate or an amendment to a certificate, or of an amended application. The bill requires the PSB's chairperson or the chairperson's designee to determine whether the application or amended application contains all the application information specified in the Law. The determination must be made within 30 days after the filing date of the application, and the chairperson or designee immediately must send written notice of the determination to the applicant. The notice must identify specific reasons why an application is incomplete. Under the bill, an applicant has 30 days after the receipt of a notice of an incomplete application to submit an application addressing the notice.

The bill requires a hearing not less than 30 or more than 60 days after the filing date of the application. The notice sent to an applicant of a complete application or amendment must include the date and location of the hearing.

Application notifications (R.C. 4906.06(C), (D), and (F)(1)). The bill adds a time limit of seven business days after the receipt of a notice of a complete application to current law's requirement that an applicant serve a copy of the application on chief executive officers of area municipal corporations and the

⁹ *Am. Sub. S.B. 3 of the 123rd General Assembly, which enacted the Electric Restructuring Law, eliminated the power of appropriation for construction of an electric generating facility (R.C. 4933.14 and 4933.15).*

county as well as on each area public agency that is required to protect the environment or plan land use. Also under the bill, newspaper notice must be published within 15 business days after the receipt of a notice of a complete application rather than within the current 15 days. Further, the bill removes current law's requirement that the newspaper notice be for persons residing within the jurisdictions of the cities and county served notice as described above and, instead, requires that the publication be in newspapers of general circulation in the area of the proposed facility. Copies and notice of the filing of an amendment to a certificate application also must be given to government officials and the public in the modified manner described above for an application for a certificate.

PSB order deadlines (R.C. 4906.07(A) and (B)). If an application for or amendment to a certificate is for a distributed electric generation facility, the bill requires the PSB to issue a final order within 90 days after the date that notice of a complete application is sent to the applicant as described in "**Completeness determinations**," above. For any other major utility facility, the PSB must issue a final order within nine months after the date such notice is sent.

Parties to a certification proceeding (R.C. 4906.08(A) and (D)). Current law authorizes all of the following to be a party to a certification proceeding: (1) the applicant, (2) each person entitled to service of a copy of the application for or amendment to a certificate if the person has filed a notice to intervene within 30 days after the date of service, and (3) any person residing in a municipal corporation or county entitled to receive service of a copy and any other person, if the person has filed a petition to intervene within 30 days after newspaper notice of the application or amendment and if the petition has been granted by the PSB for good cause shown. The bill modifies item (3) by allowing as a party any person that files a petition to intervene, within 30 days after the requisite newspaper notice of the application's filing, if the PSB determines either that there is a federal or Ohio statute conferring on the person the right to intervene or that the person is so situated that the disposition of the proceeding may impair or impede the person's ability to protect a real and substantial interest of the person that is not adequately represented by other parties. Further, the bill newly requires that representatives of an applicant have the opportunity to respond by sworn testimony to issues raised during a PSB hearing.

Approval standards for a certificate (R.C. 4906.10(A)(2), (3), and (6)). Current law specifies eight findings that the PSB must make in order to grant a certificate under the Power Siting Law. The requirement that the PSB determine the nature of the facility's probable environmental impact is modified by the bill to require, instead, a determination of the nature of the probable environmental impact of constructing the facility on the proposed site (a change apparently

related to the change described in "Application information requirements," above).

The requirement that the PSB determine that the major utility facility represents the minimum adverse environmental impact, considering available technology and the nature and economics of alternatives, and other pertinent considerations, is modified by the bill so that the PSB makes this determination as to the location and construction of the facility only. The bill also adds to the current requirement of a determination that the facility serve the public interest, convenience, and necessity the requirement of a determination that the facility complies with state power siting policy (see "State siting policy," above).

Scope of a certificate and PSB jurisdiction (R.C. 4906.04, 4906.10(A), 4906.13, and 4906.14). Under current law, the PSB may grant or deny a certificate or an amendment to a certificate or may grant it upon such terms, conditions, and modification of the construction, operation, or maintenance of the major utility facility as the PSB considers appropriate. Current law also requires that a major utility facility must be constructed, operated, and maintained in conformity with its PSB certificate. The bill modifies that facility requirement and PSB authority to specify that the PSB may condition or modify a certificate or amendment as to the location and construction of a facility and that the facility must be located and constructed in conformity with its certificate. The bill also changes a statute authorizing interstate agreements regarding the construction--but no longer the operation and maintenance--of major utility facilities.

The bill retains a mandatory approval standard that a major utility facility comply with Ohio water consumption, "tall towers," air pollution, water pollution, and solid and hazardous waste laws. However, it removes provisions that define a facility's period of initial operation and that expressly subject the facility during that time to enforcement and monitoring by the EPA for compliance with state air pollution, water pollution, and solid and hazardous waste laws and to EPA-issued, conditional operating permits. The bill also modifies a provision of current law stating that, after the expiration of the period of initial operation, a facility is under the EPA's jurisdiction and must comply with all air pollution, water pollution, and solid and hazardous waste disposal laws; specifically, the bill subjects a facility to EPA jurisdiction and such compliance upon commencement of commercial operation of the facility.

The bill additionally changes provisions of current law that limit other regulation of a major utility facility. Specifically, it modifies a general prohibition against a public agency or political subdivision requiring any approval, consent, permit, certificate, or other condition for the construction or initial operation of a major utility facility so that the prohibition extends to the construction or operation of a facility. Also, the bill modifies an exception in current law that authorizes

state employee protection laws and municipal regulations to be applied to a major utility facility, except those pertaining to a facility's location or design or to pollution control and abatement standards. Under the bill, such prohibited municipal regulations are those pertaining to a facility's location, design, or construction and pollution control and abatement standards.

PSB enforcement authority (R.C. 4906.97). Current law authorizes the PSB or its chairperson, after notice and opportunity to respond, to suspend any activity that is the subject of a complaint to the PSB, for the duration of the PSB's consideration of the complaint, and authorizes the chairperson to terminate a suspension if the party against which the complaint was filed shows that all matters have been addressed satisfactorily. The bill removes the chairperson's authority to suspend activity, but retains his or her authority to terminate a suspension.

Violations and penalties (R.C. 4906.98 and 4906.99). Current law specifies three prohibited practices: (1) willfully constructing a major utility facility without first obtaining a PSB certificate, (2) willfully constructing, operating, or maintaining a major utility facility other than in compliance with its certificate, and (3) willfully failing to comply with a PSB order or activity suspension. The bill changes item (2) by removing the activities of operating and maintaining a facility and by referring to the willful construction of a facility. It also removes the standard of willfulness as it pertains under current law to items (1) and (3). As to the criminal penalty itself, the bill removes the option of imprisonment for up to one year, but retains the fine for a violation of any of the three prohibitions (\$1,000 to \$10,000 per day, per violation).

PSB staff (R.C. 4906.02). Under current law unchanged by the bill, the chairperson of the PUCO is the chairperson and chief executive officer of the PSB. Current law requires the PSB chairperson to keep a complete record of PSB proceedings, issue certain documents, maintain files, conduct PSB investigations, and perform other duties that the PSB prescribes. The bill authorizes the PSB chairperson to have a designee perform those duties.

Current law retained by the bill authorizes the PUCO chairperson to assign or transfer duties among PUCO staff, but affirms that the PSB's authority to grant siting certificates lies only with the PSB itself. The bill expressly authorizes the PUCO chairperson to designate which PUCO staff will serve as PSB staff and also specifies that authority to participate in state and federal proceedings lies only with the PSB.

HISTORY

ACTION	DATE
Introduced	01-05-06

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