

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 738**

**Representatives Skindell, O'Brien**

**Cosponsors: Representatives Denson, Weinstein, Leland, Boggs, Blair, Sykes, Lepore-Hagan, Upchurch, Russo, Robinson, Kelly, Boyd, Liston, Brown, Sheehy, Miller, J., Smith, K., Ingram, Crawley, Brent, Carfagna, Koehler, Lightbody, Kent, Hicks-Hudson, Sweeney, Clites, Miller, A., Greenspan, Howse, Cera, Manning, G., Roemer, West, Patterson, Miranda, Galonski, Sobecki, Strahorn**

---

**A BILL**

To amend sections 303.213, 519.213, 713.081,	1
4906.13, 4928.01, 4928.64, 4928.641, 4928.644,	2
4928.645, 4928.66, 4928.6610, and 5727.75; to	3
enact section 4928.6616, in order to revive the	4
section as it existed prior to the enactment of	5
H.B. 6 of the 133rd General Assembly; and to	6
repeal sections 3706.40, 3706.41, 3706.43,	7
3706.431, 3706.45, 3706.46, 3706.49, 3706.53,	8
3706.55, 3706.59, 3706.61, 3706.63, 3706.65,	9
4928.148, 4928.47, 4928.471, 4928.642, 4928.75,	10
4928.80, and 5727.231 of the Revised Code and to	11
repeal Sections 4 and 5 of H.B. 6 of the 133rd	12
General Assembly to repeal the changes made by	13
H.B. 6 of the 133rd General Assembly to the laws	14
governing electric service, renewable energy,	15
and energy efficiency and the changes made to	16
other related laws.	17

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

**Section 1.** That sections 303.213, 519.213, 713.081, 18  
4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 4928.645, 19  
4928.66, 4928.6610, and 5727.75 be amended and section 4928.6616 20  
of the Revised Code be enacted to read as follows: 21

**Sec. 303.213.** (A) As used in this section, "small wind 22  
farm" means wind turbines and associated facilities ~~that are not~~ 23  
~~subject to the jurisdiction of the power siting board under~~ 24  
~~sections 4906.20 and 4906.201 of the Revised Code with a single~~ 25  
interconnection to the electrical grid and designed for, or 26  
capable of, operation at an aggregate capacity of less than five 27  
megawatts. 28

(B) Notwithstanding division (A) of section 303.211 of the 29  
Revised Code, sections 303.01 to 303.25 of the Revised Code 30  
confer power on a board of county commissioners or board of 31  
zoning appeals to adopt zoning regulations governing the 32  
location, erection, construction, reconstruction, change, 33  
alteration, maintenance, removal, use, or enlargement of any 34  
small wind farm, whether publicly or privately owned, or the use 35  
of land for that purpose, which regulations may be more strict 36  
than the regulations prescribed in rules adopted under division 37  
(B) (2) of section 4906.20 of the Revised Code. 38

(C) The designation under this section of a small wind 39  
farm as a public utility for purposes of sections 303.01 to 40  
303.25 of the Revised Code shall not affect the classification 41  
of a small wind farm for purposes of state or local taxation. 42

(D) Nothing in division (C) of this section shall be 43  
construed as affecting the classification of a 44  
telecommunications tower as defined in division (B) or (E) of 45  
section 303.211 of the Revised Code or any other public utility 46  
for purposes of state and local taxation. 47

**Sec. 519.213.** (A) As used in this section, "small wind 48  
farm" means wind turbines and associated facilities ~~that are not~~ 49  
~~subject to the jurisdiction of the power siting board under~~ 50  
~~sections 4906.20 and 4906.201 of the Revised Code~~ with a single 51  
interconnection to the electrical grid and designed for, or 52  
capable of, operation at an aggregate capacity of less than five 53  
megawatts. 54

(B) Notwithstanding division (A) of section 519.211 of the 55  
Revised Code, sections 519.02 to 519.25 of the Revised Code 56  
confer power on a board of township trustees or board of zoning 57  
appeals with respect to the location, erection, construction, 58  
reconstruction, change, alteration, maintenance, removal, use, 59  
or enlargement of any small wind farm, whether publicly or 60  
privately owned, or the use of land for that purpose, which 61  
regulations may be more strict than the regulations prescribed 62  
in rules adopted under division (B) (2) of section 4906.20 of the 63  
Revised Code. 64

(C) The designation under this section of a small wind 65  
farm as a public utility for purposes of sections 519.02 to 66  
519.25 of the Revised Code shall not affect the classification 67  
of a small wind farm or any other public utility for purposes of 68  
state or local taxation. 69

(D) Nothing in division (C) of this section shall be 70  
construed as affecting the classification of a 71  
telecommunications tower as defined in division (B) or (E) of 72  
section 519.211 of the Revised Code or any other public utility 73  
for purposes of state and local taxation. 74

**Sec. 713.081.** (A) As used in this section, "small wind 75  
farm" means wind turbines and associated facilities ~~that are not~~ 76  
~~subject to the jurisdiction of the power siting board under~~ 77

~~sections 4906.20 and 4906.201 of the Revised Code with a single~~ 78  
~~interconnection to the electrical grid and designed for, or~~ 79  
~~capable of, operation at an aggregate capacity of less than five~~ 80  
~~megawatts.~~ 81

(B) Sections 713.06 to 713.15 of the Revised Code confer 82  
power on the legislative authority of a municipal corporation 83  
with respect to the location, erection, construction, 84  
reconstruction, change, alteration, maintenance, removal, use, 85  
or enlargement of any small wind farm as a public utility, 86  
whether publicly or privately owned, or the use of land for that 87  
purpose, which regulations may be more strict than the 88  
regulations prescribed in rules adopted under division (B) (2) of 89  
section 4906.20 of the Revised Code. 90

(C) The designation under this section of a small wind 91  
farm as a public utility for purposes of sections 713.06 to 92  
713.15 of the Revised Code shall not affect the classification 93  
of a small wind farm or any other public utility for purposes of 94  
state or local taxation. 95

**Sec. 4906.13.** (A) As used in this section and sections 96  
4906.20 and 4906.98 of the Revised Code, "economically 97  
significant wind farm" means wind turbines and associated 98  
facilities with a single interconnection to the electrical grid 99  
and designed for, or capable of, operation at an aggregate 100  
capacity of five or more megawatts but less than fifty 101  
megawatts. The term excludes any such wind farm in operation on 102  
June 24, 2008. ~~The term also excludes one or more wind turbines~~ 103  
~~and associated facilities that are primarily dedicated to~~ 104  
~~providing electricity to a single customer at a single location~~ 105  
~~and that are designed for, or capable of, operation at an~~ 106  
~~aggregate capacity of less than twenty megawatts, as measured at~~ 107

~~the customer's point of interconnection to the electrical grid.~~ 108

(B) No public agency or political subdivision of this 109  
state may require any approval, consent, permit, certificate, or 110  
other condition for the construction or operation of a major 111  
utility facility or economically significant wind farm 112  
authorized by a certificate issued pursuant to Chapter 4906. of 113  
the Revised Code. Nothing herein shall prevent the application 114  
of state laws for the protection of employees engaged in the 115  
construction of such facility or wind farm nor of municipal 116  
regulations that do not pertain to the location or design of, or 117  
pollution control and abatement standards for, a major utility 118  
facility or economically significant wind farm for which a 119  
certificate has been granted under this chapter. 120

**Sec. 4928.01.** (A) As used in this chapter: 121

(1) "Ancillary service" means any function necessary to 122  
the provision of electric transmission or distribution service 123  
to a retail customer and includes, but is not limited to, 124  
scheduling, system control, and dispatch services; reactive 125  
supply from generation resources and voltage control service; 126  
reactive supply from transmission resources service; regulation 127  
service; frequency response service; energy imbalance service; 128  
operating reserve-spinning reserve service; operating reserve- 129  
supplemental reserve service; load following; back-up supply 130  
service; real-power loss replacement service; dynamic 131  
scheduling; system black start capability; and network stability 132  
service. 133

(2) "Billing and collection agent" means a fully 134  
independent agent, not affiliated with or otherwise controlled 135  
by an electric utility, electric services company, electric 136  
cooperative, or governmental aggregator subject to certification 137

under section 4928.08 of the Revised Code, to the extent that 138  
the agent is under contract with such utility, company, 139  
cooperative, or aggregator solely to provide billing and 140  
collection for retail electric service on behalf of the utility 141  
company, cooperative, or aggregator. 142

(3) "Certified territory" means the certified territory 143  
established for an electric supplier under sections 4933.81 to 144  
4933.90 of the Revised Code. 145

(4) "Competitive retail electric service" means a 146  
component of retail electric service that is competitive as 147  
provided under division (B) of this section. 148

(5) "Electric cooperative" means a not-for-profit electric 149  
light company that both is or has been financed in whole or in 150  
part under the "Rural Electrification Act of 1936," 49 Stat. 151  
1363, 7 U.S.C. 901, and owns or operates facilities in this 152  
state to generate, transmit, or distribute electricity, or a 153  
not-for-profit successor of such company. 154

(6) "Electric distribution utility" means an electric 155  
utility that supplies at least retail electric distribution 156  
service. 157

(7) "Electric light company" has the same meaning as in 158  
section 4905.03 of the Revised Code and includes an electric 159  
services company, but excludes any self-generator to the extent 160  
that it consumes electricity it so produces, sells that 161  
electricity for resale, or obtains electricity from a generating 162  
facility it hosts on its premises. 163

(8) "Electric load center" has the same meaning as in 164  
section 4933.81 of the Revised Code. 165

(9) "Electric services company" means an electric light 166

company that is engaged on a for-profit or not-for-profit basis 167  
in the business of supplying or arranging for the supply of only 168  
a competitive retail electric service in this state. "Electric 169  
services company" includes a power marketer, power broker, 170  
aggregator, or independent power producer but excludes an 171  
electric cooperative, municipal electric utility, governmental 172  
aggregator, or billing and collection agent. 173

(10) "Electric supplier" has the same meaning as in 174  
section 4933.81 of the Revised Code. 175

(11) "Electric utility" means an electric light company 176  
that has a certified territory and is engaged on a for-profit 177  
basis either in the business of supplying a noncompetitive 178  
retail electric service in this state or in the businesses of 179  
supplying both a noncompetitive and a competitive retail 180  
electric service in this state. "Electric utility" excludes a 181  
municipal electric utility or a billing and collection agent. 182

(12) "Firm electric service" means electric service other 183  
than nonfirm electric service. 184

(13) "Governmental aggregator" means a legislative 185  
authority of a municipal corporation, a board of township 186  
trustees, or a board of county commissioners acting as an 187  
aggregator for the provision of a competitive retail electric 188  
service under authority conferred under section 4928.20 of the 189  
Revised Code. 190

(14) A person acts "knowingly," regardless of the person's 191  
purpose, when the person is aware that the person's conduct will 192  
probably cause a certain result or will probably be of a certain 193  
nature. A person has knowledge of circumstances when the person 194  
is aware that such circumstances probably exist. 195

(15) "Level of funding for low-income customer energy efficiency programs provided through electric utility rates"	196
means the level of funds specifically included in an electric utility's rates on October 5, 1999, pursuant to an order of the public utilities commission issued under Chapter 4905. or 4909. of the Revised Code and in effect on October 4, 1999, for the purpose of improving the energy efficiency of housing for the utility's low-income customers. The term excludes the level of any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract.	197 198 199 200 201 202 203 204 205
(16) "Low-income customer assistance programs" means the percentage of income payment plan program, the home energy assistance program, the home weatherization assistance program, and the targeted energy efficiency and weatherization program.	206 207 208 209
(17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to receive transition revenues under this chapter.	210 211 212 213 214 215
(18) "Market power" means the ability to impose on customers a sustained price for a product or service above the price that would prevail in a competitive market.	216 217 218
(19) "Mercantile customer" means a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.	219 220 221 222 223 224



(20) "Municipal electric utility" means a municipal 225  
corporation that owns or operates facilities to generate, 226  
transmit, or distribute electricity. 227

(21) "Noncompetitive retail electric service" means a 228  
component of retail electric service that is noncompetitive as 229  
provided under division (B) of this section. 230

(22) "Nonfirm electric service" means electric service 231  
provided pursuant to a schedule filed under section 4905.30 of 232  
the Revised Code or pursuant to an arrangement under section 233  
4905.31 of the Revised Code, which schedule or arrangement 234  
includes conditions that may require the customer to curtail or 235  
interrupt electric usage during nonemergency circumstances upon 236  
notification by an electric utility. 237

(23) "Percentage of income payment plan arrears" means 238  
funds eligible for collection through the percentage of income 239  
payment plan rider, but uncollected as of July 1, 2000. 240

(24) "Person" has the same meaning as in section 1.59 of 241  
the Revised Code. 242

(25) "Advanced energy project" means any technologies, 243  
products, activities, or management practices or strategies that 244  
facilitate the generation or use of electricity or energy and 245  
that reduce or support the reduction of energy consumption or 246  
support the production of clean, renewable energy for 247  
industrial, distribution, commercial, institutional, 248  
governmental, research, not-for-profit, or residential energy 249  
users, including, but not limited to, advanced energy resources 250  
and renewable energy resources. "Advanced energy project" also 251  
includes any project described in division (A), (B), or (C) of 252  
section 4928.621 of the Revised Code. 253

(26) "Regulatory assets" means the unamortized net 254  
regulatory assets that are capitalized or deferred on the 255  
regulatory books of the electric utility, pursuant to an order 256  
or practice of the public utilities commission or pursuant to 257  
generally accepted accounting principles as a result of a prior 258  
commission rate-making decision, and that would otherwise have 259  
been charged to expense as incurred or would not have been 260  
capitalized or otherwise deferred for future regulatory 261  
consideration absent commission action. "Regulatory assets" 262  
includes, but is not limited to, all deferred demand-side 263  
management costs; all deferred percentage of income payment plan 264  
arrears; post-in-service capitalized charges and assets 265  
recognized in connection with statement of financial accounting 266  
standards no. 109 (receivables from customers for income taxes); 267  
future nuclear decommissioning costs and fuel disposal costs as 268  
those costs have been determined by the commission in the 269  
electric utility's most recent rate or accounting application 270  
proceeding addressing such costs; the undepreciated costs of 271  
safety and radiation control equipment on nuclear generating 272  
plants owned or leased by an electric utility; and fuel costs 273  
currently deferred pursuant to the terms of one or more 274  
settlement agreements approved by the commission. 275

(27) "Retail electric service" means any service involved 276  
in supplying or arranging for the supply of electricity to 277  
ultimate consumers in this state, from the point of generation 278  
to the point of consumption. For the purposes of this chapter, 279  
retail electric service includes one or more of the following 280  
"service components": generation service, aggregation service, 281  
power marketing service, power brokerage service, transmission 282  
service, distribution service, ancillary service, metering 283  
service, and billing and collection service. 284

(28) "Starting date of competitive retail electric service" means January 1, 2001.

(29) "Customer-generator" means a user of a net metering system.

(30) "Net metering" means measuring the difference in an applicable billing period between the electricity supplied by an electric service provider and the electricity generated by a customer-generator that is fed back to the electric service provider.

(31) "Net metering system" means a facility for the production of electrical energy that does all of the following:

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;

(b) Is located on a customer-generator's premises;

(c) Operates in parallel with the electric utility's transmission and distribution facilities;

(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity. ~~For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection.~~

(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another

entity, whether the facility is installed or operated by the 313  
owner or by an agent under a contract. 314

(33) "Rate plan" means the standard service offer in 315  
effect on the effective date of the amendment of this section by 316  
S.B. 221 of the 127th general assembly, July 31, 2008. 317

(34) "Advanced energy resource" means any of the 318  
following: 319

(a) Any method or any modification or replacement of any 320  
property, process, device, structure, or equipment that 321  
increases the generation output of an electric generating 322  
facility to the extent such efficiency is achieved without 323  
additional carbon dioxide emissions by that facility; 324

(b) Any distributed generation system consisting of 325  
customer cogeneration technology; 326

(c) Clean coal technology that includes a carbon-based 327  
product that is chemically altered before combustion to 328  
demonstrate a reduction, as expressed as ash, in emissions of 329  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 330  
sulfur trioxide in accordance with the American society of 331  
testing and materials standard D1757A or a reduction of metal 332  
oxide emissions in accordance with standard D5142 of that 333  
society, or clean coal technology that includes the design 334  
capability to control or prevent the emission of carbon dioxide, 335  
which design capability the commission shall adopt by rule and 336  
shall be based on economically feasible best available 337  
technology or, in the absence of a determined best available 338  
technology, shall be of the highest level of economically 339  
feasible design capability for which there exists generally 340  
accepted scientific opinion; 341

(d) Advanced nuclear energy technology consisting of 342  
generation III technology as defined by the nuclear regulatory 343  
commission; other, later technology; or significant improvements 344  
to existing facilities; 345

(e) Any fuel cell used in the generation of electricity, 346  
including, but not limited to, a proton exchange membrane fuel 347  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 348  
solid oxide fuel cell; 349

(f) Advanced solid waste or construction and demolition 350  
debris conversion technology, including, but not limited to, 351  
advanced stoker technology, and advanced fluidized bed 352  
gasification technology, that results in measurable greenhouse 353  
gas emissions reductions as calculated pursuant to the United 354  
States environmental protection agency's waste reduction model 355  
(WARM); 356

(g) Demand-side management and any energy efficiency 357  
improvement; 358

(h) Any new, retrofitted, refueled, or repowered 359  
generating facility located in Ohio, including a simple or 360  
combined-cycle natural gas generating facility or a generating 361  
facility that uses biomass, coal, modular nuclear, or any other 362  
fuel as its input; 363

(i) Any uprated capacity of an existing electric 364  
generating facility if the uprated capacity results from the 365  
deployment of advanced technology. 366

"Advanced energy resource" does not include a waste energy 367  
recovery system that is, or has been, included in an energy 368  
efficiency program of an electric distribution utility pursuant 369  
to requirements under section 4928.66 of the Revised Code. 370

(35) "Air contaminant source" has the same meaning as in 371  
section 3704.01 of the Revised Code. 372

(36) "Cogeneration technology" means technology that 373  
produces electricity and useful thermal output simultaneously. 374

(37) (a) "Renewable energy resource" means any of the 375  
following: 376

(i) Solar photovoltaic or solar thermal energy; 377

(ii) Wind energy; 378

(iii) Power produced by a hydroelectric facility; 379

(iv) Power produced by a small hydroelectric facility, 380  
which is a facility that operates, or is rated to operate, at an 381  
aggregate capacity of less than six megawatts; 382

(v) Power produced by a run-of-the-river hydroelectric 383  
facility placed in service on or after January 1, 1980, that is 384  
located within this state, relies upon the Ohio river, and 385  
operates, or is rated to operate, at an aggregate capacity of 386  
forty or more megawatts; 387

(vi) Geothermal energy; 388

(vii) Fuel derived from solid wastes, as defined in 389  
section 3734.01 of the Revised Code, through fractionation, 390  
biological decomposition, or other process that does not 391  
principally involve combustion; 392

(viii) Biomass energy; 393

(ix) Energy produced by cogeneration technology that is 394  
placed into service on or before December 31, 2015, and for 395  
which more than ninety per cent of the total annual energy input 396  
is from combustion of a waste or byproduct gas from an air 397

contaminant source in this state, which source has been in 398  
operation since on or before January 1, 1985, provided that the 399  
cogeneration technology is a part of a facility located in a 400  
county having a population of more than three hundred sixty-five 401  
thousand but less than three hundred seventy thousand according 402  
to the most recent federal decennial census; 403

(x) Biologically derived methane gas; 404

(xi) Heat captured from a generator of electricity, 405  
boiler, or heat exchanger fueled by biologically derived methane 406  
gas; 407

(xii) Energy derived from nontreated by-products of the 408  
pulping process or wood manufacturing process, including bark, 409  
wood chips, sawdust, and lignin in spent pulping liquors. 410

"Renewable energy resource" includes, but is not limited 411  
to, any fuel cell used in the generation of electricity, 412  
including, but not limited to, a proton exchange membrane fuel 413  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 414  
solid oxide fuel cell; wind turbine located in the state's 415  
territorial waters of Lake Erie; methane gas emitted from an 416  
abandoned coal mine; waste energy recovery system placed into 417  
service or retrofitted on or after the effective date of the 418  
amendment of this section by S.B. 315 of the 129th general 419  
assembly, September 10, 2012, except that a waste energy 420  
recovery system described in division (A) (38) (b) of this section 421  
may be included only if it was placed into service between 422  
January 1, 2002, and December 31, 2004; storage facility that 423  
will promote the better utilization of a renewable energy 424  
resource; or distributed generation system used by a customer to 425  
generate electricity from any such energy. 426

"Renewable energy resource" does not include a waste 427  
energy recovery system that is, or was, on or after January 1, 428  
2012, included in an energy efficiency program of an electric 429  
distribution utility pursuant to requirements under section 430  
4928.66 of the Revised Code. 431

(b) As used in division (A) (37) of this section, 432  
"hydroelectric facility" means a hydroelectric generating 433  
facility that is located at a dam on a river, or on any water 434  
discharged to a river, that is within or bordering this state or 435  
within or bordering an adjoining state and meets all of the 436  
following standards: 437

(i) The facility provides for river flows that are not 438  
detrimental for fish, wildlife, and water quality, including 439  
seasonal flow fluctuations as defined by the applicable 440  
licensing agency for the facility. 441

(ii) The facility demonstrates that it complies with the 442  
water quality standards of this state, which compliance may 443  
consist of certification under Section 401 of the "Clean Water 444  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 445  
demonstrates that it has not contributed to a finding by this 446  
state that the river has impaired water quality under Section 447  
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 448  
U.S.C. 1313. 449

(iii) The facility complies with mandatory prescriptions 450  
regarding fish passage as required by the federal energy 451  
regulatory commission license issued for the project, regarding 452  
fish protection for riverine, anadromous, and catadromous fish. 453

(iv) The facility complies with the recommendations of the 454  
Ohio environmental protection agency and with the terms of its 455



federal energy regulatory commission license regarding watershed 456  
protection, mitigation, or enhancement, to the extent of each 457  
agency's respective jurisdiction over the facility. 458

(v) The facility complies with provisions of the 459  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 460  
to 1544, as amended. 461

(vi) The facility does not harm cultural resources of the 462  
area. This can be shown through compliance with the terms of its 463  
federal energy regulatory commission license or, if the facility 464  
is not regulated by that commission, through development of a 465  
plan approved by the Ohio historic preservation office, to the 466  
extent it has jurisdiction over the facility. 467

(vii) The facility complies with the terms of its federal 468  
energy regulatory commission license or exemption that are 469  
related to recreational access, accommodation, and facilities 470  
or, if the facility is not regulated by that commission, the 471  
facility complies with similar requirements as are recommended 472  
by resource agencies, to the extent they have jurisdiction over 473  
the facility; and the facility provides access to water to the 474  
public without fee or charge. 475

(viii) The facility is not recommended for removal by any 476  
federal agency or agency of any state, to the extent the 477  
particular agency has jurisdiction over the facility. 478

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 479  
this section do not apply to a small hydroelectric facility 480  
under division (A) (37) (a) (iv) of this section. 481

(38) "Waste energy recovery system" means either of the 482  
following: 483

(a) A facility that generates electricity through the 484

conversion of energy from either of the following: 485

(i) Exhaust heat from engines or manufacturing, 486  
industrial, commercial, or institutional sites, except for 487  
exhaust heat from a facility whose primary purpose is the 488  
generation of electricity; 489

(ii) Reduction of pressure in gas pipelines before gas is 490  
distributed through the pipeline, provided that the conversion 491  
of energy to electricity is achieved without using additional 492  
fossil fuels. 493

(b) A facility at a state institution of higher education 494  
as defined in section 3345.011 of the Revised Code that recovers 495  
waste heat from electricity-producing engines or combustion 496  
turbines and that simultaneously uses the recovered heat to 497  
produce steam, provided that the facility was placed into 498  
service between January 1, 2002, and December 31, 2004. 499

(39) "Smart grid" means capital improvements to an 500  
electric distribution utility's distribution infrastructure that 501  
improve reliability, efficiency, resiliency, or reduce energy 502  
demand or use, including, but not limited to, advanced metering 503  
and automation of system functions. 504

(40) "Combined heat and power system" means the 505  
coproduction of electricity and useful thermal energy from the 506  
same fuel source designed to achieve thermal-efficiency levels 507  
of at least sixty per cent, with at least twenty per cent of the 508  
system's total useful energy in the form of thermal energy. 509

~~(41) "Legacy generation resource" means all generating 510~~  
~~facilities owned directly or indirectly by a corporation that 511~~  
~~was formed prior to 1960 by investor-owned utilities for the 512~~  
~~original purpose of providing power to the federal government 513~~

~~for use in the nation's defense or in furtherance of national~~ 514  
~~interests, including the Ohio valley electric corporation.~~ 515

~~(42) "Prudently incurred costs related to a legacy~~ 516  
~~generation resource" means costs, including deferred costs,~~ 517  
~~allocated pursuant to a power agreement approved by the federal~~ 518  
~~energy regulatory commission that relates to a legacy generation~~ 519  
~~resource, less any revenues realized from offering the~~ 520  
~~contractual commitment for the power agreement into the~~ 521  
~~wholesale markets, provided that where the net revenues exceed~~ 522  
~~net costs, those excess revenues shall be credited to customers.~~ 523  
~~Such costs shall exclude any return on investment in common~~ 524  
~~equity and, in the event of a premature retirement of a legacy~~ 525  
~~generation resource, shall exclude any recovery of remaining~~ 526  
~~debt. Such costs shall include any incremental costs resulting~~ 527  
~~from the bankruptcy of a current or former sponsor under such~~ 528  
~~power agreement or co-owner of the legacy generation resource if~~ 529  
~~not otherwise recovered through a utility rate cost recovery~~ 530  
~~mechanism.~~ 531

(B) For the purposes of this chapter, a retail electric 532  
service component shall be deemed a competitive retail electric 533  
service if the service component is competitive pursuant to a 534  
declaration by a provision of the Revised Code or pursuant to an 535  
order of the public utilities commission authorized under 536  
division (A) of section 4928.04 of the Revised Code. Otherwise, 537  
the service component shall be deemed a noncompetitive retail 538  
electric service. 539

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 540  
renewable energy resource" means a renewable energy resource, as 541  
defined in section 4928.01 of the Revised Code that: 542

(a) Has a placed-in-service date on or after January 1, 543

1998; 544

(b) Is any run-of-the-river hydroelectric facility that 545  
has an in-service date on or after January 1, 1980; 546

(c) Is a small hydroelectric facility; 547

(d) Is created on or after January 1, 1998, by the 548  
modification or retrofit of any facility placed in service prior 549  
to January 1, 1998; or 550

(e) Is a mercantile customer-sited renewable energy 551  
resource, whether new or existing, that the mercantile customer 552  
commits for integration into the electric distribution utility's 553  
demand-response, energy efficiency, or peak demand reduction 554  
programs as provided under division (A)(2)(c) of section 4928.66 555  
of the Revised Code, including, but not limited to, any of the 556  
following: 557

(i) A resource that has the effect of improving the 558  
relationship between real and reactive power; 559

(ii) A resource that makes efficient use of waste heat or 560  
other thermal capabilities owned or controlled by a mercantile 561  
customer; 562

(iii) Storage technology that allows a mercantile customer 563  
more flexibility to modify its demand or load and usage 564  
characteristics; 565

(iv) Electric generation equipment owned or controlled by 566  
a mercantile customer that uses a renewable energy resource. 567

(2) For the purpose of this section and as it considers 568  
appropriate, the public utilities commission may classify any 569  
new technology as such a qualifying renewable energy resource. 570

(B) (1) ~~By the end of 2026, 2027 and thereafter,~~ an electric 571  
distribution utility shall ~~have provided~~ provide from qualifying 572  
renewable energy resources, including, at its discretion, 573  
qualifying renewable energy resources obtained pursuant to an 574  
electricity supply contract, a portion of the electricity supply 575  
required for its standard service offer under section 4928.141 576  
of the Revised Code, and an electric services company shall ~~have~~ 577  
~~provided~~ provide a portion of its electricity supply for retail 578  
consumers in this state from qualifying renewable energy 579  
resources, including, at its discretion, qualifying renewable 580  
energy resources obtained pursuant to an electricity supply 581  
contract. That portion shall equal ~~eight~~ twelve and one-half per 582  
cent of the total number of kilowatt hours of electricity sold 583  
by the subject utility or company to any and all retail electric 584  
consumers whose electric load centers are served by that utility 585  
and are located within the utility's certified territory or, in 586  
the case of an electric services company, are served by the 587  
company and are located within this state. However, nothing in 588  
this section precludes a utility or company from providing a 589  
greater percentage. 590

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 591  
The portion required under division (B) (1) of this section shall 592  
be generated from renewable energy resources, including one-half 593  
per cent from solar energy resources, in accordance with the 594  
following benchmarks: 595

596

1

2

3

A	By end of year	Renewable energy resources	Solar energy resources
---	----------------	----------------------------	------------------------

B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%
I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	<del>5.5%</del> <u>6.5%</u>	<del>0%</del> <u>0.26%</u>
N	2021	<del>6%</del> <u>7.5%</u>	<del>0%</del> <u>0.3%</u>
O	2022	<del>6.5%</del> <u>8.5%</u>	<del>0%</del> <u>0.34%</u>
P	2023	<del>7%</del> <u>9.5%</u>	<del>0%</del> <u>0.38%</u>
Q	2024	<del>7.5%</del> <u>10.5%</u>	<del>0%</del> <u>0.42%</u>
R	2025	<del>8%</del> <u>11.5%</u>	<del>0%</del> <u>0.46%</u>
S	<u>2026 and each calendar year</u>	<del>8.5%</del> <u>12.5%</u>	<del>0%</del> <u>0.5%</u>

thereafter

(3) The qualifying renewable energy resources implemented 597  
by the utility or company shall be met either: 598

(a) Through facilities located in this state; or 599

(b) With resources that can be shown to be deliverable 600  
into this state. 601

(C) (1) The commission annually shall review an electric 602  
distribution utility's or electric services company's compliance 603  
with the most recent applicable benchmark under division (B) (2) 604  
of this section and, in the course of that review, shall 605  
identify any undercompliance or noncompliance of the utility or 606  
company that it determines is weather-related, related to 607  
equipment or resource shortages for qualifying renewable energy 608  
resources as applicable, or is otherwise outside the utility's 609  
or company's control. 610

(2) Subject to the cost cap provisions of division (C) (3) 611  
of this section, if the commission determines, after notice and 612  
opportunity for hearing, and based upon its findings in that 613  
review regarding avoidable undercompliance or noncompliance, but 614  
subject to division (C) (4) of this section, that the utility or 615  
company has failed to comply with any such benchmark, the 616  
commission shall impose a renewable energy compliance payment on 617  
the utility or company. 618

(a) The compliance payment pertaining to the solar energy 619  
resource benchmarks under division (B) (2) of this section shall 620  
be an amount per megawatt hour of undercompliance or 621  
noncompliance in the period under review, as follows: 622

(i) Three hundred dollars for 2014, 2015, and 2016; 623

(ii) Two hundred fifty dollars for 2017 and 2018; 624

(iii) Two hundred dollars for 2019 and 2020; 625

(iv) Similarly reduced every two years thereafter through 626  
2026 by fifty dollars, to a minimum of fifty dollars. 627

(b) The compliance payment pertaining to the renewable 628  
energy resource benchmarks under division (B) (2) of this section 629  
shall equal the number of additional renewable energy credits 630  
that the electric distribution utility or electric services 631  
company would have needed to comply with the applicable 632  
benchmark in the period under review times an amount that shall 633  
begin at forty-five dollars and shall be adjusted annually by 634  
the commission to reflect any change in the consumer price index 635  
as defined in section 101.27 of the Revised Code, but shall not 636  
be less than forty-five dollars. 637

(c) The compliance payment shall not be passed through by 638  
the electric distribution utility or electric services company 639  
to consumers. The compliance payment shall be remitted to the 640  
commission, for deposit to the credit of the advanced energy 641  
fund created under section 4928.61 of the Revised Code. Payment 642  
of the compliance payment shall be subject to such collection 643  
and enforcement procedures as apply to the collection of a 644  
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 645  
Revised Code. 646

(3) An electric distribution utility or an electric 647  
services company need not comply with a benchmark under division 648  
(B) (2) of this section to the extent that its reasonably 649  
expected cost of that compliance exceeds its reasonably expected 650  
cost of otherwise producing or acquiring the requisite 651  
electricity by three per cent or more. The cost of compliance 652



shall be calculated as though any exemption from taxes and 653  
assessments had not been granted under section 5727.75 of the 654  
Revised Code. 655

(4) (a) An electric distribution utility or electric 656  
services company may request the commission to make a force 657  
majeure determination pursuant to this division regarding all or 658  
part of the utility's or company's compliance with any minimum 659  
benchmark under division (B) (2) of this section during the 660  
period of review occurring pursuant to division (C) (2) of this 661  
section. The commission may require the electric distribution 662  
utility or electric services company to make solicitations for 663  
renewable energy resource credits as part of its default service 664  
before the utility's or company's request of force majeure under 665  
this division can be made. 666

(b) Within ninety days after the filing of a request by an 667  
electric distribution utility or electric services company under 668  
division (C) (4) (a) of this section, the commission shall 669  
determine if qualifying renewable energy resources are 670  
reasonably available in the marketplace in sufficient quantities 671  
for the utility or company to comply with the subject minimum 672  
benchmark during the review period. In making this 673  
determination, the commission shall consider whether the 674  
electric distribution utility or electric services company has 675  
made a good faith effort to acquire sufficient qualifying 676  
renewable energy or, as applicable, solar energy resources to so 677  
comply, including, but not limited to, by banking or seeking 678  
renewable energy resource credits or by seeking the resources 679  
through long-term contracts. Additionally, the commission shall 680  
consider the availability of qualifying renewable energy or 681  
solar energy resources in this state and other jurisdictions in 682  
the PJM interconnection regional transmission organization, 683

L.L.C., or its successor and the midcontinent independent system 684  
operator or its successor. 685

(c) If, pursuant to division (C) (4) (b) of this section, 686  
the commission determines that qualifying renewable energy or 687  
solar energy resources are not reasonably available to permit 688  
the electric distribution utility or electric services company 689  
to comply, during the period of review, with the subject minimum 690  
benchmark prescribed under division (B) (2) of this section, the 691  
commission shall modify that compliance obligation of the 692  
utility or company as it determines appropriate to accommodate 693  
the finding. Commission modification shall not automatically 694  
reduce the obligation for the electric distribution utility's or 695  
electric services company's compliance in subsequent years. If 696  
it modifies the electric distribution utility or electric 697  
services company obligation under division (C) (4) (c) of this 698  
section, the commission may require the utility or company, if 699  
sufficient renewable energy resource credits exist in the 700  
marketplace, to acquire additional renewable energy resource 701  
credits in subsequent years equivalent to the utility's or 702  
company's modified obligation under division (C) (4) (c) of this 703  
section. 704

(5) The commission shall establish a process to provide 705  
for at least an annual review of the renewable energy resource 706  
market in this state and in the service territories of the 707  
regional transmission organizations that manage transmission 708  
systems located in this state. The commission shall use the 709  
results of this study to identify any needed changes to the 710  
amount of the renewable energy compliance payment specified 711  
under divisions (C) (2) (a) and (b) of this section. Specifically, 712  
the commission may increase the amount to ensure that payment of 713  
compliance payments is not used to achieve compliance with this 714

section in lieu of actually acquiring or realizing energy 715  
derived from qualifying renewable energy resources. However, if 716  
the commission finds that the amount of the compliance payment 717  
should be otherwise changed, the commission shall present this 718  
finding to the general assembly for legislative enactment. 719

(D) The commission annually shall submit to the general 720  
assembly in accordance with section 101.68 of the Revised Code a 721  
report describing all of the following: 722

(1) The compliance of electric distribution utilities and 723  
electric services companies with division (B) of this section; 724

(2) The average annual cost of renewable energy credits 725  
purchased by utilities and companies for the year covered in the 726  
report; 727

(3) Any strategy for utility and company compliance or for 728  
encouraging the use of qualifying renewable energy resources in 729  
supplying this state's electricity needs in a manner that 730  
considers available technology, costs, job creation, and 731  
economic impacts. 732

The commission shall begin providing the information 733  
described in division (D) (2) of this section in each report 734  
submitted after September 10, 2012. The commission shall allow 735  
and consider public comments on the report prior to its 736  
submission to the general assembly. Nothing in the report shall 737  
be binding on any person, including any utility or company for 738  
the purpose of its compliance with any benchmark under division 739  
(B) of this section, or the enforcement of that provision under 740  
division (C) of this section. 741

(E) All costs incurred by an electric distribution utility 742  
in complying with the requirements of this section shall be 743

bypassable by any consumer that has exercised choice of supplier 744  
under section 4928.03 of the Revised Code. 745

**Sec. 4928.641.** (A) If an electric distribution utility has 746  
executed a contract before April 1, 2014, to procure renewable 747  
energy resources and there are ongoing costs associated with 748  
that contract that are being recovered from customers through a 749  
bypassable charge as of September 12, 2014, that cost recovery 750  
shall, ~~regardless of the amendments to section 4928.64 of the~~ 751  
~~Revised Code by H.B. 6 of the 133rd general assembly,~~ continue 752  
on a bypassable basis ~~through December 31, 2032~~ until the 753  
prudently incurred costs associated with that contract are fully 754  
recovered. 755

(B) Division (A) of this section applies only to costs 756  
associated with the original term of a contract described in 757  
that division and entered into before April 1, 2014. This 758  
section does not permit recovery of costs associated with an 759  
extension of such a contract. This section does not permit 760  
recovery of costs associated with an amendment of such a 761  
contract if that amendment was made on or after April 1, 2014. 762

**Sec. 4928.644.** ~~(A)~~ The public utilities commission may 763  
reduce either baseline described in section 4928.643 of the 764  
Revised Code to adjust for new economic growth in the electric 765  
distribution utility's certified territory or in the electric 766  
services company's service area in this state. 767

~~(B) To facilitate the competitiveness of mercantile~~ 768  
~~customers located in this state that are registered as self-~~ 769  
~~assessing purchasers under division (C) of section 5727.81 of~~ 770  
~~the Revised Code, the commission shall reduce both baselines~~ 771  
~~described in section 4928.643 of the Revised Code to exclude the~~ 772  
~~load and usage of those self-assessing purchasers. Upon the~~ 773

~~effective date of this reduction, both of the following shall~~ 774  
~~apply.~~ 775

~~(1) Any electric distribution utility or electric services~~ 776  
~~company serving such a self-assessing purchaser shall be~~ 777  
~~relieved of the amount of compliance with section 4928.64 of the~~ 778  
~~Revised Code that would be required but for the baseline~~ 779  
~~reduction.~~ 780

~~(2) Such a self-assessing purchaser shall be exempt from~~ 781  
~~any bypassable charge imposed under division (E) of section~~ 782  
~~4928.64 of the Revised Code.~~ 783

**Sec. 4928.645.** (A) An electric distribution utility or 784  
electric services company may use, for the purpose of complying 785  
with the requirements under divisions (B)(1) and (2) of section 786  
4928.64 of the Revised Code, renewable energy credits any time 787  
in the five calendar years following the date of their purchase 788  
or acquisition from any entity, including, but not limited to, 789  
the following: 790

(1) A mercantile customer; 791

(2) An owner or operator of a hydroelectric generating 792  
facility that is located at a dam on a river, or on any water 793  
discharged to a river, that is within or bordering this state or 794  
within or bordering an adjoining state, or that produces power 795  
that can be shown to be deliverable into this state; 796

(3) A seller of compressed natural gas that has been 797  
produced from biologically derived methane gas, provided that 798  
the seller may only provide renewable energy credits for metered 799  
amounts of gas. 800

(B)(1) The public utilities commission shall adopt rules 801  
specifying that one unit of credit shall equal one megawatt hour 802

of electricity derived from renewable energy resources, except 803  
that, for a generating facility of seventy-five megawatts or 804  
greater that is situated within this state and has committed by 805  
December 31, 2009, to modify or retrofit its generating unit or 806  
units to enable the facility to generate principally from 807  
biomass energy by June 30, 2013, each megawatt hour of 808  
electricity generated principally from that biomass energy shall 809  
equal, in units of credit, the product obtained by multiplying 810  
the actual percentage of biomass feedstock heat input used to 811  
generate such megawatt hour by the quotient obtained by dividing 812  
the then existing unit dollar amount used to determine a 813  
renewable energy compliance payment as provided under division 814  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 815  
existing market value of one renewable energy credit, but such 816  
megawatt hour shall not equal less than one unit of credit. 817  
Renewable energy resources do not have to be converted to 818  
electricity in order to be eligible to receive renewable energy 819  
credits. The rules shall specify that, for purposes of 820  
converting the quantity of energy derived from biologically 821  
derived methane gas to an electricity equivalent, one megawatt 822  
hour equals 3,412,142 British thermal units. 823

(2) The rules also shall provide for this state a system 824  
of registering renewable energy credits by specifying which of 825  
any generally available registries shall be used for that 826  
purpose and not by creating a registry. That selected system of 827  
registering renewable energy credits shall allow a hydroelectric 828  
generating facility to be eligible for obtaining renewable 829  
energy credits and shall allow customer-sited projects or 830  
actions the broadest opportunities to be eligible for obtaining 831  
renewable energy credits. 832

~~(C) Beginning January 1, 2020, a qualifying renewable~~ 833

~~resource as defined in section 3706.40 of the Revised Code is~~ 834  
~~not eligible to obtain a renewable energy credit under this~~ 835  
~~section for any megawatt hour for which the resource has been~~ 836  
~~issued a renewable energy credit under section 3706.45 of the~~ 837  
~~Revised Code.~~ 838

**Sec. 4928.66.** (A) (1) (a) Beginning in 2009, an electric 839  
distribution utility shall implement energy efficiency programs 840  
that achieve energy savings equivalent to at least three-tenths 841  
of one per cent of the total, annual average, and normalized 842  
kilowatt-hour sales of the electric distribution utility during 843  
the preceding three calendar years to customers in this state. 844  
An energy efficiency program may include a combined heat and 845  
power system placed into service or retrofitted on or after the 846  
effective date of the amendment of this section by S.B. 315 of 847  
the 129th general assembly, September 10, 2012, or a waste 848  
energy recovery system placed into service or retrofitted on or 849  
after September 10, 2012, except that a waste energy recovery 850  
system described in division (A) (38) (b) of section 4928.01 of 851  
the Revised Code may be included only if it was placed into 852  
service between January 1, 2002, and December 31, 2004. For a 853  
waste energy recovery or combined heat and power system, the 854  
savings shall be as estimated by the public utilities 855  
commission. The savings requirement, using such a three-year 856  
average, shall increase to an additional five-tenths of one per 857  
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 858  
of one per cent in 2012, nine-tenths of one per cent in 2013, 859  
and one per cent in 2014. In 2015 and 2016, an electric 860  
distribution utility shall achieve energy savings equal to the 861  
result of subtracting the cumulative energy savings achieved 862  
since 2009 from the product of multiplying the baseline for 863  
energy savings, described in division (A) (2) (a) of this section, 864

by four and two-tenths of one per cent. If the result is zero or 865  
less for the year for which the calculation is being made, the 866  
utility shall not be required to achieve additional energy 867  
savings for that year, but may achieve additional energy savings 868  
for that year. ~~The~~ Thereafter, the annual savings requirements 869  
shall be, for years 2017, 2018, 2019, and 2020, ~~an additional~~ 870  
one per cent of the baseline, and two per cent each year 871  
thereafter, achieving cumulative energy savings in excess of 872  
twenty-two per cent by the end of 2027. For purposes of a waste 873  
energy recovery or combined heat and power system, an electric 874  
distribution utility shall not apply more than the total annual 875  
percentage of the electric distribution utility's industrial- 876  
customer load, relative to the electric distribution utility's 877  
total load, to the annual energy savings requirement. 878

(b) Beginning in 2009, an electric distribution utility 879  
shall implement peak demand reduction programs designed to 880  
achieve a one per cent reduction in peak demand in 2009 and an 881  
additional seventy-five hundredths of one per cent reduction 882  
each year through 2014. In 2015 and 2016, an electric 883  
distribution utility shall achieve a reduction in peak demand 884  
equal to the result of subtracting the cumulative peak demand 885  
reductions achieved since 2009 from the product of multiplying 886  
the baseline for peak demand reduction, described in division 887  
(A) (2) (a) of this section, by four and seventy-five hundredths 888  
of one per cent. If the result is zero or less for the year for 889  
which the calculation is being made, the utility shall not be 890  
required to achieve an additional reduction in peak demand for 891  
that year, but may achieve an additional reduction in peak 892  
demand for that year. In 2017 and each year thereafter through 893  
2020, the utility shall achieve an additional seventy-five 894  
hundredths of one per cent reduction in peak demand. 895



(2) For the purposes of divisions (A)(1)(a) and (b) of 896  
this section: 897

(a) The baseline for energy savings under division (A)(1) 898  
(a) of this section shall be the average of the total kilowatt 899  
hours the electric distribution utility sold in the preceding 900  
three calendar years. The baseline for a peak demand reduction 901  
under division (A)(1)(b) of this section shall be the average 902  
peak demand on the utility in the preceding three calendar 903  
years, except that the commission may reduce either baseline to 904  
adjust for new economic growth in the utility's certified 905  
territory. Neither baseline shall include the load and usage of 906  
any of the following customers: 907

(i) Beginning January 1, 2017, a customer for which a 908  
reasonable arrangement has been approved under section 4905.31 909  
of the Revised Code; 910

(ii) A customer that has opted out of the utility's 911  
portfolio plan under section 4928.6611 of the Revised Code; 912

(iii) A customer that has opted out of the utility's 913  
portfolio plan under Section 8 of S.B. 310 of the 130th general 914  
assembly. 915

(b) The commission may amend the benchmarks set forth in 916  
division (A)(1)(a) or (b) of this section if, after application 917  
by the electric distribution utility, the commission determines 918  
that the amendment is necessary because the utility cannot 919  
reasonably achieve the benchmarks due to regulatory, economic, 920  
or technological reasons beyond its reasonable control. 921

(c) Compliance with divisions (A)(1)(a) and (b) of this 922  
section shall be measured by including the effects of all 923  
demand-response programs for mercantile customers of the subject 924

electric distribution utility, all waste energy recovery systems 925  
and all combined heat and power systems, and all such mercantile 926  
customer-sited energy efficiency, including waste energy 927  
recovery and combined heat and power, and peak demand reduction 928  
programs, adjusted upward by the appropriate loss factors. Any 929  
mechanism designed to recover the cost of energy efficiency, 930  
including waste energy recovery and combined heat and power, and 931  
peak demand reduction programs under divisions (A) (1) (a) and (b) 932  
of this section may exempt mercantile customers that commit 933  
their demand-response or other customer-sited capabilities, 934  
whether existing or new, for integration into the electric 935  
distribution utility's demand-response, energy efficiency, 936  
including waste energy recovery and combined heat and power, or 937  
peak demand reduction programs, if the commission determines 938  
that that exemption reasonably encourages such customers to 939  
commit those capabilities to those programs. If a mercantile 940  
customer makes such existing or new demand-response, energy 941  
efficiency, including waste energy recovery and combined heat 942  
and power, or peak demand reduction capability available to an 943  
electric distribution utility pursuant to division (A) (2) (c) of 944  
this section, the electric utility's baseline under division (A) 945  
(2) (a) of this section shall be adjusted to exclude the effects 946  
of all such demand-response, energy efficiency, including waste 947  
energy recovery and combined heat and power, or peak demand 948  
reduction programs that may have existed during the period used 949  
to establish the baseline. The baseline also shall be normalized 950  
for changes in numbers of customers, sales, weather, peak 951  
demand, and other appropriate factors so that the compliance 952  
measurement is not unduly influenced by factors outside the 953  
control of the electric distribution utility. 954

(d) (i) Programs implemented by a utility may include the 955

following:	956
(I) Demand-response programs;	957
(II) Smart grid investment programs, provided that such programs are demonstrated to be cost-beneficial;	958 959
(III) Customer-sited programs, including waste energy recovery and combined heat and power systems;	960 961
(IV) Transmission and distribution infrastructure improvements that reduce line losses;	962 963
(V) Energy efficiency savings and peak demand reduction that are achieved, in whole or in part, as a result of funding provided from the universal service fund established by section 4928.51 of the Revised Code to benefit low-income customers through programs that include, but are not limited to, energy audits, the installation of energy efficiency insulation, appliances, and windows, and other weatherization measures.	964 965 966 967 968 969 970
(ii) No energy efficiency or peak demand reduction achieved under divisions (A) (2) (d) (i) (IV) and (V) of this section shall qualify for shared savings.	971 972 973
(iii) Division (A) (2) (c) of this section shall be applied to include facilitating efforts by a mercantile customer or group of those customers to offer customer-sited demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capabilities to the electric distribution utility as part of a reasonable arrangement submitted to the commission pursuant to section 4905.31 of the Revised Code.	974 975 976 977 978 979 980 981
(e) No programs or improvements described in division (A) (2) (d) of this section shall conflict with any statewide	982 983

building code adopted by the board of building standards. 984

(B) In accordance with rules it shall adopt, the public 985  
utilities commission shall produce and docket at the commission 986  
an annual report containing the results of its verification of 987  
the annual levels of energy efficiency and of peak demand 988  
reductions achieved by each electric distribution utility 989  
pursuant to division (A) of this section. A copy of the report 990  
shall be provided to the consumers' counsel. 991

(C) If the commission determines, after notice and 992  
opportunity for hearing and based upon its report under division 993  
(B) of this section, that an electric distribution utility has 994  
failed to comply with an energy efficiency or peak demand 995  
reduction requirement of division (A) of this section, the 996  
commission shall assess a forfeiture on the utility as provided 997  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 998  
Code, either in the amount, per day per undercompliance or 999  
noncompliance, relative to the period of the report, equal to 1000  
that prescribed for noncompliances under section 4905.54 of the 1001  
Revised Code, or in an amount equal to the then existing market 1002  
value of one renewable energy credit per megawatt hour of 1003  
undercompliance or noncompliance. Revenue from any forfeiture 1004  
assessed under this division shall be deposited to the credit of 1005  
the advanced energy fund created under section 4928.61 of the 1006  
Revised Code. 1007

(D) The commission may establish rules regarding the 1008  
content of an application by an electric distribution utility 1009  
for commission approval of a revenue decoupling mechanism under 1010  
this division. Such an application shall not be considered an 1011  
application to increase rates and may be included as part of a 1012  
proposal to establish, continue, or expand energy efficiency or 1013

conservation programs. The commission by order may approve an 1014  
application under this division if it determines both that the 1015  
revenue decoupling mechanism provides for the recovery of 1016  
revenue that otherwise may be forgone by the utility as a result 1017  
of or in connection with the implementation by the electric 1018  
distribution utility of any energy efficiency or energy 1019  
conservation programs and reasonably aligns the interests of the 1020  
utility and of its customers in favor of those programs. 1021

(E) The commission additionally shall adopt rules that 1022  
require an electric distribution utility to provide a customer 1023  
upon request with two years' consumption data in an accessible 1024  
form. 1025

~~(F) (1) As used in divisions (F) (2), (3), and (4) of this 1026~~  
~~section, "portfolio plan" has the same meaning as in division 1027~~  
~~(C) (1) of section 4928.6610 of the Revised Code. 1028~~

~~(2) If an electric distribution utility has a portfolio 1029~~  
~~plan in effect as of the effective date of the amendments to 1030~~  
~~this section by H.B. 6 of the 133rd general assembly and that 1031~~  
~~plan expires before December 31, 2020, the commission shall 1032~~  
~~extend the plan through that date. All portfolio plans shall 1033~~  
~~terminate on that date. 1034~~

~~(3) If a portfolio plan is extended beyond its commission 1035~~  
~~approved term by division (F) (2) of this section, the existing 1036~~  
~~plan's budget shall be increased for the extended term to 1037~~  
~~include an amount equal to the annual average of the approved 1038~~  
~~budget for all years of the portfolio plan in effect as of the 1039~~  
~~effective date of the amendments to this section by H.B. 6 of 1040~~  
~~the 133rd general assembly. 1041~~

~~(4) All other terms and conditions of a portfolio plan 1042~~

~~extended beyond its commission approved term by division (F) (2) of this section shall remain the same unless changes are authorized by the commission.~~ 1043  
1044  
1045

~~(G) (1) Not later than February 1, 2021, the commission shall determine the cumulative energy savings collectively achieved, since 2009, by all electric distribution utilities in this state as of December 31, 2020. In determining that cumulative total, the commission shall do both of the following:~~ 1046  
1047  
1048  
1049  
1050

~~(a) Include energy savings that were estimated by the commission to be achieved as of December 31, 2020, and banked under division (G) of section 4928.662 of the Revised Code;~~ 1051  
1052  
1053

~~(b) Use an energy savings baseline that is the average of the total kilowatt hours sold by all electric distribution utilities in this state in the calendar years 2018, 2019, and 2020. The baseline shall exclude the load and usage described in division (A) (2) (a) (i), (ii), and (iii) of this section. That baseline may also be reduced for new economic growth in the utility's certified territory as provided in division (A) (2) (a) of this section and adjusted and normalized as provided in division (A) (2) (c) of this section.~~ 1054  
1055  
1056  
1057  
1058  
1059  
1060  
1061  
1062

~~(2) (a) If the cumulative energy savings collectively achieved as determined by the commission under division (G) (1) of this section is at least seventeen and one half per cent of the baseline described in division (G) (1) (b) of this section, then full compliance with division (A) (1) (a) of this section shall be deemed to have been achieved notwithstanding any provision of this section to the contrary.~~ 1063  
1064  
1065  
1066  
1067  
1068  
1069

~~(b) If the cumulative energy savings collectively achieved as determined by the commission under division (G) (1) of this~~ 1070  
1071

~~section is less than seventeen and one half per cent of the~~ 1072  
~~baseline described in division (G) (1) (b) of this section, then~~ 1073  
~~both of the following shall apply:~~ 1074

~~(i) The commission shall determine the manner in which~~ 1075  
~~further implementation of energy efficiency programs shall occur~~ 1076  
~~as may be reasonably necessary for collective achievement of~~ 1077  
~~cumulative energy savings equal to seventeen and one half~~ 1078  
~~percent, and not more, of the baseline described in division (G)~~ 1079  
~~(1) (b) of this section.~~ 1080

~~(ii) Full compliance with division (A) (1) (a) of this~~ 1081  
~~section shall be deemed to be achieved as of a date certain~~ 1082  
~~established by the commission notwithstanding any provision of~~ 1083  
~~this section to the contrary.~~ 1084

~~(3) Upon the date that full compliance with division (A)~~ 1085  
~~(1) (a) of this section is deemed achieved under division (G) (2)~~ 1086  
~~(a) or (b) of this section, any electric distribution utility~~ 1087  
~~cost recovery mechanisms authorized by the commission for~~ 1088  
~~compliance with this section shall terminate except as may be~~ 1089  
~~necessary to reconcile the difference between revenue collected~~ 1090  
~~and the allowable cost of compliance associated with compliance~~ 1091  
~~efforts occurring prior to the date upon which full compliance~~ 1092  
~~with division (A) (1) (a) of this section is deemed achieved. No~~ 1093  
~~such cost recovery mechanism shall be authorized by the~~ 1094  
~~commission beyond the period of time required to complete this~~ 1095  
~~final reconciliation.~~ 1096

**Sec. 4928.6610.** As used in sections 4928.6611 to ~~4928.6615~~ 1097  
4928.6616 of the Revised Code: 1098

(A) "Customer" means ~~either of the following:~~ 1099

~~(1) Effective January 1, 2020, a mercantile customer as~~ 1100

~~defined in section 4928.01 of the Revised Code.~~ 1101

~~(2) Any~~ any customer of an electric distribution utility 1102  
to which either of the following applies: 1103

~~(a) (1)~~ The customer receives service above the primary 1104  
voltage level as determined by the utility's tariff 1105  
classification. 1106

~~(b) (2)~~ The customer is a commercial or industrial 1107  
customer to which both of the following apply: 1108

~~(i) (a)~~ The customer receives electricity through a meter 1109  
of an end user or through more than one meter at a single 1110  
location in a quantity that exceeds forty-five million kilowatt 1111  
hours of electricity for the preceding calendar year. 1112

~~(ii) (b)~~ The customer has made a written request for 1113  
registration as a self-assessing purchaser pursuant to section 1114  
5727.81 of the Revised Code. 1115

(B) "Energy intensity" means the amount of energy, from 1116  
electricity, used or consumed per unit of production. 1117

(C) "Portfolio plan" means ~~either of the following:~~ 1118

~~(1) The~~ comprehensive energy efficiency and peak-demand 1119  
reduction program portfolio plan required under rules adopted by 1120  
the public utilities commission and codified in Chapter 4901:1- 1121  
39 of the Administrative Code or hereafter recodified or 1122  
amended. 1123

~~(2) Any plan implemented pursuant to division (G) of~~ 1124  
~~section 4928.66 of the Revised Code.~~ 1125

**Sec. 4928.6616.** (A) Not later than sixty days after the 1126  
effective date at a customer's election to opt out under section 1127



4928.6611 of the Revised Code, the customer shall prepare and 1128  
submit an initial report to the staff of the public utilities 1129  
commission. The report shall summarize the projects, actions, 1130  
policies, or practices that the customer may consider 1131  
implementing, based on the customer's cost-effectiveness 1132  
criteria, for the purpose of reducing energy intensity. 1133

(B) For as long as the opt out is in effect, the customer 1134  
shall, at least once every twenty-four months, commencing with 1135  
the effective date of the election to opt out, prepare and 1136  
submit, to the staff of the commission, an updated report. The 1137  
updated report shall include a general description of any 1138  
cumulative amount of energy-intensity reductions achieved by the 1139  
customer during the period beginning on the effective date of 1140  
the election to opt out and ending not later than sixty days 1141  
prior to the date that the updated report is submitted. 1142

(C) All reports filed under this section shall be verified 1143  
by the customer. 1144

(D) Upon submission of any updated report under division 1145  
(B) of this section, the staff of the commission may request the 1146  
customer to provide additional information on the energy- 1147  
intensity-reducing projects, actions, policies, or practices 1148  
implemented by the customer and the amount of energy-intensity 1149  
reductions achieved during the period covered by the updated 1150  
report. 1151

(E) Any information contained in any report submitted 1152  
under this section and any customer responses to requests for 1153  
additional information shall be deemed to be confidential, 1154  
proprietary, and a trade secret. No such information or response 1155  
shall be publicly divulged without written authorization by the 1156  
customer or used for any purpose other than to identify the 1157

amount of energy-intensity reductions achieved by the customer. 1158

(F) If the commission finds, after notice and a hearing, 1159  
that the customer has failed to achieve any substantial 1160  
cumulative reduction in energy intensity identified by the 1161  
customer in an updated report submitted under division (B) of 1162  
this section, and if the failure is not excusable for good cause 1163  
shown by the customer, the commission may suspend the opt out 1164  
for the period of time that it may take the customer to achieve 1165  
the cumulative reduction in energy intensity identified by the 1166  
customer but no longer. 1167

**Sec. 5727.75.** (A) For purposes of this section: 1168

(1) "Qualified energy project" means an energy project 1169  
certified by the director of development services pursuant to 1170  
this section. 1171

(2) "Energy project" means a project to provide electric 1172  
power through the construction, installation, and use of an 1173  
energy facility. 1174

(3) "Alternative energy zone" means a county declared as 1175  
such by the board of county commissioners under division (E)(1) 1176  
(b) or (c) of this section. 1177

(4) "Full-time equivalent employee" means the total number 1178  
of employee-hours for which compensation was paid to individuals 1179  
employed at a qualified energy project for services performed at 1180  
the project during the calendar year divided by two thousand 1181  
eighty hours. 1182

(5) "Solar energy project" means an energy project 1183  
composed of an energy facility using solar panels to generate 1184  
electricity. 1185

(6) "Internet identifier of record" has the same meaning 1186  
as in section 9.312 of the Revised Code. 1187

(B) (1) Tangible personal property of a qualified energy 1188  
project using renewable energy resources is exempt from taxation 1189  
for tax years 2011 through 2023 if all of the following 1190  
conditions are satisfied: 1191

(a) On or before December 31, 2022, the owner or a lessee 1192  
pursuant to a sale and leaseback transaction of the project 1193  
submits an application to the power siting board for a 1194  
certificate under section 4906.20 of the Revised Code, or if 1195  
that section does not apply, submits an application for any 1196  
approval, consent, permit, or certificate or satisfies any 1197  
condition required by a public agency or political subdivision 1198  
of this state for the construction or initial operation of an 1199  
energy project. 1200

(b) Construction or installation of the energy facility 1201  
begins on or after January 1, 2009, and before January 1, 2023. 1202  
For the purposes of this division, construction begins on the 1203  
earlier of the date of application for a certificate or other 1204  
approval or permit described in division (B) (1) (a) of this 1205  
section, or the date the contract for the construction or 1206  
installation of the energy facility is entered into. 1207

(c) For a qualified energy project with a nameplate 1208  
capacity of ~~twenty-five~~ megawatts or greater, a board of county 1209  
commissioners of a county in which property of the project is 1210  
located has adopted a resolution under division (E) (1) (b) or (c) 1211  
of this section to approve the application submitted under 1212  
division (E) of this section to exempt the property located in 1213  
that county from taxation. A board's adoption of a resolution 1214  
rejecting an application or its failure to adopt a resolution 1215

approving the application does not affect the tax-exempt status 1216  
of the qualified energy project's property that is located in 1217  
another county. 1218

(2) If tangible personal property of a qualified energy 1219  
project using renewable energy resources was exempt from 1220  
taxation under this section beginning in any of tax years 2011 1221  
through 2023, and the certification under division (E) (2) of 1222  
this section has not been revoked, the tangible personal 1223  
property of the qualified energy project is exempt from taxation 1224  
for tax year 2024 and all ensuing tax years if the property was 1225  
placed into service before January 1, 2024, as certified in the 1226  
construction progress report required under division (F) (2) of 1227  
this section. Tangible personal property that has not been 1228  
placed into service before that date is taxable property subject 1229  
to taxation. An energy project for which certification has been 1230  
revoked is ineligible for further exemption under this section. 1231  
Revocation does not affect the tax-exempt status of the 1232  
project's tangible personal property for the tax year in which 1233  
revocation occurs or any prior tax year. 1234

(C) Tangible personal property of a qualified energy 1235  
project using clean coal technology, advanced nuclear 1236  
technology, or cogeneration technology is exempt from taxation 1237  
for the first tax year that the property would be listed for 1238  
taxation and all subsequent years if all of the following 1239  
circumstances are met: 1240

(1) The property was placed into service before January 1, 1241  
2021. Tangible personal property that has not been placed into 1242  
service before that date is taxable property subject to 1243  
taxation. 1244

(2) For such a qualified energy project with a nameplate 1245

capacity of ~~twenty-five~~ megawatts or greater, a board of county 1246  
commissioners of a county in which property of the qualified 1247  
energy project is located has adopted a resolution under 1248  
division (E) (1) (b) or (c) of this section to approve the 1249  
application submitted under division (E) of this section to 1250  
exempt the property located in that county from taxation. A 1251  
board's adoption of a resolution rejecting the application or 1252  
its failure to adopt a resolution approving the application does 1253  
not affect the tax-exempt status of the qualified energy 1254  
project's property that is located in another county. 1255

(3) The certification for the qualified energy project 1256  
issued under division (E) (2) of this section has not been 1257  
revoked. An energy project for which certification has been 1258  
revoked is ineligible for exemption under this section. 1259  
Revocation does not affect the tax-exempt status of the 1260  
project's tangible personal property for the tax year in which 1261  
revocation occurs or any prior tax year. 1262

(D) Except as otherwise provided in this section, real 1263  
property of a qualified energy project is exempt from taxation 1264  
for any tax year for which the tangible personal property of the 1265  
qualified energy project is exempted under this section. 1266

(E) (1) (a) A person may apply to the director of 1267  
development services for certification of an energy project as a 1268  
qualified energy project on or before the following dates: 1269

(i) December 31, 2022, for an energy project using 1270  
renewable energy resources; 1271

(ii) December 31, 2017, for an energy project using clean 1272  
coal technology, advanced nuclear technology, or cogeneration 1273  
technology. 1274

(b) The director shall forward a copy of each application 1275  
for certification of an energy project with a nameplate capacity 1276  
of ~~twenty-five~~ megawatts or greater to the board of county 1277  
commissioners of each county in which the project is located and 1278  
to each taxing unit with territory located in each of the 1279  
affected counties. Any board that receives from the director a 1280  
copy of an application submitted under this division shall adopt 1281  
a resolution approving or rejecting the application unless it 1282  
has adopted a resolution under division (E) (1) (c) of this 1283  
section. A resolution adopted under division (E) (1) (b) or (c) of 1284  
this section may require an annual service payment to be made in 1285  
addition to the service payment required under division (G) of 1286  
this section. The sum of the service payment required in the 1287  
resolution and the service payment required under division (G) 1288  
of this section shall not exceed nine thousand dollars per 1289  
megawatt of nameplate capacity located in the county. The 1290  
resolution shall specify the time and manner in which the 1291  
payments required by the resolution shall be paid to the county 1292  
treasurer. The county treasurer shall deposit the payment to the 1293  
credit of the county's general fund to be used for any purpose 1294  
for which money credited to that fund may be used. 1295

The board shall send copies of the resolution to the owner 1296  
of the facility and the director by certified mail or, if the 1297  
board has record of an internet identifier of record associated 1298  
with the owner or director, by ordinary mail and by that 1299  
internet identifier of record. The board shall send such notice 1300  
within thirty days after receipt of the application, or a longer 1301  
period of time if authorized by the director. 1302

(c) A board of county commissioners may adopt a resolution 1303  
declaring the county to be an alternative energy zone and 1304  
declaring all applications submitted to the director of 1305

development services under this division after the adoption of 1306  
the resolution, and prior to its repeal, to be approved by the 1307  
board. 1308

All tangible personal property and real property of an 1309  
energy project with a nameplate capacity of ~~twenty-five~~ 1310  
megawatts or greater is taxable if it is located in a county in 1311  
which the board of county commissioners adopted a resolution 1312  
rejecting the application submitted under this division or 1313  
failed to adopt a resolution approving the application under 1314  
division (E) (1) (b) or (c) of this section. 1315

(2) The director shall certify an energy project if all of 1316  
the following circumstances exist: 1317

(a) The application was timely submitted. 1318

(b) For an energy project with a nameplate capacity of 1319  
~~twenty-five~~ megawatts or greater, a board of county 1320  
commissioners of at least one county in which the project is 1321  
located has adopted a resolution approving the application under 1322  
division (E) (1) (b) or (c) of this section. 1323

(c) No portion of the project's facility was used to 1324  
supply electricity before December 31, 2009. 1325

(3) The director shall deny a certification application if 1326  
the director determines the person has failed to comply with any 1327  
requirement under this section. The director may revoke a 1328  
certification if the director determines the person, or 1329  
subsequent owner or lessee pursuant to a sale and leaseback 1330  
transaction of the qualified energy project, has failed to 1331  
comply with any requirement under this section. Upon 1332  
certification or revocation, the director shall notify the 1333  
person, owner, or lessee, the tax commissioner, and the county 1334

auditor of a county in which the project is located of the 1335  
certification or revocation. Notice shall be provided in a 1336  
manner convenient to the director. 1337

(F) The owner or a lessee pursuant to a sale and leaseback 1338  
transaction of a qualified energy project shall do each of the 1339  
following: 1340

(1) Comply with all applicable regulations; 1341

(2) File with the director of development services a 1342  
certified construction progress report before the first day of 1343  
March of each year during the energy facility's construction or 1344  
installation indicating the percentage of the project completed, 1345  
and the project's nameplate capacity, as of the preceding 1346  
thirty-first day of December. Unless otherwise instructed by the 1347  
director of development services, the owner or lessee of an 1348  
energy project shall file a report with the director on or 1349  
before the first day of March each year after completion of the 1350  
energy facility's construction or installation indicating the 1351  
project's nameplate capacity as of the preceding thirty-first 1352  
day of December. Not later than sixty days after June 17, 2010, 1353  
the owner or lessee of an energy project, the construction of 1354  
which was completed before June 17, 2010, shall file a 1355  
certificate indicating the project's nameplate capacity. 1356

(3) File with the director of development services, in a 1357  
manner prescribed by the director, a report of the total number 1358  
of full-time equivalent employees, and the total number of full- 1359  
time equivalent employees domiciled in Ohio, who are employed in 1360  
the construction or installation of the energy facility; 1361

(4) For energy projects with a nameplate capacity of 1362  
~~twenty-five~~ megawatts or greater, repair all roads, bridges, and 1363



culverts affected by construction as reasonably required to 1364  
restore them to their preconstruction condition, as determined 1365  
by the county engineer in consultation with the local 1366  
jurisdiction responsible for the roads, bridges, and culverts. 1367  
In the event that the county engineer deems any road, bridge, or 1368  
culvert to be inadequate to support the construction or 1369  
decommissioning of the energy facility, the road, bridge, or 1370  
culvert shall be rebuilt or reinforced to the specifications 1371  
established by the county engineer prior to the construction or 1372  
decommissioning of the facility. The owner or lessee of the 1373  
facility shall post a bond in an amount established by the 1374  
county engineer and to be held by the board of county 1375  
commissioners to ensure funding for repairs of roads, bridges, 1376  
and culverts affected during the construction. The bond shall be 1377  
released by the board not later than one year after the date the 1378  
repairs are completed. The energy facility owner or lessee 1379  
pursuant to a sale and leaseback transaction shall post a bond, 1380  
as may be required by the Ohio power siting board in the 1381  
certificate authorizing commencement of construction issued 1382  
pursuant to section 4906.10 of the Revised Code, to ensure 1383  
funding for repairs to roads, bridges, and culverts resulting 1384  
from decommissioning of the facility. The energy facility owner 1385  
or lessee and the county engineer may enter into an agreement 1386  
regarding specific transportation plans, reinforcements, 1387  
modifications, use and repair of roads, financial security to be 1388  
provided, and any other relevant issue. 1389

(5) Provide or facilitate training for fire and emergency 1390  
responders for response to emergency situations related to the 1391  
energy project and, for energy projects with a nameplate 1392  
capacity of ~~twenty-five~~ megawatts or greater, at the person's 1393  
expense, equip the fire and emergency responders with proper 1394

equipment as reasonably required to enable them to respond to 1395  
such emergency situations; 1396

(6) Maintain a ratio of Ohio-domiciled full-time 1397  
equivalent employees employed in the construction or 1398  
installation of the energy project to total full-time equivalent 1399  
employees employed in the construction or installation of the 1400  
energy project of not less than eighty per cent in the case of a 1401  
solar energy project, and not less than fifty per cent in the 1402  
case of any other energy project. In the case of an energy 1403  
project for which certification from the power siting board is 1404  
required under section 4906.20 of the Revised Code, the number 1405  
of full-time equivalent employees employed in the construction 1406  
or installation of the energy project equals the number actually 1407  
employed or the number projected to be employed in the 1408  
certificate application, if such projection is required under 1409  
regulations adopted pursuant to section 4906.03 of the Revised 1410  
Code, whichever is greater. For all other energy projects, the 1411  
number of full-time equivalent employees employed in the 1412  
construction or installation of the energy project equals the 1413  
number actually employed or the number projected to be employed 1414  
by the director of development services, whichever is greater. 1415  
To estimate the number of employees to be employed in the 1416  
construction or installation of an energy project, the director 1417  
shall use a generally accepted job-estimating model in use for 1418  
renewable energy projects, including but not limited to the job 1419  
and economic development impact model. The director may adjust 1420  
an estimate produced by a model to account for variables not 1421  
accounted for by the model. 1422

(7) For energy projects with a nameplate capacity in 1423  
excess of ~~twenty~~two megawatts, establish a relationship with a 1424  
member of the university system of Ohio as defined in section 1425

3345.011 of the Revised Code or with a person offering an 1426  
apprenticeship program registered with the employment and 1427  
training administration within the United States department of 1428  
labor or with the apprenticeship council created by section 1429  
4139.02 of the Revised Code, to educate and train individuals 1430  
for careers in the wind or solar energy industry. The 1431  
relationship may include endowments, cooperative programs, 1432  
internships, apprenticeships, research and development projects, 1433  
and curriculum development. 1434

(8) Offer to sell power or renewable energy credits from 1435  
the energy project to electric distribution utilities or 1436  
electric service companies subject to renewable energy resource 1437  
requirements under section 4928.64 of the Revised Code that have 1438  
issued requests for proposal for such power or renewable energy 1439  
credits. If no electric distribution utility or electric service 1440  
company issues a request for proposal on or before December 31, 1441  
2010, or accepts an offer for power or renewable energy credits 1442  
within forty-five days after the offer is submitted, power or 1443  
renewable energy credits from the energy project may be sold to 1444  
other persons. Division (F)(8) of this section does not apply 1445  
if: 1446

(a) The owner or lessee is a rural electric company or a 1447  
municipal power agency as defined in section 3734.058 of the 1448  
Revised Code. 1449

(b) The owner or lessee is a person that, before 1450  
completion of the energy project, contracted for the sale of 1451  
power or renewable energy credits with a rural electric company 1452  
or a municipal power agency. 1453

(c) The owner or lessee contracts for the sale of power or 1454  
renewable energy credits from the energy project before June 17, 1455

2010. 1456

(9) Make annual service payments as required by division 1457  
(G) of this section and as may be required in a resolution 1458  
adopted by a board of county commissioners under division (E) of 1459  
this section. 1460

(G) The owner or a lessee pursuant to a sale and leaseback 1461  
transaction of a qualified energy project shall make annual 1462  
service payments in lieu of taxes to the county treasurer on or 1463  
before the final dates for payments of taxes on public utility 1464  
personal property on the real and public utility personal 1465  
property tax list for each tax year for which property of the 1466  
energy project is exempt from taxation under this section. The 1467  
county treasurer shall allocate the payment on the basis of the 1468  
project's physical location. Upon receipt of a payment, or if 1469  
timely payment has not been received, the county treasurer shall 1470  
certify such receipt or non-receipt to the director of 1471  
development services and tax commissioner in a form determined 1472  
by the director and commissioner, respectively. Each payment 1473  
shall be in the following amount: 1474

(1) In the case of a solar energy project, seven thousand 1475  
dollars per megawatt of nameplate capacity located in the county 1476  
as of the thirty-first-day of December of the preceding tax 1477  
year; 1478

(2) In the case of any other energy project using 1479  
renewable energy resources, the following: 1480

(a) If the project maintains during the construction or 1481  
installation of the energy facility a ratio of Ohio-domiciled 1482  
full-time equivalent employees to total full-time equivalent 1483  
employees of not less than seventy-five per cent, six thousand 1484

dollars per megawatt of nameplate capacity located in the county 1485  
as of the thirty-first day of December of the preceding tax 1486  
year; 1487

(b) If the project maintains during the construction or 1488  
installation of the energy facility a ratio of Ohio-domiciled 1489  
full-time equivalent employees to total full-time equivalent 1490  
employees of less than seventy-five per cent but not less than 1491  
sixty per cent, seven thousand dollars per megawatt of nameplate 1492  
capacity located in the county as of the thirty-first day of 1493  
December of the preceding tax year; 1494

(c) If the project maintains during the construction or 1495  
installation of the energy facility a ratio of Ohio-domiciled 1496  
full-time equivalent employees to total full-time equivalent 1497  
employees of less than sixty per cent but not less than fifty 1498  
per cent, eight thousand dollars per megawatt of nameplate 1499  
capacity located in the county as of the thirty-first day of 1500  
December of the preceding tax year. 1501

(3) In the case of an energy project using clean coal 1502  
technology, advanced nuclear technology, or cogeneration 1503  
technology, the following: 1504

(a) If the project maintains during the construction or 1505  
installation of the energy facility a ratio of Ohio-domiciled 1506  
full-time equivalent employees to total full-time equivalent 1507  
employees of not less than seventy-five per cent, six thousand 1508  
dollars per megawatt of nameplate capacity located in the county 1509  
as of the thirty-first day of December of the preceding tax 1510  
year; 1511

(b) If the project maintains during the construction or 1512  
installation of the energy facility a ratio of Ohio-domiciled 1513

full-time equivalent employees to total full-time equivalent 1514  
employees of less than seventy-five per cent but not less than 1515  
sixty per cent, seven thousand dollars per megawatt of nameplate 1516  
capacity located in the county as of the thirty-first day of 1517  
December of the preceding tax year; 1518

(c) If the project maintains during the construction or 1519  
installation of the energy facility a ratio of Ohio-domiciled 1520  
full-time equivalent employees to total full-time equivalent 1521  
employees of less than sixty per cent but not less than fifty 1522  
per cent, eight thousand dollars per megawatt of nameplate 1523  
capacity located in the county as of the thirty-first day of 1524  
December of the preceding tax year. 1525

(H) The director of development services in consultation 1526  
with the tax commissioner shall adopt rules pursuant to Chapter 1527  
119. of the Revised Code to implement and enforce this section. 1528

**Section 2.** That existing sections 303.213, 519.213, 1529  
713.081, 4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 1530  
4928.645, 4928.66, 4928.6610, and 5727.75 of the Revised Code 1531  
are hereby repealed. 1532

**Section 3.** That sections 3706.40, 3706.41, 3706.43, 1533  
3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 3706.55, 3706.59, 1534  
3706.61, 3706.63, 3706.65, 4928.148, 4928.47, 4928.471, 1535  
4928.642, 4928.75, 4928.80, and 5727.231 of the Revised Code are 1536  
hereby repealed. 1537

**Section 4.** That Sections 4 and 5 of H.B. 6 of the 133rd 1538  
General Assembly are hereby repealed. 1539

**Section 5.** (A) The purpose of this act is to repeal all 1540  
provisions of H.B. 6 of the 133rd General Assembly by doing the 1541  
following: 1542

(1) Reinserting any language that H.B. 6 of the 133rd 1543  
General Assembly deleted from individual sections of the Revised 1544  
Code; 1545

(2) Striking through, and thereby repealing, any language 1546  
that H.B. 6 of the 133rd General Assembly added to individual 1547  
sections of the Revised Code; 1548

(3) Repealing outright all Revised Code sections and 1549  
uncodified sections of law that were enacted by H.B. 6 of the 1550  
133rd General Assembly; 1551

(4) Enacting, and thereby reviving, section 4928.6616 of 1552  
the Revised Code as it existed prior to that section's repeal by 1553  
H.B. 6 of the 133rd General Assembly. 1554

(B) Notwithstanding divisions (A) (1) and (2) of this 1555  
section, the act retains the amendment made by H.B. 6 of the 1556  
133rd General Assembly to division (A) of section 4928.641 of 1557  
the Revised Code that replaces "the effective date of S.B. 310 1558  
of the 130th general assembly," with the actual effective date 1559  
of S.B. 310, "September 12, 2014," which amendment is 1560  
nonsubstantive. 1561

**Section 6.** (A) Section 5727.75 of the Revised Code is 1562  
presented in this act as a composite of the section as amended 1563  
by both H.B. 6 and H.B. 166 of the 133rd General Assembly. The 1564  
General Assembly, applying the principle stated in division (B) 1565  
of section 1.52 of the Revised Code that amendments are to be 1566  
harmonized if reasonably capable of simultaneous operation, 1567  
finds that the composite is the resulting version of the section 1568  
in effect prior to the effective date of the section as 1569  
presented in this act. 1570

(B) Despite the harmonization endorsement in division (A) 1571

of this section, the amendment of section 5727.75 of the Revised	1572
Code by this act has the effect of repealing the changes made to	1573
this section by H.B. 6 of the 133rd General Assembly.	1574