OCG Bill Review — H.B. 1041 (Settlements to Close Base Load Power Plants)

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Bill Review No. 011 · RL-2026-052 · 11/17/26 · Version 1.0

Bottom line: H.B. 1041 would let the owner of a fossil-fuel or nuclear power plant keep running it even after agreeing in a legal settlement to shut it down. The override applies when a grid operator, the U.S. Department of Energy, a PUCO employee called the federal energy advocate, or any other state or federal body with grid-reliability duties orders *or requests* continued operation. It reaches settlements already signed, not only future ones. It also removes the exclusion for plants owned by electric cooperatives, which brings co-op plants under the law for the first time.

The bill is four pages long. It was introduced November 16, 2026, and its first hearing is set for November 18, two days later, with sponsor and proponent testimony in the same hearing. Published reporting ties it to one plant: the Cardinal plant in Jefferson County, owned by the generation cooperative Buckeye Power, where one coal unit, Unit 3, is committed to close by the end of 2028 under a 2015 settlement with the Sierra Club. Section 7 identifies seven drafting issues; three are rated Medium.

Item	Detail
Bill	H.B. 1041, 136th General Assembly — "to amend section 4905.23 and to enact sections 4905.231, 4905.24, and 4905.25 of the Revised Code regarding settlements to close base load electric generating facilities located in Ohio"
Sponsors	Reps. Adam Mathews and Tex Fischer
Status	Introduced Nov. 16, 2026. House Energy, 1st hearing, Wednesday, Nov. 18, 2026, 3:00 p.m. or after session, Room 017 (moved from Room 313 in the 1st revision notice); listed as "Pending Referral," sponsor and proponent testimony
Version reviewed	As Introduced (4 pages). No LSC bill analysis or LBO fiscal note available
Lame-duck flag	Yes. The General Assembly ends Dec. 31, 2026
Catalog no.	Bill Review No. 011 · RL-2026-052

1. What the bill does, in plain language

Current law, enacted in 2025's energy bill (H.B. 15), already says no one may *enter into* a settlement to close a "base load" power plant or a utility-owned plant.[1] That ban looks forward only. H.B. 1041 goes further in four ways.

1. **Covers co-op plants.** Current law excludes plants owned or operated by a public utility, a municipal corporation or an electric cooperative from the "base load" definition. Utility-owned plants are covered separately by the existing settlement ban in R.C. 4905.23(B)(2); co-op and municipal plants are not covered at all. The bill strikes the electric cooperative exclusion, so a co-op's coal, gas or nuclear plant becomes a base load facility. It also adds "coal" to the listed fuels.
2. **Overrides existing settlements.** A person who agreed in a settlement to close a base load plant must keep operating it, "notwithstanding any contrary requirement in the settlement," if a grid or reliability authority orders or requests continued operation. This applies to settlements made before or after the bill takes effect (new R.C. 4905.25).
3. **Bars closing "solely as a result of" a settlement** in those circumstances (R.C. 4905.23(C)).
4. **Sets state policy** that customers have adequate supply, are not harmed by settlements to close base load plants, and that such plants may operate "regardless of any settlement to the contrary" (new R.C. 4905.24).

The bill does not force an owner to keep a plant open for any reason other than a settlement, and it does not require restarting a plant that has already closed (new R.C. 4905.231).

2. Provision by provision

Statute	Topic	Current law	H.B. 1041
4905.23(A)(1)	"Base load" definition	Nonrenewable-fuel plant in Ohio, including natural gas and nuclear, not owned or operated by a public utility, municipal corporation or electric cooperative	Adds "coal"; deletes the electric cooperative exclusion; definition now applies to 4905.23 to 4905.25
4905.23(A)(2) (new)	"Settlement"	Not defined	An agreement between parties to a state court or state regulatory proceeding, "which parties to the agreement are not state agencies," to resolve the proceeding, whether or not submitted for approval
4905.23(B)	Ban on new settlements	No settlement to close a base load or utility-owned plant	Unchanged
4905.23(C) (new)	Ban on closing	—	No closing a base load plant "solely as a result of a settlement," past or future, if the owner must keep operating under 4905.25
4905.231 (new)	Limits	—	Owner may still close for any reason other than a settlement; no duty to restart a closed plant
4905.24 (new)	State policy	—	Supply adequacy; customers not harmed by closure settlements; base load plants may operate regardless of settlements; ties to state energy policy in R.C. 4928.02

[1] Ohio Rev. Code § 4905.23 (effective Aug. 14, 2025, enacted by H.B. 15, 136th General Assembly), https://codes.ohio.gov/ohio-revised-code/section-4905.23.

Statute	Topic	Current law	H.B. 1041
4905.25 (new)	Duty to keep operating	—	Owner bound by a closure settlement "shall continue to operate" if it has received an order **or request** to keep operating for grid reliability or resource adequacy from: (1) a FERC-approved regional transmission organization, such as PJM; (2) the federal energy advocate under R.C. 4928.24; (3) the U.S. Department of Energy; or (4) any other state or federal body with reliability responsibility. Operation lasts no longer than necessary, "as requested by" those entities

3. Context

Current law. R.C. 4905.23 took effect Aug. 14, 2025, as part of H.B. 15.[2] The settlement ban was not in H.B. 15 as it passed the House; the Senate added it before final passage. Reporting at the time noted a Sierra Club official's view that it responded to the group's 2015 settlement with American Electric Power.[3]

The Cardinal plant. The Cardinal plant in Brilliant, Jefferson County, has three coal units. Buckeye Power, the generation and transmission cooperative that supplies Ohio's electric cooperatives, owns and operates it. Buckeye completed its purchase of Unit 1 from AEP in 2022 and said the purchase cleared the way for its plan to shut down Unit 3 by the end of 2028.[4] Canary Media reported on Nov. 12, 2026 that a draft of this bill was circulating and would directly affect the plant's 620-megawatt unit slated to close by the end of 2028. According to that report:[5]

- The closure commitment comes from a 2015 settlement between the Sierra Club and AEP's Ohio utility in a regulatory case, approved by PUCO in March 2016. Buckeye took on AEP's obligations after the 2022 sale.
- PJM lists the unit's deactivation date as Jan. 1, 2029, and its deactivation analysis is still underway.
- On March 6, 2026, a PJM senior vice president wrote to Buckeye, cited the federal emergency declaration, and urged it to seek a waiver from the Sierra Club or a court ruling that the settlement is invalid.
- On March 19, 2026, PUCO's federal energy advocate told Buckeye the commission would not enforce the agreement, stating regulators had not approved it. Canary Media reported that PUCO did approve it in 2016.

Why the co-op change matters. Under current law, a plant owned and operated by an electric cooperative is not a "base load electric generating facility." Buckeye Power is a cooperative. Deleting that exclusion is what brings a co-op plant such as Cardinal within the bill.

Federal orders. Since May 2025 the U.S. Department of Energy has used emergency orders under section 202(c) of the Federal Power Act to keep retiring coal plants in other states running. In September 2026 the D.C.

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[2] Ohio Rev. Code § 4905.23 (effective Aug. 14, 2025, enacted by H.B. 15, 136th General Assembly), https://codes.ohio.gov/ohio-revised-code/section-4905.23.

[3] Kathiann M. Kowalski, "Why an Ohio Ban on Settlements to Close 'Base Load' Power Plants Matters for Clean Energy," *Canary Media*, June 2025, https://www.canarymedia.com/articles/utilities/ohio-hb15-settlements-clean-energy.

[4] Ohio's Electric Cooperatives, "Buckeye Power Inc. Now Owns Cardinal Plant Unit 1, Completes Purchase From AEP," Aug. 2, 2022, https://www.ohioec.org/node/324.

[5] Kathiann M. Kowalski, "Ohio GOP Circulates Bill That Would Stymie Coal Plant Closures," *Canary Media*, Nov. 12, 2026, https://www.canarymedia.com/articles/fossil-fuels/ohio-gop-bill-stymie-coal-plant-closures.

Circuit vacated the order for Michigan's J.H. Campbell plant, holding that 202(c) requires a genuine emergency.[6] H.B. 1041 does not depend on a federal order; a request from any listed body is enough.

Timing. Canary Media reported that supporters want the bill passed in the lame-duck session, before Gov.-elect Amy Acton takes office and before Republicans lose their House supermajority in January.[7]

When	Event
Aug 14, 2025	R.C. 4905.23 (H.B. 15) takes effect
Mar 6 and 19, 2026	PJM and PUCO's federal energy advocate write to Buckeye Power about the Cardinal settlement (as reported)
Nov 12, 2026	Canary Media reports the draft bill
Nov 16, 2026	H.B. 1041 introduced
Nov 18, 2026	House Energy, 1st hearing, sponsor and proponent (scheduled)
Dec 31, 2026	136th General Assembly ends
End of 2028	Cardinal unit's settlement closure deadline

4. Who is for and against, and why

No committee testimony has been posted. Positions below are from public statements reported in the press as of November 17, 2026.

Affected parties were not contacted for comment before this release. Positions reflect the public record as of November 17, 2026. Responses received later will be added in a revised version.

On the record (press statements)

Party	Position	Stated reasons
Buckeye Power	Supports; plans to testify	Calls the bill a narrowly tailored way to keep electricity reliable and affordable during the current reliability crisis[8]
Sierra Club (Neil Waggoner, Beyond Coal campaign)	Opposes	Says the bill appears aimed at nullifying Buckeye's settlement obligation; existing processes already decide whether a plant must run for reliability; reaching back to past contracts conflicts with the Ohio Constitution's ban on retroactive laws[9]
Rep. Tristan Rader, ranking member, House Energy	Opposes	Says it extends the life of "dirty, expensive coal plants" rather than pursuing an all-of-the-above strategy[10]

Affected interests with no public position found

Interest	Provision affecting them
Electric cooperative member-consumers	Co-op plants become covered; costs of extended operation fall on the co-op's members

[6] Sierra Club, "Court Rules Against Trump's Midwest Coal Bailout," press release, Sept. 2026, https://www.sierraclub.org/press-releases/2026/09/court-rules-against-trump-s-midwest-coal-bailout; Casey Smith, "Indiana Coal Retirements Delayed Again as Utilities Seek to Recover Costs," *Indiana Capital Chronicle*, Sept. 21, 2026.

[7] Kowalski, "Ohio GOP Circulates Bill."

[8] Kowalski, "Ohio GOP Circulates Bill."

[9] Kowalski, "Ohio GOP Circulates Bill."

[10] Kowalski, "Ohio GOP Circulates Bill."

Interest	Provision affecting them
Ohio Rural Electric Cooperatives and other distribution co-ops	Same
PJM Interconnection	Its requests would trigger the duty to keep operating
PUCO and its federal energy advocate	The advocate's request alone would trigger the duty
Ohio Consumers' Counsel	Customer-cost effects
Environmental and community groups that settle state cases	Loss of plant closure as a settlement term
Plant workers and host communities (Jefferson County)	Plant life and tax base
AEP and other plant owners with closure commitments	Past settlements affected

5. Pros and cons by lens

These are the arguments each camp would likely make, not documented positions and not OCG positions.

	Conservative lens	Liberal lens
Pros	Keeps dispatchable, Ohio-mined coal generation available while demand from data centers grows. Puts grid reliability ahead of private deals made under different conditions. Protects jobs and the tax base in coal communities.	Applies only when a reliability authority asks, and only as long as necessary. Does not force a restart or bar closure for economic reasons.
Cons	The state rewrites a signed contract after the fact, which conservatives often oppose as a matter of property rights and rule of law. Lets regulators, not owners or markets, decide when a plant runs. Shifts costs to co-op members without a rate review.	Undoes an environmental settlement and weakens a tool communities use to resolve pollution disputes. Extends coal operation and its costs. A "request" from one official is a low bar.
Likely split	Pro-coal and reliability conservatives vs. contract and limited-government conservatives	Environmental advocates vs. labor and community members in plant towns

Common ground in the record: both supporters and opponents frame their case around customer costs and reliability. **Points either lens could raise:** whether a legislature should resolve a dispute over one plant through a general statute, and who pays to keep a unit running past its agreed retirement.

6. Process record

Metric	H.B. 1041
Introduced	Nov. 16, 2026
First hearing	Nov. 18, 2026, two days after introduction; listed "Pending Referral"
Testimony at first hearing	Sponsor and proponent in the same hearing
Bill analysis and fiscal note	Not posted as of Nov. 17, 2026
Length	4 pages; amends 1 section, enacts 3
Draft circulated before introduction	Yes, reported Nov. 12, 2026
Days left in General Assembly	43 calendar days from Nov. 18 to Dec. 31, 2026
Lame-duck or omnibus	Lame duck: yes. Omnibus: no. Press reports say it could move alone or be attached to another bill
Comment requests	None sent before release (2026 lame-duck reviews; see section 4)

7. Drafting issues and implementation risks

Sections 3 and 7 reflect OCG's reading of the bill text and current law. They have not been reviewed by an attorney and are not legal advice.

The text raises seven drafting questions. Three are rated Medium. An issue describes what the text does or leaves open, not anyone's intent.

#	Issue (R.C.)	Type	What the text does	Interests affected	Severity
1	**Retroactive reach.** 4905.23(C), 4905.25	Legal question	Applies to settlements "entered into before, on, or after" the effective date and overrides "any contrary requirement in the settlement." Article II, Section 28 of the Ohio Constitution bars retroactive laws and laws impairing the obligation of contracts, and Article I, Section 10 of the U.S. Constitution bars state laws impairing contracts. How a court would apply these is not settled by the text.	Settlement parties; plant owners	Medium
2	**A "request" is enough.** 4905.25(A), (B)	Textual	The duty is triggered by an "order or request." The bill sets no form, findings, notice or public record for a request. One listed requester, the federal energy advocate, is a PUCO employee. Another category, "any other state or federal governmental or regulatory body," is open-ended.	Settlement parties; customers	Medium
3	**Who counts as a settlement.** 4905.23(A)(2)	Textual	Defines a settlement as an agreement between parties "which parties to the agreement are not state agencies." It is unclear whether one state agency signatory, such as PUCO staff in a stipulation, takes an agreement outside the definition, or only agreements among state agencies.	Settlement parties; PUCO	Medium
4	**No end point or review.** 4905.25(C)	Implementation	Continued operation lasts "no longer than necessary… as requested by" the requesting entities. The bill names no one to decide when the need ends, sets no maximum period and provides no review.	Settlement parties; customers	Low–Medium
5	**Costs not addressed.** 4905.25	Implementation	The bill does not say who bears the cost of operating a unit past its agreed closure, or whether costs may be recovered from customers. For a cooperative, costs fall on member-consumers outside PUCO rate regulation.	Co-op members; customers	Low–Medium
6	**Federal settlements outside reach.** 4905.23(A)(2)	Textual	Covers settlements in state court or state regulatory proceedings only. Federal consent decrees, a common vehicle for plant closures, are not covered.	Settlement parties	Low
7	**No enforcement provision.** 4905.23(C), 4905.25	Implementation	Neither section states a penalty, an enforcing agency, or a remedy if an owner closes anyway or a settlement party seeks to enforce the closure term.	Plant owners; settlement parties	Low

Type: *Textual* = confirmed in the bill's text or official documents. *Implementation* = depends on rules or practice not yet written. *Legal question* = depends on how a court would apply other law. **Severity:** *High* = a demonstrated conflict affecting public property, statutory rights or public money at scale. *Medium* = fraud, accountability, liability or coordination exposure the text leaves open. *Low* = administrative.

8. Open questions

1. **Does any order or request already exist?** PJM's March 2026 letter urged Buckeye to seek a waiver or court ruling. Whether that letter, or the federal energy advocate's March letter, would count as a "request" under 4905.25 is not stated.
2. **Which other plants are covered?** The bill applies statewide. The public record does not list other Ohio plants with closure commitments in state settlements.
3. **What will continued operation cost, and who pays?** No fiscal note has been posted.
4. **Did PUCO approve the 2015 settlement?** The federal energy advocate's March letter and Canary Media's reporting conflict on this point; the PUCO docket would resolve it.
5. **Why remove the cooperative exclusion?** The sponsors have not said publicly. The change is what brings co-op plants, including Cardinal, within the law.
6. **Is Cardinal's unit needed for reliability, and is keeping it running the lowest-cost answer?** PJM's deactivation analysis was still underway as of the November reporting. A reliability concern is not the same as a completed finding that a specific unit must run, and the bill does not require one.
7. **How would the bill interact with federal authority?** Grid reliability and wholesale markets are regulated by FERC and PJM, and DOE has its own emergency power under section 202(c). The bill does not address how a state operating duty fits with those federal processes.
8. **Will the bill move alone or be attached to another bill?**

About this review

What this is. OCG Bill Reviews are Research Center publications. They describe what a bill does, who has taken a position on it, and how it has moved through the General Assembly. Ohio Common Ground does not endorse or oppose legislation, candidates or parties. Nothing in this review is a recommendation to vote for or against this bill.

Version and date. This review covers H.B. 1041 As Introduced, as of November 17, 2026. Bills change through substitutes and amendments, so a later version may differ. Updates are posted at ohiocommonground.com.

Sources. Statements of law come from primary government sources: bill text, the Revised Code, committee notices and records. No LSC analysis, fiscal note or testimony existed for this bill at the time of review, so positions and events reported in the press are labeled as secondary reporting and attributed. A figure that cannot be traced to a source is left out.

Method. Each review follows the OCG Legislative Review Standard:

1. Plain-language summary and provision-by-provision comparison against current law.
2. Context: earlier versions, related bills, recent law and litigation.
3. Positions on the record, from committee testimony and public statements. Interests affected by a provision are listed separately; being affected is not treated as support or opposition.
4. Lens analysis: the arguments conservative and liberal observers would likely make. These are hypothetical, attributed arguments, not documented positions and not OCG positions.
5. Process record: measurable facts about hearings, testimony, timing and sponsorship.
6. Drafting issues: places where the text is ambiguous, incomplete or leaves discretion unchecked, each tied to a section of the Revised Code and labeled by type. An issue describes what the text does or leaves open, not anyone's intent.
7. Open questions the public record does not yet answer.

Not legal advice. This review is not legal advice. Anyone with a legal question should contact an attorney.

Corrections. Report errors through ohiocommonground.com. Corrections made before release are logged in the working draft. Substantive changes after release are issued as a new version.

Sources

Primary

- H.B. 1041, 136th General Assembly, As Introduced; legislature.ohio.gov status and committee pages, accessed Nov. 17, 2026
- House Energy Committee notices for Nov. 18, 2026 (original and 1st revision, location change)
- R.C. 4905.23

Secondary (reported positions and events)

- Canary Media, Nov. 12, 2026 and June 2025 (see notes)
- Ohio's Electric Cooperatives, Aug. 2, 2022
- Sierra Club and *Indiana Capital Chronicle*, Sept. 2026

Revision history

Version	Date	Change
1.0	11/17/26	Initial release.