

I_133_0905-14

133rd General Assembly
Regular Session
2019-2020

. B. No.

A BILL

To amend sections 303.213, 519.213, 713.081, 1
3706.02, 3706.03, 4906.13, 4928.01, 4928.644, 2
4928.66, 4928.6610, and 5727.75; to enact 3
sections 184.121, 3706.40, 3706.42, 3706.44, 4
3706.45, 3706.46, 3706.47, 3706.471, 3706.48, 5
3706.481, 3706.482, 3706.483, 3706.484, 3706.49, 6
3706.50, 4905.311, 4928.46, 4928.47, 4928.471, 7
4928.646, 4928.647, 4928.661, and 4928.75; and 8
to repeal section 4928.6616 of the Revised Code 9
to create the Ohio Clean Air Program, to 10
facilitate and encourage electricity production 11
and use from clean air resources, to facilitate 12
investment to reduce the emissions from other 13
generating technologies that can be readily 14
dispatched to satisfy demand in real time, and 15
proactively engage the buying power of consumers 16
in this state for the purpose of improving air 17
quality in this state. 18

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



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Section 1. That sections 303.213, 519.213, 713.081, 19
3706.02, 3706.03, 4906.13, 4928.01, 4928.644, 4928.66, 20
4928.6610, and 5727.75 be amended and sections 184.121, 3706.40, 21
3706.42, 3706.44, 3706.45, 3706.46, 3706.47, 3706.471, 3706.48, 22
3706.481, 3706.482, 3706.483, 3706.484, 3706.49, 3706.50, 23
4905.311, 4928.46, 4928.47, 4928.471, 4928.646, 4928.647, 24
4928.661, and 4928.75 of the Revised Code be enacted to read as 25
follows: 26

Sec. 184.121. (A) The third frontier commission shall 27
create a program and pledge twenty-five million dollars for 28
research of battery technology for electric grid storage. 29

(B) The pledged funds shall be used only for research in 30
this state. Anything produced from the research shall be 31
manufactured in this state. 32

Sec. 303.213. (A) As used in this section, "small wind 33
farm" means wind turbines and associated facilities ~~with a~~ 34
~~single interconnection to the electrical grid and designed for,~~ 35
~~or capable of, operation at an aggregate capacity of less than~~ 36
five megawatts that are not subject to the jurisdiction of the 37
power siting board under sections 4906.20 and 4906.201 of the 38
Revised Code. 39

(B) Notwithstanding division (A) of section 303.211 of the 40
Revised Code, sections 303.01 to 303.25 of the Revised Code 41
confer power on a board of county commissioners or board of 42
zoning appeals to adopt zoning regulations governing the 43
location, erection, construction, reconstruction, change, 44
alteration, maintenance, removal, use, or enlargement of any 45
small wind farm, whether publicly or privately owned, or the use 46
of land for that purpose, which regulations may be more strict 47
than the regulations prescribed in rules adopted under division 48

(B) (2) of section 4906.20 of the Revised Code. 49

(C) The designation under this section of a small wind 50
farm as a public utility for purposes of sections 303.01 to 51
303.25 of the Revised Code shall not affect the classification 52
of a small wind farm for purposes of state or local taxation. 53

(D) Nothing in division (C) of this section shall be 54
construed as affecting the classification of a 55
telecommunications tower as defined in division (B) or (E) of 56
section 303.211 of the Revised Code or any other public utility 57
for purposes of state and local taxation. 58

Sec. 519.213. (A) As used in this section, "small wind 59
farm" means wind turbines and associated facilities ~~with a~~ 60
~~single interconnection to the electrical grid and designed for,~~ 61
~~or capable of, operation at an aggregate capacity of less than~~ 62
~~five megawatts~~ that are not subject to the jurisdiction of the 63
power siting board under sections 4906.20 and 4906.201 of the 64
Revised Code. 65

(B) Notwithstanding division (A) of section 519.211 of the 66
Revised Code, sections 519.02 to 519.25 of the Revised Code 67
confer power on a board of township trustees or board of zoning 68
appeals with respect to the location, erection, construction, 69
reconstruction, change, alteration, maintenance, removal, use, 70
or enlargement of any small wind farm, whether publicly or 71
privately owned, or the use of land for that purpose, which 72
regulations may be more strict than the regulations prescribed 73
in rules adopted under division (B) (2) of section 4906.20 of the 74
Revised Code. 75

(C) The designation under this section of a small wind 76
farm as a public utility for purposes of sections 519.02 to 77

519.25 of the Revised Code shall not affect the classification 78
of a small wind farm or any other public utility for purposes of 79
state or local taxation. 80

(D) Nothing in division (C) of this section shall be 81
construed as affecting the classification of a 82
telecommunications tower as defined in division (B) or (E) of 83
section 519.211 of the Revised Code or any other public utility 84
for purposes of state and local taxation. 85

Sec. 713.081. (A) As used in this section, "small wind 86
farm" means wind turbines and associated facilities ~~with a~~ 87
~~single interconnection to the electrical grid and designed for,~~ 88
~~or capable of, operation at an aggregate capacity of less than~~ 89
~~five megawatts~~ that are not subject to the jurisdiction of the 90
power siting board under sections 4906.20 and 4906.201 of the 91
Revised Code. 92

(B) Sections 713.06 to 713.15 of the Revised Code confer 93
power on the legislative authority of a municipal corporation 94
with respect to the location, erection, construction, 95
reconstruction, change, alteration, maintenance, removal, use, 96
or enlargement of any small wind farm as a public utility, 97
whether publicly or privately owned, or the use of land for that 98
purpose, which regulations may be more strict than the 99
regulations prescribed in rules adopted under division (B) (2) of 100
section 4906.20 of the Revised Code. 101

(C) The designation under this section of a small wind 102
farm as a public utility for purposes of sections 713.06 to 103
713.15 of the Revised Code shall not affect the classification 104
of a small wind farm or any other public utility for purposes of 105
state or local taxation. 106

Sec. 3706.02. (A) There is hereby created the Ohio air 107
quality development authority. Such authority is a body both 108
corporate and politic in this state, and the carrying out of its 109
purposes and the exercise by it of the powers conferred by 110
Chapter 3706. of the Revised Code shall be held to be, and are 111
hereby determined to be, essential governmental functions and 112
public purposes of the state, but the authority shall not be 113
immune from liability by reason thereof. 114

(B) The authority shall consist of ~~seven~~ thirteen members 115
as follows: ~~five~~ 116

(1) Five members appointed by the governor, with the 117
advice and consent of the senate, no more than three of whom 118
shall be members of the same political party, ~~and the~~ 119

(2) The director of environmental protection ~~and the~~, who 120
shall be a member ex officio without compensation; 121

(3) The director of health, who shall be ~~members~~ a member 122
ex officio without compensation; 123

(4) Four legislative members, who shall be nonvoting 124
members ex officio without compensation. The speaker of the 125
house of representatives, the president of the senate, and the 126
minority leader of each house shall each appoint one of the 127
legislative members. The legislative members may not vote but 128
may otherwise participate fully in all the board's deliberations 129
and activities. ~~Each~~ 130

(5) Two members of the general public, who shall be voting 131
members without compensation. The speaker of the house of 132
representatives and the president of the senate shall each 133
appoint one member. These members' terms of office shall be for 134
four years. 135

Each appointive member shall be a resident of the state, 136
and a qualified elector therein. The members of the authority 137
first appointed shall continue in office for terms expiring on 138
June 30, 1971, June 30, 1973, June 30, 1975, June 30, 1977, and 139
June 30, 1978, respectively, the term of each member to be 140
designated by the governor. ~~Appointed~~ Except as provided in 141
division (B) (5) of this section, appointed members' terms of 142
office shall be for eight years, commencing on the first day of 143
July and ending on the thirtieth day of June. Each appointed 144
member shall hold office from the date of ~~his~~ appointment until 145
the end of the term for which ~~he was~~ appointed. Any member 146
appointed to fill a vacancy occurring prior to the expiration of 147
the term for which ~~his~~ the member's predecessor was appointed 148
shall hold office for the remainder of such term. Any appointed 149
member shall continue in office subsequent to the expiration 150
date of ~~his~~ the member's term until ~~his~~ the member's successor 151
takes office, or until a period of sixty days has elapsed, 152
whichever occurs first. A member of the authority is eligible 153
for reappointment. Each appointed member of the authority, 154
before entering upon ~~his~~ official duties, shall take an oath as 155
provided by Section 7 of Article XV, Ohio Constitution. The 156
governor may at any time remove any member of the authority for 157
misfeasance, nonfeasance, or malfeasance in office. The 158
authority shall elect one of its appointed members as ~~chairman~~ 159
chairperson and another as ~~vice-chairman~~ vice-chairperson, and 160
shall appoint a secretary-treasurer who need not be a member of 161
the authority. Four members of the authority shall constitute a 162
quorum, and the affirmative vote of four members shall be 163
necessary for any action taken by vote of the authority. No 164
vacancy in the membership of the authority shall impair the 165
rights of a quorum by such vote to exercise all the rights and 166
perform all the duties of the authority. 167

~~Before~~ (C) Except as provided in division (D) of this 168
section, before the issuance of any air quality revenue bonds 169
under Chapter 3706. of the Revised Code, each appointed member 170
of the authority shall give a surety bond to the state in the 171
penal sum of twenty-five thousand dollars and the secretary- 172
treasurer shall give such a bond in the penal sum of fifty 173
thousand dollars, each such surety bond to be conditioned upon 174
the faithful performance of the duties of the office, to be 175
executed by a surety company authorized to transact business in 176
this state, and to be approved by the governor and filed in the 177
office of the secretary of state. ~~Each~~ Except as provided in 178
division (B)(4) of this section, each appointed member of the 179
authority shall receive an annual salary of five thousand 180
dollars, payable in monthly installments. Each member shall be 181
reimbursed for ~~his~~ the actual expenses necessarily incurred in 182
the performance of ~~his~~ official duties. All expenses incurred in 183
carrying out Chapter 3706. of the Revised Code shall be payable 184
solely from funds provided under Chapter 3706. of the Revised 185
Code, appropriated for such purpose by the general assembly, or 186
provided by the controlling board. No liability or obligation 187
shall be incurred by the authority beyond the extent to which 188
moneys have been so provided or appropriated. 189

(D) The six members appointed under divisions (B)(4) and 190
(5) of this section shall be exempt from the requirement under 191
division (C) of this section to give a surety bond. 192

Sec. 3706.03. (A) It is hereby declared to be the public 193
policy of the state through the operations of the Ohio air 194
quality development authority under this chapter to contribute 195
toward one or more of the following: ~~to~~ 196

(1) To provide for the conservation of air as a natural 197

resource of the state, and to ;	198
<u>(2) To prevent or abate the pollution thereof, to;</u>	199
<u>(3) To provide for the comfort, health, safety, and</u> general welfare of all employees, as well as all other inhabitants of the state, to ;	200 201 202
<u>(4) To assist in the financing of air quality facilities</u> for industry, commerce, distribution, and research, including public utility companies, to ;	203 204 205
<u>(5) To create or preserve jobs and employment</u> opportunities or improve the economic welfare of the people, or assist and cooperate with governmental agencies in achieving such purposes;	206 207 208 209
<u>(6) To maintain operations of certified clean air</u> <u>resources, as defined in section 3706.40 of the Revised Code,</u> <u>that, through continued operation, are expected to provide the</u> <u>greatest quantity of carbon-dioxide-free electric energy</u> <u>generation, and to encourage the operation and development of</u> <u>other clean air resources that provide carbon-dioxide-free</u> <u>electric energy generation;</u>	210 211 212 213 214 215 216
<u>(7) To encourage reduced emissions resources, as defined</u> <u>in section 3706.40 of the Revised Code, to reduce the resources'</u> <u>emissions.</u>	217 218 219
<u>(B) In furtherance of such public policy the Ohio air</u> quality development authority may initiate <u>do any of the</u> <u>following:</u>	220 221 222
<u>(1) Initiate, acquire, construct, maintain, repair, and</u> operate air quality projects or cause the same to be operated pursuant to a lease, sublease, or agreement with any person or	223 224 225

governmental agency; may make	226
<u>(2) Make</u> loans and grants to governmental agencies for the	227
acquisition or construction of air quality facilities by such	228
governmental agencies; may make	229
<u>(3) Make</u> loans to persons for the acquisition or	230
construction of air quality facilities by such persons; may	231
enter	232
<u>(4) Enter</u> into commodity contracts with, or make loans for	233
the purpose of entering into commodity contracts to, any person,	234
governmental agency, or entity located within or without the	235
state in connection with the acquisition or construction of air	236
quality facilities; and may issue	237
<u>(5) Issue</u> air quality revenue bonds of this state payable	238
solely from revenues, to pay the cost of such projects,	239
including any related commodity contracts.	240
<u>(C)</u> Any air quality project shall be determined by the	241
authority to be not inconsistent with any applicable air quality	242
standards duly established and then required to be met pursuant	243
to the "Clean Air Act," 84 Stat. 1679 (1970), 42 U.S.C.A. 1857,	244
as amended. Any resolution of the authority providing for	245
acquiring or constructing such projects or for making a loan or	246
grant for such projects shall include a finding by the authority	247
that such determination has been made. Determinations by	248
resolution of the authority that a project is an air quality	249
facility under this chapter and is consistent with the purposes	250
of section 13 of Article VIII, Ohio Constitution, and this	251
chapter, shall be conclusive as to the validity and	252
enforceability of the air quality revenue bonds issued to	253
finance such project and of the resolutions, trust agreements or	254

indentures, leases, subleases, sale agreements, loan agreements, 255
and other agreements made in connection therewith, all in 256
accordance with their terms. 257

Sec. 3706.40. As used in sections 3706.40 to 3706.50 of 258
the Revised Code: 259

(A) "Clean air resource" means an electric generating 260
facility that produces electricity from the utilization or 261
consumption of any form of primary energy that emits zero carbon 262
dioxide and that satisfies all of the following criteria: 263

(1) The facility is not wholly or partially owned by a 264
municipal or cooperative corporation or a group, association, or 265
consortium of those corporations. 266

(2) The facility is not used to supply customers of a 267
wholly owned municipal or cooperative corporation or a group, 268
association, or consortium of those corporations. 269

(3) Either of the following: 270

(a) The facility has made a significant historical 271
contribution to the air quality of the state by minimizing 272
emissions that result from electricity generated in this state. 273

(b) The facility will make a significant contribution 274
toward minimizing emissions that result from electric generation 275
in this state. 276

(4) If the facility is designed for, or capable of, 277
operation at an aggregate capacity of twenty or more megawatts, 278
the facility is interconnected with the transmission grid that 279
is subject to the operational control of PJM interconnection, 280
L.L.C., or its successor organization. 281

(5) Regardless of the location of the meter, the facility 282

<u>is any of the following:</u>	283
<u>(a) A major utility facility in this state as defined in</u>	284
<u>section 4906.01 of the Revised Code;</u>	285
<u>(b) An economically significant wind farm in this state as</u>	286
<u>defined in section 4906.13 of the Revised Code;</u>	287
<u>(c) A small wind farm in this state as defined in section</u>	288
<u>303.213 of the Revised Code.</u>	289
<u>(B) "Reduced emissions resource" means an electric</u>	290
<u>generating facility that emits a reduced amount of carbon</u>	291
<u>dioxide or any other regulated air pollutant under the "Clean</u>	292
<u>Air Act," 84 Stat. 1679 (1970), 42 U.S.C. 1857, in the</u>	293
<u>production of electricity from the utilization or consumption of</u>	294
<u>any form of primary energy that satisfies all of the following</u>	295
<u>criteria:</u>	296
<u>(1) The facility is not wholly or partially owned by a</u>	297
<u>municipal or cooperative corporation or a group, association, or</u>	298
<u>consortium of those corporations.</u>	299
<u>(2) The facility is not used to supply customers of a</u>	300
<u>wholly owned municipal or cooperative corporation or a group,</u>	301
<u>association, or consortium of those corporations.</u>	302
<u>(3) The facility will make a significant contribution</u>	303
<u>toward minimizing emissions that result from electric generation</u>	304
<u>in this state.</u>	305
<u>(4) The facility is interconnected with the transmission</u>	306
<u>grid that is subject to the operational control of PJM</u>	307
<u>interconnection, L.L.C., or its successor organization.</u>	308
<u>(5) The facility is a major utility facility in this state</u>	309
<u>as defined in section 4906.01 of the Revised Code.</u>	310

(C) "Program year" means the twelve-month period beginning 311
the first day of June of a given year of the Ohio clean air 312
program and ending the thirty-first day of May of the following 313
year. 314

(D) "Electric distribution utility" and "renewable energy 315
resource" have the same meanings as in section 4928.01 of the 316
Revised Code. 317

(E) "Annual capacity factor" means the actual energy 318
produced in a year divided by the energy that would have been 319
produced if the facility was operating continuously at the 320
maximum rating. 321

(F) "Clean air credit" means a credit that represents the 322
clean air attributes of one megawatt hour of electric energy 323
produced from a certified clean air resource. 324

Sec. 3706.42. (A) (1) There is hereby created the Ohio 325
clean air program. 326

(2) (a) In 2029, the Ohio air quality development authority 327
shall conduct an inquiry to determine whether it is in the 328
public interest to continue the Ohio clean air program after 329
2030. 330

(b) After the inquiry is complete, the authority shall 331
submit a report of its findings to the general assembly. 332

(B) Any person owning or controlling an electric 333
generating facility that meets the definition of a clean air 334
resource or reduced emissions resource in section 3706.40 of the 335
Revised Code may submit a written application with the Ohio air 336
quality development authority for certification as a clean air 337
resource or reduced emissions resource to be eligible to 338
participate in the Ohio clean air program. Applications shall be 339

<u>submitted by the first day of February for any program year</u>	340
<u>beginning the first day of June of the same calendar year.</u>	341
<u>(C) Applications shall include all of the following</u>	342
<u>information:</u>	343
<u>(1) The in-service date and estimated remaining useful</u>	344
<u>life of the resource;</u>	345
<u>(2) For an existing resource, the quantity of megawatt</u>	346
<u>hours generated by the resource annually during each of the</u>	347
<u>previous five calendar years during which the resource was</u>	348
<u>generating, and the annual capacity factor for each of those</u>	349
<u>calendar years;</u>	350
<u>(3) A forecast estimate of the annual quantity of megawatt</u>	351
<u>hours to be generated by the resource and the projected annual</u>	352
<u>capacity factor over the remaining useful life of the resource;</u>	353
<u>(4) For a clean air resource, a forecast estimate of the</u>	354
<u>emissions that would occur in this state during the remaining</u>	355
<u>useful life of the resource if the resource discontinued</u>	356
<u>operations prior to the end of the resource's useful life;</u>	357
<u>(5) Verified documentation demonstrating all of the</u>	358
<u>following:</u>	359
<u>(a) That certification as a clean air resource or reduced</u>	360
<u>emissions resource and participation in the Ohio clean air</u>	361
<u>program will permit the resource to reduce future emissions per</u>	362
<u>unit of electrical energy generated in this state;</u>	363
<u>(b) That without certification as a clean air resource or</u>	364
<u>reduced emissions resource, the positive contributions to the</u>	365
<u>air quality of this state that the resource has made and is</u>	366
<u>capable of making in the future may be diminished or eliminated;</u>	367

(c) That the clean air resource or reduced emissions resource meets the definition of a clean air resource or reduced emissions resource, as applicable, in section 3706.40 of the Revised Code; 368
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(d) That the person seeking certification owns or controls the resource. 372
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(6) The resource's nameplate capacity; 374

(7) For a reduced emissions resource, the level of funding requested from the Ohio clean air program; 375
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(8) Any other data or information that the authority requests and determines is necessary to evaluate an application for certification as a clean air resource or reduced emissions resource or to demonstrate that certification would be in the public interest. 377
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(D) The authority shall post on the authority's web site all applications and nonconfidential supporting materials submitted under this section. 382
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(E) Interested persons may file comments not later than twenty days after the date that an application is posted on the authority's web site. All comments shall be posted on the authority's web site. An applicant may respond to those comments not later than ten days thereafter. 385
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Sec. 3706.44. (A) (1) On or before the thirty-first day of March, the Ohio air quality development authority shall review all applications timely submitted under section 3706.42 of the Revised Code and issue an order certifying a clean air resource or reduced emissions resource that meets the definition of a clean air resource or reduced emissions resource, as applicable, in section 3706.40 of the Revised Code. 390
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(2) (a) A clean air resource shall remain certified as a 397
clean air resource as long as the resource continues to meet the 398
definition of a clean air resource in section 3706.40 of the 399
Revised Code. 400

(b) A reduced emissions resource may be certified for one 401
or more program years. A reduced emissions resource shall be 402
eligible to remain certified as a reduced emissions resource, 403
provided that the resource continues to meet the definition of a 404
reduced emissions resource in section 3706.40 of the Revised 405
Code and any additional requirements set by the authority. 406

(B) In the event the authority does not issue an order 407
under division (A) of this section by the thirty-first day of 408
March, each electric generating facility included in a timely 409
and properly filed application shall be deemed a clean air 410
resource or reduced emissions resource, as applicable, that is 411
eligible for participation in the Ohio clean air program. 412

(C) (1) The authority may decertify a clean air resource or 413
reduced emissions resource at any time if it determines that 414
certification is not in the public interest. 415

(2) Before decertifying a clean air resource or reduced 416
emissions resource, the authority shall do both of the 417
following: 418

(a) Allow the resource to provide additional information 419
in support of remaining certified; 420

(b) Hold a public hearing and allow for public comment. 421

Sec. 3706.45. (A) During the last year in which 422
certification as a reduced emissions resource is effective under 423
section 3706.44 of the Revised Code, the Ohio air quality 424
development authority shall reevaluate the eligibility of the 425

reduced emissions resource for participation in the Ohio clean 426
air program. At the time of reevaluation, if the reduced 427
emissions resource still meets the definition of a reduced 428
emissions resource in section 3706.40 of the Revised Code and 429
any additional requirements that were imposed by the authority 430
when the resource was last certified, the authority shall 431
recertify the resource for one or more program years. 432

(B) (1) If the authority recertifies the reduced emissions 433
resource under division (A) of this section, the authority may 434
impose requirements on the reduced emissions resource that are 435
in addition to any requirements that were imposed when the 436
resource was last certified. If additional requirements are 437
imposed at the time of recertification, the resource shall 438
comply with both the old requirements and the new requirements. 439

(2) The authority shall adopt rules to determine the 440
amount of time during which a reduced emissions resource must 441
come into compliance with the new requirements. 442

Sec. 3706.46. (A) For the purpose of funding benefits 443
provided by the Ohio clean air program, there is hereby created 444
the Ohio clean air program fund. The fund shall be in the 445
custody of the state treasurer but shall not be part of the 446
state treasury. The fund shall consist of the charges under 447
section 3706.47 of the Revised Code. All interest generated by 448
the fund shall be retained in the fund and used for the purpose 449
of funding the Ohio clean air program. 450

(B) The treasurer shall distribute the moneys in the Ohio 451
clean air program fund in accordance with the directions 452
provided by the Ohio air quality development authority. 453

Sec. 3706.47. (A) Beginning January 1, 2020, each retail 454

electric customer of an electric distribution utility in this 455
state shall pay a per-account monthly charge, which shall be 456
billed and collected by each electric distribution utility and 457
remitted to the state treasurer for deposit into the Ohio clean 458
air program fund, created under section 3706.46 of the Revised 459
Code. 460

(B) The monthly charges established under division (A) of 461
this section shall be in accordance with the following: 462

(1) For customers classified by the utility as 463
residential: 464

(a) For the year 2020, fifty cents; 465

(b) For the year 2021 and each year thereafter, two 466
dollars and fifty cents. 467

(2) For customers classified by the utility as commercial, 468
except as provided in division (B)(4) of this section, the 469
public utilities commission shall, not later than October 1, 470
2019, establish the structure and design of a per-account 471
monthly charge that is on average: 472

(a) For the year 2020, fifteen dollars; 473

(b) For the year 2021 and each year thereafter, twenty 474
dollars. 475

(3) For customers classified by the utility as industrial, 476
except as provided in division (B)(4) of this section, the 477
commission shall, not later than October 1, 2019, establish the 478
structure and design of a per-account monthly charge that is on 479
average two hundred and fifty dollars; 480

(4) For customers classified by the utility as commercial 481
or industrial that exceeded forty-five million kilowatt hours of 482

electricity at a single location in the preceding year, two 483
thousand five hundred dollars. 484

(C) The commission shall comply with divisions (B) (2) and 485
(3) of this section in a manner that avoids abrupt or excessive 486
total electric bill impacts for typical customers with a 487
classification of commercial or industrial. 488

(D) For purposes of division (B) of this section, the 489
classification of residential, commercial, and industrial 490
customers shall be consistent with the utility's reporting under 491
its approved rate schedules. 492

(E) A customer required to pay the monthly charge under 493
divisions (A) and (B) of this section shall be exempt from 494
paying costs associated with the requirements under section 495
4928.64 of the Revised Code, unless the customer opts, in 496
accordance with section 3706.471 of the Revised Code, to pay 497
those costs in addition to the charge imposed under this 498
section. 499

Sec. 3706.471. Any customer opting to pay costs associated 500
with the requirements under section 4928.64 of the Revised Code 501
shall do so by providing a written notice of intent to opt in to 502
pay those costs to the electric distribution utility from which 503
it receives service. The customer shall submit a complete copy 504
of the opt-in notice to the secretary of the public utilities 505
commission. The notice shall include all of the following: 506

(A) A statement indicating that the customer has elected 507
to opt in; 508

(B) The effective date of the election to opt in; 509

(C) The account number for each customer account to which 510
the opt in shall apply; 511

<u>(D) The physical location of the customer's load center.</u>	512
<u>Sec. 3706.48. Each owner of a certified clean air resource</u>	513
<u>or certified reduced emissions resource shall report to the Ohio</u>	514
<u>air quality development authority, not later than seven days</u>	515
<u>after the close of each month during a program year, the number</u>	516
<u>of megawatt hours the resource produced in the previous month.</u>	517
<u>Sec. 3706.481. A certified clean air resource shall earn a</u>	518
<u>clean air credit for each megawatt hour of electricity it</u>	519
<u>produces.</u>	520
<u>Sec. 3706.482. (A) (1) Not later than fourteen days after</u>	521
<u>the close of each month during a program year, the Ohio air</u>	522
<u>quality development authority shall direct the treasurer of</u>	523
<u>state to remit money from the Ohio clean air program fund, as</u>	524
<u>long as there is sufficient money in the fund, to each owner of</u>	525
<u>a certified clean air resource in the amount equivalent to the</u>	526
<u>number of credits earned by the resource during the previous</u>	527
<u>month multiplied by the credit price.</u>	528
<u>(2) If the money in the Ohio clean air program fund is</u>	529
<u>insufficient to pay for all the credits earned by a resource,</u>	530
<u>the unpaid credits shall be paid first in the next monthly</u>	531
<u>payment period.</u>	532
<u>(B) (1) The price for each clean air credit in the first</u>	533
<u>program year shall be nine dollars.</u>	534
<u>(2) In subsequent program years, the price may be adjusted</u>	535
<u>for inflation using the gross domestic product implicit price</u>	536
<u>deflator as published by the United States department of</u>	537
<u>commerce, bureau of economic analysis.</u>	538
<u>Sec. 3706.483. The Ohio air quality development authority</u>	539
<u>shall adopt rules to provide for this state a system of</u>	540

registering clean air credits by specifying that the generation 541
attribute tracking system may be used for that purpose and not 542
by creating a registry. 543

Sec. 3706.484. A certified clean air resource that 544
receives a clean air credit shall be ineligible to receive a 545
renewable energy credit under section 4928.645 of the Revised 546
Code for the same megawatt hour of electricity. This section 547
shall not be construed to prohibit a resource from purchasing or 548
selling a renewable energy credit in another state. 549

Sec. 3706.49. (A) To facilitate air quality development 550
related capital formation and investment by or in a certified 551
clean air resource or certified reduced emissions resource, the 552
Ohio air quality development authority may pledge a portion of 553
moneys that may, in the future, be accumulated in the Ohio clean 554
air program fund for the benefit of any certified clean air 555
resource or certified reduced emissions resource, provided the 556
resource agrees to be bound by the conditions the authority may 557
attach to the pledge. 558

(B) The authority shall not be required to direct 559
distribution of moneys in the Ohio clean air program fund unless 560
or until there are adequate moneys available in the Ohio clean 561
air program fund. Nothing herein shall cause any such pledge to 562
be construed or applied to create, directly or indirectly, a 563
general obligation of or for this state. 564

Sec. 3706.50. (A) The Ohio air quality development 565
authority shall conduct an annual audit of the Ohio clean air 566
program. 567

(B) Not later than ninety days after the effective date of 568
this section, the authority shall adopt rules that are necessary 569

to begin implementation of the Ohio clean air program. The rules 570
adopted under this division shall include provisions for both of 571
the following: 572

(1) Tracking the number of clean air credits earned by 573
each certified clean air resource during each month of a program 574
year, based on the information reported under section 3706.48 of 575
the Revised Code; 576

(2) The annual audit required under division (A) of this 577
section. 578

(C) Not later than two hundred seventy-five days after the 579
effective date of this section, the authority shall adopt rules 580
that are necessary for the further implementation and 581
administration of the Ohio clean air program. 582

Sec. 4905.311. In order to promote job growth and 583
retention in this state, the public utilities commission, when 584
ruling on a reasonable arrangement application under section 585
4905.31 of the Revised Code, shall attempt to minimize electric 586
rates to the maximum amount possible on trade-exposed industrial 587
manufacturers. 588

Sec. 4906.13. (A) As used in this section and sections 589
4906.20 and 4906.98 of the Revised Code, "economically 590
significant wind farm" means wind turbines and associated 591
facilities with a single interconnection to the electrical grid 592
and designed for, or capable of, operation at an aggregate 593
capacity of five or more megawatts but less than fifty 594
megawatts. The term excludes any such wind farm in operation on 595
June 24, 2008. The term also excludes one or more wind turbines 596
and associated facilities that are primarily dedicated to 597
providing electricity to a single customer at a single location 598

and that are designed for, or capable of, operation at an 599
aggregate capacity of less than twenty megawatts, as measured at 600
the customer's point of interconnection to the electrical grid. 601

(B) No public agency or political subdivision of this 602
state may require any approval, consent, permit, certificate, or 603
other condition for the construction or operation of a major 604
utility facility or economically significant wind farm 605
authorized by a certificate issued pursuant to Chapter 4906. of 606
the Revised Code. Nothing herein shall prevent the application 607
of state laws for the protection of employees engaged in the 608
construction of such facility or wind farm nor of municipal 609
regulations that do not pertain to the location or design of, or 610
pollution control and abatement standards for, a major utility 611
facility or economically significant wind farm for which a 612
certificate has been granted under this chapter. 613

Sec. 4928.01. (A) As used in this chapter: 614

(1) "Ancillary service" means any function necessary to 615
the provision of electric transmission or distribution service 616
to a retail customer and includes, but is not limited to, 617
scheduling, system control, and dispatch services; reactive 618
supply from generation resources and voltage control service; 619
reactive supply from transmission resources service; regulation 620
service; frequency response service; energy imbalance service; 621
operating reserve-spinning reserve service; operating reserve- 622
supplemental reserve service; load following; back-up supply 623
service; real-power loss replacement service; dynamic 624
scheduling; system black start capability; and network stability 625
service. 626

(2) "Billing and collection agent" means a fully 627
independent agent, not affiliated with or otherwise controlled 628

by an electric utility, electric services company, electric 629
cooperative, or governmental aggregator subject to certification 630
under section 4928.08 of the Revised Code, to the extent that 631
the agent is under contract with such utility, company, 632
cooperative, or aggregator solely to provide billing and 633
collection for retail electric service on behalf of the utility 634
company, cooperative, or aggregator. 635

(3) "Certified territory" means the certified territory 636
established for an electric supplier under sections 4933.81 to 637
4933.90 of the Revised Code. 638

(4) "Competitive retail electric service" means a 639
component of retail electric service that is competitive as 640
provided under division (B) of this section. 641

(5) "Electric cooperative" means a not-for-profit electric 642
light company that both is or has been financed in whole or in 643
part under the "Rural Electrification Act of 1936," 49 Stat. 644
1363, 7 U.S.C. 901, and owns or operates facilities in this 645
state to generate, transmit, or distribute electricity, or a 646
not-for-profit successor of such company. 647

(6) "Electric distribution utility" means an electric 648
utility that supplies at least retail electric distribution 649
service. 650

(7) "Electric light company" has the same meaning as in 651
section 4905.03 of the Revised Code and includes an electric 652
services company, but excludes any self-generator to the extent 653
that it consumes electricity it so produces, sells that 654
electricity for resale, or obtains electricity from a generating 655
facility it hosts on its premises. 656

(8) "Electric load center" has the same meaning as in 657

section 4933.81 of the Revised Code. 658

(9) "Electric services company" means an electric light 659
company that is engaged on a for-profit or not-for-profit basis 660
in the business of supplying or arranging for the supply of only 661
a competitive retail electric service in this state. "Electric 662
services company" includes a power marketer, power broker, 663
aggregator, or independent power producer but excludes an 664
electric cooperative, municipal electric utility, governmental 665
aggregator, or billing and collection agent. 666

(10) "Electric supplier" has the same meaning as in 667
section 4933.81 of the Revised Code. 668

(11) "Electric utility" means an electric light company 669
that has a certified territory and is engaged on a for-profit 670
basis either in the business of supplying a noncompetitive 671
retail electric service in this state or in the businesses of 672
supplying both a noncompetitive and a competitive retail 673
electric service in this state. "Electric utility" excludes a 674
municipal electric utility or a billing and collection agent. 675

(12) "Firm electric service" means electric service other 676
than nonfirm electric service. 677

(13) "Governmental aggregator" means a legislative 678
authority of a municipal corporation, a board of township 679
trustees, or a board of county commissioners acting as an 680
aggregator for the provision of a competitive retail electric 681
service under authority conferred under section 4928.20 of the 682
Revised Code. 683

(14) A person acts "knowingly," regardless of the person's 684
purpose, when the person is aware that the person's conduct will 685
probably cause a certain result or will probably be of a certain 686

nature. A person has knowledge of circumstances when the person 687
is aware that such circumstances probably exist. 688

(15) "Level of funding for low-income customer energy 689
efficiency programs provided through electric utility rates" 690
means the level of funds specifically included in an electric 691
utility's rates on October 5, 1999, pursuant to an order of the 692
public utilities commission issued under Chapter 4905. or 4909. 693
of the Revised Code and in effect on October 4, 1999, for the 694
purpose of improving the energy efficiency of housing for the 695
utility's low-income customers. The term excludes the level of 696
any such funds committed to a specific nonprofit organization or 697
organizations pursuant to a stipulation or contract. 698

(16) "Low-income customer assistance programs" means the 699
percentage of income payment plan program, the home energy 700
assistance program, the home weatherization assistance program, 701
and the targeted energy efficiency and weatherization program. 702

(17) "Market development period" for an electric utility 703
means the period of time beginning on the starting date of 704
competitive retail electric service and ending on the applicable 705
date for that utility as specified in section 4928.40 of the 706
Revised Code, irrespective of whether the utility applies to 707
receive transition revenues under this chapter. 708

(18) "Market power" means the ability to impose on 709
customers a sustained price for a product or service above the 710
price that would prevail in a competitive market. 711

(19) "Mercantile customer" means a commercial or 712
industrial customer if the electricity consumed is for 713
nonresidential use and the customer consumes more than seven 714
hundred thousand kilowatt hours per year or is part of a 715

national account involving multiple facilities in one or more states.	716 717
(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.	718 719 720
(21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section.	721 722 723
(22) "Nonfirm electric service" means electric service provided pursuant to a schedule filed under section 4905.30 of the Revised Code or pursuant to an arrangement under section 4905.31 of the Revised Code, which schedule or arrangement includes conditions that may require the customer to curtail or interrupt electric usage during nonemergency circumstances upon notification by an electric utility.	724 725 726 727 728 729 730
(23) "Percentage of income payment plan arrears" means funds eligible for collection through the percentage of income payment plan rider, but uncollected as of July 1, 2000.	731 732 733
(24) "Person" has the same meaning as in section 1.59 of the Revised Code.	734 735
(25) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users, including, but not limited to, advanced energy resources and renewable energy resources. "Advanced energy project" also	736 737 738 739 740 741 742 743 744

includes any project described in division (A), (B), or (C) of 745
section 4928.621 of the Revised Code. 746

(26) "Regulatory assets" means the unamortized net 747
regulatory assets that are capitalized or deferred on the 748
regulatory books of the electric utility, pursuant to an order 749
or practice of the public utilities commission or pursuant to 750
generally accepted accounting principles as a result of a prior 751
commission rate-making decision, and that would otherwise have 752
been charged to expense as incurred or would not have been 753
capitalized or otherwise deferred for future regulatory 754
consideration absent commission action. "Regulatory assets" 755
includes, but is not limited to, all deferred demand-side 756
management costs; all deferred percentage of income payment plan 757
arrears; post-in-service capitalized charges and assets 758
recognized in connection with statement of financial accounting 759
standards no. 109 (receivables from customers for income taxes); 760
future nuclear decommissioning costs and fuel disposal costs as 761
those costs have been determined by the commission in the 762
electric utility's most recent rate or accounting application 763
proceeding addressing such costs; the undepreciated costs of 764
safety and radiation control equipment on nuclear generating 765
plants owned or leased by an electric utility; and fuel costs 766
currently deferred pursuant to the terms of one or more 767
settlement agreements approved by the commission. 768

(27) "Retail electric service" means any service involved 769
in supplying or arranging for the supply of electricity to 770
ultimate consumers in this state, from the point of generation 771
to the point of consumption. For the purposes of this chapter, 772
retail electric service includes one or more of the following 773
"service components": generation service, aggregation service, 774
power marketing service, power brokerage service, transmission 775

service, distribution service, ancillary service, metering 776
service, and billing and collection service. 777

(28) "Starting date of competitive retail electric 778
service" means January 1, 2001. 779

(29) "Customer-generator" means a user of a net metering 780
system. 781

(30) "Net metering" means measuring the difference in an 782
applicable billing period between the electricity supplied by an 783
electric service provider and the electricity generated by a 784
customer-generator that is fed back to the electric service 785
provider. 786

(31) "Net metering system" means a facility for the 787
production of electrical energy that does all of the following: 788

(a) Uses as its fuel either solar, wind, biomass, landfill 789
gas, or hydropower, or uses a microturbine or a fuel cell; 790

(b) Is located on a customer-generator's premises; 791

(c) Operates in parallel with the electric utility's 792
transmission and distribution facilities; 793

(d) Is intended primarily to offset part or all of the 794
customer-generator's requirements for electricity. For an 795
industrial customer-generator with a net metering system that 796
has a capacity of less than twenty megawatts and uses wind as 797
energy, this means the net metering system was sized so as to 798
not exceed one hundred per cent of the customer-generator's 799
annual requirements for electric energy at the time of 800
interconnection. 801

(32) "Self-generator" means an entity in this state that 802
owns or hosts on its premises an electric generation facility 803

that produces electricity primarily for the owner's consumption 804
and that may provide any such excess electricity to another 805
entity, whether the facility is installed or operated by the 806
owner or by an agent under a contract. 807

(33) "Rate plan" means the standard service offer in 808
effect on the effective date of the amendment of this section by 809
S.B. 221 of the 127th general assembly, July 31, 2008. 810

(34) "Advanced energy resource" means any of the 811
following: 812

(a) Any method or any modification or replacement of any 813
property, process, device, structure, or equipment that 814
increases the generation output of an electric generating 815
facility to the extent such efficiency is achieved without 816
additional carbon dioxide emissions by that facility; 817

(b) Any distributed generation system consisting of 818
customer cogeneration technology; 819

(c) Clean coal technology that includes a carbon-based 820
product that is chemically altered before combustion to 821
demonstrate a reduction, as expressed as ash, in emissions of 822
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 823
sulfur trioxide in accordance with the American society of 824
testing and materials standard D1757A or a reduction of metal 825
oxide emissions in accordance with standard D5142 of that 826
society, or clean coal technology that includes the design 827
capability to control or prevent the emission of carbon dioxide, 828
which design capability the commission shall adopt by rule and 829
shall be based on economically feasible best available 830
technology or, in the absence of a determined best available 831
technology, shall be of the highest level of economically 832

feasible design capability for which there exists generally	833
accepted scientific opinion;	834
(d) Advanced nuclear energy technology consisting of	835
generation III technology as defined by the nuclear regulatory	836
commission; other, later technology; or significant improvements	837
to existing facilities;	838
(e) Any fuel cell used in the generation of electricity,	839
including, but not limited to, a proton exchange membrane fuel	840
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	841
solid oxide fuel cell;	842
(f) Advanced solid waste or construction and demolition	843
debris conversion technology, including, but not limited to,	844
advanced stoker technology, and advanced fluidized bed	845
gasification technology, that results in measurable greenhouse	846
gas emissions reductions as calculated pursuant to the United	847
States environmental protection agency's waste reduction model	848
(WARM);	849
(g) Demand-side management and any energy efficiency	850
improvement;	851
(h) Any new, retrofitted, refueled, or repowered	852
generating facility located in Ohio, including a simple or	853
combined-cycle natural gas generating facility or a generating	854
facility that uses biomass, coal, modular nuclear, or any other	855
fuel as its input;	856
(i) Any uprated capacity of an existing electric	857
generating facility if the uprated capacity results from the	858
deployment of advanced technology.	859
"Advanced energy resource" does not include a waste energy	860
recovery system that is, or has been, included in an energy	861

efficiency program of an electric distribution utility pursuant 862
to requirements under section 4928.66 of the Revised Code. 863

(35) "Air contaminant source" has the same meaning as in 864
section 3704.01 of the Revised Code. 865

(36) "Cogeneration technology" means technology that 866
produces electricity and useful thermal output simultaneously. 867

(37) (a) "Renewable energy resource" means any of the 868
following: 869

(i) Solar photovoltaic or solar thermal energy; 870

(ii) Wind energy; 871

(iii) Power produced by a hydroelectric facility; 872

(iv) Power produced by a small hydroelectric facility, 873
which is a facility that operates, or is rated to operate, at an 874
aggregate capacity of less than six megawatts; 875

(v) Power produced by a run-of-the-river hydroelectric 876
facility placed in service on or after January 1, 1980, that is 877
located within this state, relies upon the Ohio river, and 878
operates, or is rated to operate, at an aggregate capacity of 879
forty or more megawatts; 880

(vi) Geothermal energy; 881

(vii) Fuel derived from solid wastes, as defined in 882
section 3734.01 of the Revised Code, through fractionation, 883
biological decomposition, or other process that does not 884
principally involve combustion; 885

(viii) Biomass energy; 886

(ix) Energy produced by cogeneration technology that is 887
placed into service on or before December 31, 2015, and for 888

which more than ninety per cent of the total annual energy input 889
is from combustion of a waste or byproduct gas from an air 890
contaminant source in this state, which source has been in 891
operation since on or before January 1, 1985, provided that the 892
cogeneration technology is a part of a facility located in a 893
county having a population of more than three hundred sixty-five 894
thousand but less than three hundred seventy thousand according 895
to the most recent federal decennial census; 896

(x) Biologically derived methane gas; 897

(xi) Heat captured from a generator of electricity, 898
boiler, or heat exchanger fueled by biologically derived methane 899
gas; 900

(xii) Energy derived from nontreated by-products of the 901
pulping process or wood manufacturing process, including bark, 902
wood chips, sawdust, and lignin in spent pulping liquors. 903

"Renewable energy resource" includes, but is not limited 904
to, any fuel cell used in the generation of electricity, 905
including, but not limited to, a proton exchange membrane fuel 906
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 907
solid oxide fuel cell; wind turbine located in the state's 908
territorial waters of Lake Erie; methane gas emitted from an 909
abandoned coal mine; waste energy recovery system placed into 910
service or retrofitted on or after the effective date of the 911
amendment of this section by S.B. 315 of the 129th general 912
assembly, September 10, 2012, except that a waste energy 913
recovery system described in division (A) (38) (b) of this section 914
may be included only if it was placed into service between 915
January 1, 2002, and December 31, 2004; storage facility that 916
will promote the better utilization of a renewable energy 917
resource; or distributed generation system used by a customer to 918

generate electricity from any such energy. 919

"Renewable energy resource" does not include a waste 920
energy recovery system that is, or was, on or after January 1, 921
2012, included in an energy efficiency program of an electric 922
distribution utility pursuant to requirements under section 923
4928.66 of the Revised Code. 924

(b) As used in division (A) (37) of this section, 925
"hydroelectric facility" means a hydroelectric generating 926
facility that is located at a dam on a river, or on any water 927
discharged to a river, that is within or bordering this state or 928
within or bordering an adjoining state and meets all of the 929
following standards: 930

(i) The facility provides for river flows that are not 931
detrimental for fish, wildlife, and water quality, including 932
seasonal flow fluctuations as defined by the applicable 933
licensing agency for the facility. 934

(ii) The facility demonstrates that it complies with the 935
water quality standards of this state, which compliance may 936
consist of certification under Section 401 of the "Clean Water 937
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 938
demonstrates that it has not contributed to a finding by this 939
state that the river has impaired water quality under Section 940
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 941
U.S.C. 1313. 942

(iii) The facility complies with mandatory prescriptions 943
regarding fish passage as required by the federal energy 944
regulatory commission license issued for the project, regarding 945
fish protection for riverine, anadromous, and catadromous fish. 946

(iv) The facility complies with the recommendations of the 947

Ohio environmental protection agency and with the terms of its 948
federal energy regulatory commission license regarding watershed 949
protection, mitigation, or enhancement, to the extent of each 950
agency's respective jurisdiction over the facility. 951

(v) The facility complies with provisions of the 952
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 953
to 1544, as amended. 954

(vi) The facility does not harm cultural resources of the 955
area. This can be shown through compliance with the terms of its 956
federal energy regulatory commission license or, if the facility 957
is not regulated by that commission, through development of a 958
plan approved by the Ohio historic preservation office, to the 959
extent it has jurisdiction over the facility. 960

(vii) The facility complies with the terms of its federal 961
energy regulatory commission license or exemption that are 962
related to recreational access, accommodation, and facilities 963
or, if the facility is not regulated by that commission, the 964
facility complies with similar requirements as are recommended 965
by resource agencies, to the extent they have jurisdiction over 966
the facility; and the facility provides access to water to the 967
public without fee or charge. 968

(viii) The facility is not recommended for removal by any 969
federal agency or agency of any state, to the extent the 970
particular agency has jurisdiction over the facility. 971

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 972
this section do not apply to a small hydroelectric facility 973
under division (A) (37) (a) (iv) of this section. 974

(38) "Waste energy recovery system" means either of the 975
following: 976

(a) A facility that generates electricity through the conversion of energy from either of the following:	977 978
(i) Exhaust heat from engines or manufacturing, industrial, commercial, or institutional sites, except for exhaust heat from a facility whose primary purpose is the generation of electricity;	979 980 981 982
(ii) Reduction of pressure in gas pipelines before gas is distributed through the pipeline, provided that the conversion of energy to electricity is achieved without using additional fossil fuels.	983 984 985 986
(b) A facility at a state institution of higher education as defined in section 3345.011 of the Revised Code that recovers waste heat from electricity-producing engines or combustion turbines and that simultaneously uses the recovered heat to produce steam, provided that the facility was placed into service between January 1, 2002, and December 31, 2004.	987 988 989 990 991 992
(39) "Smart grid" means capital improvements to an electric distribution utility's distribution infrastructure that improve reliability, efficiency, resiliency, or reduce energy demand or use, including, but not limited to, advanced metering and automation of system functions.	993 994 995 996 997
(40) "Combined heat and power system" means the coproduction of electricity and useful thermal energy from the same fuel source designed to achieve thermal-efficiency levels of at least sixty per cent, with at least twenty per cent of the system's total useful energy in the form of thermal energy.	998 999 1000 1001 1002
(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a	1003 1004 1005

declaration by a provision of the Revised Code or pursuant to an 1006
order of the public utilities commission authorized under 1007
division (A) of section 4928.04 of the Revised Code. Otherwise, 1008
the service component shall be deemed a noncompetitive retail 1009
electric service. 1010

Sec. 4928.46. (A) In the event that the federal energy 1011
regulatory commission authorizes a program by which this state 1012
may take action to satisfy any portion of the capacity resource 1013
obligation associated with the organized wholesale market that 1014
functions to meet the capacity, energy services, and ancillary 1015
services needs of consumers in this state, the public utilities 1016
commission shall promptly review the program and submit a report 1017
of its findings to the general assembly. 1018

(B) The report shall include any recommendations for both 1019
of the following: 1020

(1) Legislation that may be necessary to permit this state 1021
to beneficially participate in any such program; 1022

(2) How to maintain participation by end-use customers in 1023
this state in the demand response program offered by PJM 1024
Interconnection, L.L.C., or its successor organization, 1025
including how the state may consider structuring procurement for 1026
demand response that would allow demand response to satisfy a 1027
portion of the state's capacity resource obligation. 1028

(C) The report shall incorporate the policy of 1029
facilitating the state's effectiveness in the global economy by 1030
minimizing any adverse impact on trade-exposed industrial 1031
manufacturers. 1032

Sec. 4928.47. (A) As used in this section, "clean air 1033
resource" means any of the following: 1034

- (1) A clean air resource as defined in section 3706.40 of the Revised Code; 1035
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- (2) A customer-sited renewable energy resource; 1037
- (3) A renewable energy resource that is a self-generator. 1038
- (B) (1) Through its general supervision, ratemaking, cost assignment, allocation, rate schedule approval, and rulemaking authority, as well as its authority under section 4905.31 of the Revised Code, the public utilities commission shall facilitate and encourage the establishment of retail purchased power agreements having a term of three years or more through which mercantile customers of an electric distribution utility commit to satisfy a material portion of their electricity requirements from the output of a clean air resource. 1039
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- (2) The commission's application and administration of this section shall be the same for all clean air resources regardless of whether the resource is certified or eligible for certification under the Ohio clean air program created under section 3706.42 of the Revised Code. 1048
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- (3) In addition to any other benefits that may be available as a result of the commission's application of its authority under this section, on the effective date of a retail purchased power agreement, the commission may exempt such purchasing mercantile customer from both of the following, provided the customer agrees to forgo the benefits from compliance with the programs established in sections 3706.42 and 4928.64 of the Revised Code: 1053
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1060
- (a) The Ohio clean air program charge established in section 3706.47 of the Revised Code; 1061
1062
- (b) The renewable energy charge for compliance with 1063

section 4928.64 of the Revised Code. 1064

(C) (1) Not later than ninety days after the effective date 1065
of this section, the commission shall promulgate rules as 1066
necessary to begin the implementation of this section. 1067

(2) Not later than two hundred seventy-five days after the 1068
effective date of this section, the commission shall promulgate 1069
rules for further implementation and administration of this 1070
section. 1071

Sec. 4928.471. (A) Except as provided in division (D) of 1072
this section, not earlier than thirty days after the effective 1073
date of this section, an electric distribution utility may file 1074
an application to implement a decoupling mechanism for the 2019 1075
calendar year and each calendar year thereafter. For an electric 1076
distribution utility that applies for a decoupling mechanism 1077
under this section, the base distribution rates for residential 1078
and commercial customers shall be decoupled to the base 1079
distribution revenue and revenue resulting from implementation 1080
of section 4928.66 of the Revised Code, excluding program costs 1081
and shared savings, and recovered pursuant to an approved 1082
electric security plan under section 4928.143 of the Revised 1083
Code, as of the twelve-month period ending on December 31, 2018. 1084
An application under this division shall not be considered an 1085
application under section 4909.18 of the Revised Code. 1086

(B) The commission shall issue an order approving an 1087
application for a decoupling mechanism filed under division (A) 1088
of this section not later than sixty days after the application 1089
is filed. In determining that an application is not unjust and 1090
unreasonable, the commission shall verify that the rate schedule 1091
or schedules are designed to recover the electric distribution 1092
utility's 2018 annual revenues as described in division (A) of 1093

this section and that the decoupling rate design is aligned with 1094
the rate design of the electric distribution utility's existing 1095
base distribution rates. The decoupling mechanism shall recover 1096
an amount equal to the base distribution revenue and revenue 1097
resulting from implementation of section 4928.66 of the Revised 1098
Code, excluding program costs and shared savings, and recovered 1099
pursuant to an approved electric security plan under section 1100
4928.143 of the Revised Code, as of the twelve-month period 1101
ending on December 31, 2018. The decoupling mechanism shall be 1102
adjusted annually thereafter to reconcile any over recovery or 1103
under recovery from the prior year and to enable an electric 1104
distribution utility to recover the same level of revenues 1105
described in division (A) of this section in each year. 1106

(C) The commission's approval of a decoupling mechanism 1107
under this section shall not affect any other rates, riders, 1108
charges, schedules, classifications, or services previously 1109
approved by the commission. The decoupling mechanism shall 1110
remain in effect until the next time that the electric 1111
distribution utility applies for and the commission approves 1112
base distribution rates for the utility under section 4909.18 of 1113
the Revised Code. 1114

(D) If the commission determines that approving a 1115
decoupling mechanism will result in a double recovery by the 1116
electric distribution utility, the commission shall not approve 1117
the decoupling mechanism. 1118

(E) Divisions (A), (B), and (C) of this section shall not 1119
apply to an electric distribution utility that has base 1120
distribution rates that became effective between December 31, 1121
2018, and the effective date of this section pursuant to an 1122
application for an increase in base distribution rates filed 1123

under section 4909.18 of the Revised Code. 1124

Sec. 4928.644. (A) The public utilities commission may 1125
reduce either baseline described in section 4928.643 of the 1126
Revised Code to adjust for new economic growth in the electric 1127
distribution utility's certified territory or in the electric 1128
services company's service area in this state. 1129

(B) For an electric distribution utility and an electric 1130
services company, neither baseline shall include the load and 1131
usage of a customer who is subject to the monthly charge 1132
established under section 3706.47 of the Revised Code unless or 1133
until the customer opts to pay the charge associated with 1134
compliance with section 4928.64 of the Revised Code. 1135

Sec. 4928.646. (A) As used in this section, "clean air 1136
resource" has the same meaning as in section 3706.40 of the 1137
Revised Code. 1138

(B) The Ohio air quality development authority may 1139
annually purchase, sell, hold, or retire any renewable energy 1140
credits produced by a renewable energy resource in this state 1141
with any funds remaining in the Ohio clean air program fund, 1142
created under section 3706.46 of the Revised Code, after the 1143
funds are used to provide the required benefits to clean air 1144
resources. 1145

Sec. 4928.647. Subject to approval by the public utilities 1146
commission and regardless of any limitations set forth in any 1147
other section of Chapter 4928. of the Revised Code, an electric 1148
distribution utility may offer a customer the opportunity to 1149
purchase renewable energy services on a nondiscriminatory basis, 1150
by doing either of the following: 1151

(A) (1) An electric distribution utility may seek approval 1152

from the commission to establish a schedule or schedules 1153
applicable to residential, commercial, industrial, or other 1154
customers and provide a customer the opportunity to purchase 1155
renewable energy credits for any purpose the customer elects. 1156

(2) The commission shall not approve any schedule unless 1157
it determines both of the following: 1158

(a) The proposed schedule or schedules do not create an 1159
undue burden or unreasonable preference or disadvantage to 1160
nonparticipating customers. 1161

(b) The electric distribution utility seeking approval 1162
commits to comply with any conditions the commission may impose 1163
to ensure that the electric distribution utility and any 1164
participating customers are solely responsible for the risks, 1165
costs, and benefits of any schedule or schedules. 1166

(B) (1) Consistent with section 4905.31 of the Revised 1167
Code, an electric distribution utility, a customer, or a group 1168
of customers may seek approval of a nondiscriminatory schedule 1169
or reasonable arrangement involving the production and supply of 1170
renewable energy, including long-term renewable energy purchase 1171
agreements through which an electric distribution utility may 1172
construct, lease, finance, or operate renewable energy resources 1173
dedicated to that customer or customers. 1174

(2) The commission shall not approve any schedule or 1175
arrangement unless it determines both of the following: 1176

(a) The proposed schedule or arrangement does not create 1177
an undue burden or unreasonable preference or disadvantage to 1178
nonparticipating customers. 1179

(b) The electric distribution utility seeking approval 1180
commits to comply with any conditions the commission may impose 1181

to ensure that the electric distribution utility and any 1182
participating customers are solely responsible for the risks, 1183
costs, and benefits of any schedule or reasonable arrangement. 1184

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 1185
distribution utility shall implement energy efficiency programs 1186
that achieve energy savings equivalent to at least three-tenths 1187
of one per cent of the total, annual average, and normalized 1188
kilowatt-hour sales of the electric distribution utility during 1189
the preceding three calendar years to customers in this state. 1190
An energy efficiency program may include a combined heat and 1191
power system placed into service or retrofitted on or after the 1192
effective date of the amendment of this section by S.B. 315 of 1193
the 129th general assembly, September 10, 2012, or a waste 1194
energy recovery system placed into service or retrofitted on or 1195
after September 10, 2012, except that a waste energy recovery 1196
system described in division (A) (38) (b) of section 4928.01 of 1197
the Revised Code may be included only if it was placed into 1198
service between January 1, 2002, and December 31, 2004. For a 1199
waste energy recovery or combined heat and power system, the 1200
savings shall be as estimated by the public utilities 1201
commission. The savings requirement, using such a three-year 1202
average, shall increase to an additional five-tenths of one per 1203
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1204
of one per cent in 2012, nine-tenths of one per cent in 2013, 1205
and one per cent in 2014. In 2015 and 2016, an electric 1206
distribution utility shall achieve energy savings equal to the 1207
result of subtracting the cumulative energy savings achieved 1208
since 2009 from the product of multiplying the baseline for 1209
energy savings, described in division (A) (2) (a) of this section, 1210
by four and two-tenths of one per cent. If the result is zero or 1211
less for the year for which the calculation is being made, the 1212

utility shall not be required to achieve additional energy 1213
savings for that year, but may achieve additional energy savings 1214
for that year. ~~Thereafter, the~~ The annual savings requirements 1215
shall be, for years 2017, 2018, 2019, and 2020, an additional 1216
one per cent of the baseline, ~~and two per cent each year~~ 1217
~~thereafter, achieving cumulative energy savings in excess of~~ 1218
~~twenty-two per cent by the end of 2027.~~ For purposes of a waste 1219
energy recovery or combined heat and power system, an electric 1220
distribution utility shall not apply more than the total annual 1221
percentage of the electric distribution utility's industrial- 1222
customer load, relative to the electric distribution utility's 1223
total load, to the annual energy savings requirement. 1224

(b) Beginning in 2009, an electric distribution utility 1225
shall implement peak demand reduction programs designed to 1226
achieve a one per cent reduction in peak demand in 2009 and an 1227
additional seventy-five hundredths of one per cent reduction 1228
each year through 2014. In 2015 and 2016, an electric 1229
distribution utility shall achieve a reduction in peak demand 1230
equal to the result of subtracting the cumulative peak demand 1231
reductions achieved since 2009 from the product of multiplying 1232
the baseline for peak demand reduction, described in division 1233
(A) (2) (a) of this section, by four and seventy-five hundredths 1234
of one per cent. If the result is zero or less for the year for 1235
which the calculation is being made, the utility shall not be 1236
required to achieve an additional reduction in peak demand for 1237
that year, but may achieve an additional reduction in peak 1238
demand for that year. In 2017 and each year thereafter through 1239
2020, the utility shall achieve an additional seventy-five 1240
hundredths of one per cent reduction in peak demand. 1241

(2) For the purposes of divisions (A) (1) (a) and (b) of 1242
this section: 1243

(a) The baseline for energy savings under division (A) (1) 1244
(a) of this section shall be the average of the total kilowatt 1245
hours the electric distribution utility sold in the preceding 1246
three calendar years. The baseline for a peak demand reduction 1247
under division (A) (1) (b) of this section shall be the average 1248
peak demand on the utility in the preceding three calendar 1249
years, except that the commission may reduce either baseline to 1250
adjust for new economic growth in the utility's certified 1251
territory. Neither baseline shall include the load and usage of 1252
any of the following customers: 1253

(i) Beginning January 1, 2017, a customer for which a 1254
reasonable arrangement has been approved under section 4905.31 1255
of the Revised Code; 1256

(ii) A customer that has opted out of the utility's 1257
portfolio plan under section 4928.6611 of the Revised Code; 1258

(iii) A customer that has opted out of the utility's 1259
portfolio plan under Section 8 of S.B. 310 of the 130th general 1260
assembly. 1261

(b) The commission may amend the benchmarks set forth in 1262
division (A) (1) (a) or (b) of this section if, after application 1263
by the electric distribution utility, the commission determines 1264
that the amendment is necessary because the utility cannot 1265
reasonably achieve the benchmarks due to regulatory, economic, 1266
or technological reasons beyond its reasonable control. 1267

(c) Compliance with divisions (A) (1) (a) and (b) of this 1268
section shall be measured by including the effects of all 1269
demand-response programs for mercantile customers of the subject 1270
electric distribution utility, all waste energy recovery systems 1271
and all combined heat and power systems, and all such mercantile 1272

customer-sited energy efficiency, including waste energy 1273
recovery and combined heat and power, and peak demand reduction 1274
programs, adjusted upward by the appropriate loss factors. Any 1275
mechanism designed to recover the cost of energy efficiency, 1276
including waste energy recovery and combined heat and power, and 1277
peak demand reduction programs under divisions (A) (1) (a) and (b) 1278
of this section may exempt mercantile customers that commit 1279
their demand-response or other customer-sited capabilities, 1280
whether existing or new, for integration into the electric 1281
distribution utility's demand-response, energy efficiency, 1282
including waste energy recovery and combined heat and power, or 1283
peak demand reduction programs, if the commission determines 1284
that that exemption reasonably encourages such customers to 1285
commit those capabilities to those programs. If a mercantile 1286
customer makes such existing or new demand-response, energy 1287
efficiency, including waste energy recovery and combined heat 1288
and power, or peak demand reduction capability available to an 1289
electric distribution utility pursuant to division (A) (2) (c) of 1290
this section, the electric utility's baseline under division (A) 1291
(2) (a) of this section shall be adjusted to exclude the effects 1292
of all such demand-response, energy efficiency, including waste 1293
energy recovery and combined heat and power, or peak demand 1294
reduction programs that may have existed during the period used 1295
to establish the baseline. The baseline also shall be normalized 1296
for changes in numbers of customers, sales, weather, peak 1297
demand, and other appropriate factors so that the compliance 1298
measurement is not unduly influenced by factors outside the 1299
control of the electric distribution utility. 1300

(d) (i) Programs implemented by a utility may include the 1301
following: 1302

(I) Demand-response programs; 1303

(II) Smart grid investment programs, provided that such programs are demonstrated to be cost-beneficial; 1304
1305

(III) Customer-sited programs, including waste energy recovery and combined heat and power systems; 1306
1307

(IV) Transmission and distribution infrastructure improvements that reduce line losses; 1308
1309

(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. 1310
1311
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(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. 1317
1318
1319

(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. 1320
1321
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(e) No programs or improvements described in division (A) (2) (d) of this section shall conflict with any statewide building code adopted by the board of building standards. 1328
1329
1330

(B) In accordance with rules it shall adopt, the public utilities commission shall produce and docket at the commission 1331
1332

an annual report containing the results of its verification of 1333
the annual levels of energy efficiency and of peak demand 1334
reductions achieved by each electric distribution utility 1335
pursuant to division (A) of this section. A copy of the report 1336
shall be provided to the consumers' counsel. 1337

(C) If the commission determines, after notice and 1338
opportunity for hearing and based upon its report under division 1339
(B) of this section, that an electric distribution utility has 1340
failed to comply with an energy efficiency or peak demand 1341
reduction requirement of division (A) of this section, the 1342
commission shall assess a forfeiture on the utility as provided 1343
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 1344
Code, either in the amount, per day per undercompliance or 1345
noncompliance, relative to the period of the report, equal to 1346
that prescribed for noncompliances under section 4905.54 of the 1347
Revised Code, or in an amount equal to the then existing market 1348
value of one renewable energy credit per megawatt hour of 1349
undercompliance or noncompliance. Revenue from any forfeiture 1350
assessed under this division shall be deposited to the credit of 1351
the advanced energy fund created under section 4928.61 of the 1352
Revised Code. 1353

(D) The commission may establish rules regarding the 1354
content of an application by an electric distribution utility 1355
for commission approval of a revenue decoupling mechanism under 1356
this division. Such an application shall not be considered an 1357
application to increase rates and may be included as part of a 1358
proposal to establish, continue, or expand energy efficiency or 1359
conservation programs. The commission by order may approve an 1360
application under this division if it determines both that the 1361
revenue decoupling mechanism provides for the recovery of 1362
revenue that otherwise may be forgone by the utility as a result 1363

of or in connection with the implementation by the electric 1364
distribution utility of any energy efficiency or energy 1365
conservation programs and reasonably aligns the interests of the 1366
utility and of its customers in favor of those programs. 1367

(E) The commission additionally shall adopt rules that 1368
require an electric distribution utility to provide a customer 1369
upon request with two years' consumption data in an accessible 1370
form. 1371

(F) (1) All the terms and conditions of an electric 1372
distribution utility's portfolio plan in effect as of the 1373
effective date of the amendments to this section by H.B. 6 of 1374
the 133rd general assembly shall remain in place through 1375
December 31, 2020, and terminate on that date. 1376

(2) If a portfolio plan is extended beyond its commission- 1377
approved term by division (F) (1) of this section, the existing 1378
plan's budget shall be increased for the extended term to 1379
include an amount equal to the annual average of the approved 1380
budget for all years of the portfolio plan in effect as of the 1381
effective date of the amendments to this section by H.B. 6 of 1382
the 133rd general assembly. 1383

(3) All other terms and conditions of a portfolio plan 1384
extended beyond its commission-approved term by division (F) (1) 1385
of this section shall remain the same unless changes are 1386
authorized by the commission upon the electric distribution 1387
utility's request. 1388

(G) All requirements imposed and all programs implemented 1389
under this section shall terminate on December 31, 2020, 1390
provided an electric distribution utility recovers in the 1391
following year all remaining program costs incurred or to be 1392

incurred, including costs incurred for contractual obligations 1393
and any costs to discontinue the portfolio plan programs, 1394
through applicable tariff schedules or riders in effect on the 1395
effective date of the amendments to this section by H.B. 6 of 1396
the 133rd general assembly. 1397

Sec. 4928.661. (A) Not earlier than January 1, 2020, an 1398
electric distribution utility may submit an application to the 1399
public utilities commission for approval of programs to 1400
encourage energy efficiency or peak demand reduction. The 1401
application may include descriptions of the proposed programs 1402
including all of the following: 1403

(1) The size and scope of the programs; 1404

(2) Applicability of the programs to specific customer 1405
classes; 1406

(3) Recovery of costs and incentives; 1407

(4) Any other information determined by the electric 1408
distribution utility to be appropriate for the commission's 1409
review. 1410

(B) The commission shall issue an order approving or 1411
modifying and approving an application if it finds that the 1412
proposed programs will be cost-effective, in the public 1413
interest, and consistent with state policy as specified in 1414
section 4928.02 of the Revised Code. 1415

(C) Applications submitted and approved under this section 1416
shall not take effect earlier than January 1, 2021. 1417

Sec. 4928.6610. As used in sections 4928.6611 to ~~4928.6616~~ 1418
4928.6615 of the Revised Code: 1419

(A) "Customer" means ~~any~~ either of the following: 1420

<u>(1) Effective January 1, 2020, a mercantile customer as</u>	1421
<u>defined in section 4928.01 of the Revised Code;</u>	1422
<u>(2) Any customer of an electric distribution utility to</u>	1423
<u>which either of the following applies:</u>	1424
(1) <u>(a) The customer receives service above the primary</u>	1425
<u>voltage level as determined by the utility's tariff</u>	1426
<u>classification.</u>	1427
(2) <u>(b) The customer is a commercial or industrial</u>	1428
<u>customer to which both of the following apply:</u>	1429
(a) <u>(i) The customer receives electricity through a meter</u>	1430
<u>of an end user or through more than one meter at a single</u>	1431
<u>location in a quantity that exceeds forty-five million kilowatt</u>	1432
<u>hours of electricity for the preceding calendar year.</u>	1433
(b) <u>(ii) The customer has made a written request for</u>	1434
<u>registration as a self-assessing purchaser pursuant to section</u>	1435
<u>5727.81 of the Revised Code.</u>	1436
(B) "Energy intensity" means the amount of energy, from	1437
electricity, used or consumed per unit of production.	1438
(C) "Portfolio plan" means <u>either of the following:</u>	1439
<u>(1) The comprehensive energy efficiency and peak-demand</u>	1440
<u>reduction program portfolio plan required under rules adopted by</u>	1441
<u>the public utilities commission and codified in Chapter 4901:1-</u>	1442
<u>39 of the Administrative Code or hereafter recodified or</u>	1443
<u>amended;</u>	1444
<u>(2) A plan approved under section 4928.661 of the Revised</u>	1445
<u>Code or under rules adopted under that section.</u>	1446
<u>Sec. 4928.75. Beginning in fiscal year 2021 and each</u>	1447

fiscal year thereafter, the director of development services 1448
shall, in each fiscal year, submit a completed waiver request in 1449
accordance with section 96.83 of Title 45 of the Code of Federal 1450
Regulations to the United States department of health and human 1451
services and any other applicable federal agencies for the state 1452
to expend twenty-five per cent of federal low-income home energy 1453
assistance programs funds from the home energy assistance block 1454
grants for weatherization services allowed by section 96.83(a) 1455
of Title 45 of the Code of Federal Regulations to the United 1456
States department of health and human services. 1457

Sec. 5727.75. (A) For purposes of this section: 1458

(1) "Qualified energy project" means an energy project 1459
certified by the director of development services pursuant to 1460
this section. 1461

(2) "Energy project" means a project to provide electric 1462
power through the construction, installation, and use of an 1463
energy facility. 1464

(3) "Alternative energy zone" means a county declared as 1465
such by the board of county commissioners under division (E) (1) 1466
(b) or (c) of this section. 1467

(4) "Full-time equivalent employee" means the total number 1468
of employee-hours for which compensation was paid to individuals 1469
employed at a qualified energy project for services performed at 1470
the project during the calendar year divided by two thousand 1471
eighty hours. 1472

(5) "Solar energy project" means an energy project 1473
composed of an energy facility using solar panels to generate 1474
electricity. 1475

(6) "Internet identifier of record" has the same meaning 1476

as in section 9.312 of the Revised Code. 1477

(B) (1) Tangible personal property of a qualified energy 1478
project using renewable energy resources is exempt from taxation 1479
for tax years 2011 through 2021 if all of the following 1480
conditions are satisfied: 1481

(a) On or before December 31, 2020, the owner or a lessee 1482
pursuant to a sale and leaseback transaction of the project 1483
submits an application to the power siting board for a 1484
certificate under section 4906.20 of the Revised Code, or if 1485
that section does not apply, submits an application for any 1486
approval, consent, permit, or certificate or satisfies any 1487
condition required by a public agency or political subdivision 1488
of this state for the construction or initial operation of an 1489
energy project. 1490

(b) Construction or installation of the energy facility 1491
begins on or after January 1, 2009, and before January 1, 2021. 1492
For the purposes of this division, construction begins on the 1493
earlier of the date of application for a certificate or other 1494
approval or permit described in division (B) (1) (a) of this 1495
section, or the date the contract for the construction or 1496
installation of the energy facility is entered into. 1497

(c) For a qualified energy project with a nameplate 1498
capacity of ~~five~~twenty megawatts or greater, a board of county 1499
commissioners of a county in which property of the project is 1500
located has adopted a resolution under division (E) (1) (b) or (c) 1501
of this section to approve the application submitted under 1502
division (E) of this section to exempt the property located in 1503
that county from taxation. A board's adoption of a resolution 1504
rejecting an application or its failure to adopt a resolution 1505
approving the application does not affect the tax-exempt status 1506

of the qualified energy project's property that is located in 1507
another county. 1508

(2) If tangible personal property of a qualified energy 1509
project using renewable energy resources was exempt from 1510
taxation under this section beginning in any of tax years 2011 1511
through 2021, and the certification under division (E) (2) of 1512
this section has not been revoked, the tangible personal 1513
property of the qualified energy project is exempt from taxation 1514
for tax year 2022 and all ensuing tax years if the property was 1515
placed into service before January 1, 2022, as certified in the 1516
construction progress report required under division (F) (2) of 1517
this section. Tangible personal property that has not been 1518
placed into service before that date is taxable property subject 1519
to taxation. An energy project for which certification has been 1520
revoked is ineligible for further exemption under this section. 1521
Revocation does not affect the tax-exempt status of the 1522
project's tangible personal property for the tax year in which 1523
revocation occurs or any prior tax year. 1524

(C) Tangible personal property of a qualified energy 1525
project using clean coal technology, advanced nuclear 1526
technology, or cogeneration technology is exempt from taxation 1527
for the first tax year that the property would be listed for 1528
taxation and all subsequent years if all of the following 1529
circumstances are met: 1530

(1) The property was placed into service before January 1, 1531
2021. Tangible personal property that has not been placed into 1532
service before that date is taxable property subject to 1533
taxation. 1534

(2) For such a qualified energy project with a nameplate 1535
capacity of ~~five~~twenty megawatts or greater, a board of county 1536

commissioners of a county in which property of the qualified 1537
energy project is located has adopted a resolution under 1538
division (E) (1) (b) or (c) of this section to approve the 1539
application submitted under division (E) of this section to 1540
exempt the property located in that county from taxation. A 1541
board's adoption of a resolution rejecting the application or 1542
its failure to adopt a resolution approving the application does 1543
not affect the tax-exempt status of the qualified energy 1544
project's property that is located in another county. 1545

(3) The certification for the qualified energy project 1546
issued under division (E) (2) of this section has not been 1547
revoked. An energy project for which certification has been 1548
revoked is ineligible for exemption under this section. 1549
Revocation does not affect the tax-exempt status of the 1550
project's tangible personal property for the tax year in which 1551
revocation occurs or any prior tax year. 1552

(D) Except as otherwise provided in this section, real 1553
property of a qualified energy project is exempt from taxation 1554
for any tax year for which the tangible personal property of the 1555
qualified energy project is exempted under this section. 1556

(E) (1) (a) A person may apply to the director of 1557
development services for certification of an energy project as a 1558
qualified energy project on or before the following dates: 1559

(i) December 31, 2020, for an energy project using 1560
renewable energy resources; 1561

(ii) December 31, 2017, for an energy project using clean 1562
coal technology, advanced nuclear technology, or cogeneration 1563
technology. 1564

(b) The director shall forward a copy of each application 1565

for certification of an energy project with a nameplate capacity 1566
of ~~five~~ twenty megawatts or greater to the board of county 1567
commissioners of each county in which the project is located and 1568
to each taxing unit with territory located in each of the 1569
affected counties. Any board that receives from the director a 1570
copy of an application submitted under this division shall adopt 1571
a resolution approving or rejecting the application unless it 1572
has adopted a resolution under division (E) (1) (c) of this 1573
section. A resolution adopted under division (E) (1) (b) or (c) of 1574
this section may require an annual service payment to be made in 1575
addition to the service payment required under division (G) of 1576
this section. The sum of the service payment required in the 1577
resolution and the service payment required under division (G) 1578
of this section shall not exceed nine thousand dollars per 1579
megawatt of nameplate capacity located in the county. The 1580
resolution shall specify the time and manner in which the 1581
payments required by the resolution shall be paid to the county 1582
treasurer. The county treasurer shall deposit the payment to the 1583
credit of the county's general fund to be used for any purpose 1584
for which money credited to that fund may be used. 1585

The board shall send copies of the resolution to the owner 1586
of the facility and the director by certified mail or, if the 1587
board has record of an internet identifier of record associated 1588
with the owner or director, by ordinary mail and by that 1589
internet identifier of record. The board shall send such notice 1590
within thirty days after receipt of the application, or a longer 1591
period of time if authorized by the director. 1592

(c) A board of county commissioners may adopt a resolution 1593
declaring the county to be an alternative energy zone and 1594
declaring all applications submitted to the director of 1595
development services under this division after the adoption of 1596

the resolution, and prior to its repeal, to be approved by the 1597
board. 1598

All tangible personal property and real property of an 1599
energy project with a nameplate capacity of ~~five~~twenty 1600
megawatts or greater is taxable if it is located in a county in 1601
which the board of county commissioners adopted a resolution 1602
rejecting the application submitted under this division or 1603
failed to adopt a resolution approving the application under 1604
division (E) (1) (b) or (c) of this section. 1605

(2) The director shall certify an energy project if all of 1606
the following circumstances exist: 1607

(a) The application was timely submitted. 1608

(b) For an energy project with a nameplate capacity of 1609
~~five~~twenty megawatts or greater, a board of county 1610
commissioners of at least one county in which the project is 1611
located has adopted a resolution approving the application under 1612
division (E) (1) (b) or (c) of this section. 1613

(c) No portion of the project's facility was used to 1614
supply electricity before December 31, 2009. 1615

(3) The director shall deny a certification application if 1616
the director determines the person has failed to comply with any 1617
requirement under this section. The director may revoke a 1618
certification if the director determines the person, or 1619
subsequent owner or lessee pursuant to a sale and leaseback 1620
transaction of the qualified energy project, has failed to 1621
comply with any requirement under this section. Upon 1622
certification or revocation, the director shall notify the 1623
person, owner, or lessee, the tax commissioner, and the county 1624
auditor of a county in which the project is located of the 1625

certification or revocation. Notice shall be provided in a 1626
manner convenient to the director. 1627

(F) The owner or a lessee pursuant to a sale and leaseback 1628
transaction of a qualified energy project shall do each of the 1629
following: 1630

(1) Comply with all applicable regulations; 1631

(2) File with the director of development services a 1632
certified construction progress report before the first day of 1633
March of each year during the energy facility's construction or 1634
installation indicating the percentage of the project completed, 1635
and the project's nameplate capacity, as of the preceding 1636
thirty-first day of December. Unless otherwise instructed by the 1637
director of development services, the owner or lessee of an 1638
energy project shall file a report with the director on or 1639
before the first day of March each year after completion of the 1640
energy facility's construction or installation indicating the 1641
project's nameplate capacity as of the preceding thirty-first 1642
day of December. Not later than sixty days after June 17, 2010, 1643
the owner or lessee of an energy project, the construction of 1644
which was completed before June 17, 2010, shall file a 1645
certificate indicating the project's nameplate capacity. 1646

(3) File with the director of development services, in a 1647
manner prescribed by the director, a report of the total number 1648
of full-time equivalent employees, and the total number of full- 1649
time equivalent employees domiciled in Ohio, who are employed in 1650
the construction or installation of the energy facility; 1651

(4) For energy projects with a nameplate capacity of ~~five-~~ 1652
twenty megawatts or greater, repair all roads, bridges, and 1653
culverts affected by construction as reasonably required to 1654

restore them to their preconstruction condition, as determined 1655
by the county engineer in consultation with the local 1656
jurisdiction responsible for the roads, bridges, and culverts. 1657
In the event that the county engineer deems any road, bridge, or 1658
culvert to be inadequate to support the construction or 1659
decommissioning of the energy facility, the road, bridge, or 1660
culvert shall be rebuilt or reinforced to the specifications 1661
established by the county engineer prior to the construction or 1662
decommissioning of the facility. The owner or lessee of the 1663
facility shall post a bond in an amount established by the 1664
county engineer and to be held by the board of county 1665
commissioners to ensure funding for repairs of roads, bridges, 1666
and culverts affected during the construction. The bond shall be 1667
released by the board not later than one year after the date the 1668
repairs are completed. The energy facility owner or lessee 1669
pursuant to a sale and leaseback transaction shall post a bond, 1670
as may be required by the Ohio power siting board in the 1671
certificate authorizing commencement of construction issued 1672
pursuant to section 4906.10 of the Revised Code, to ensure 1673
funding for repairs to roads, bridges, and culverts resulting 1674
from decommissioning of the facility. The energy facility owner 1675
or lessee and the county engineer may enter into an agreement 1676
regarding specific transportation plans, reinforcements, 1677
modifications, use and repair of roads, financial security to be 1678
provided, and any other relevant issue. 1679

(5) Provide or facilitate training for fire and emergency 1680
responders for response to emergency situations related to the 1681
energy project and, for energy projects with a nameplate 1682
capacity of ~~five~~twenty megawatts or greater, at the person's 1683
expense, equip the fire and emergency responders with proper 1684
equipment as reasonably required to enable them to respond to 1685

such emergency situations; 1686

(6) Maintain a ratio of Ohio-domiciled full-time 1687
equivalent employees employed in the construction or 1688
installation of the energy project to total full-time equivalent 1689
employees employed in the construction or installation of the 1690
energy project of not less than eighty per cent in the case of a 1691
solar energy project, and not less than fifty per cent in the 1692
case of any other energy project. In the case of an energy 1693
project for which certification from the power siting board is 1694
required under section 4906.20 of the Revised Code, the number 1695
of full-time equivalent employees employed in the construction 1696
or installation of the energy project equals the number actually 1697
employed or the number projected to be employed in the 1698
certificate application, if such projection is required under 1699
regulations adopted pursuant to section 4906.03 of the Revised 1700
Code, whichever is greater. For all other energy projects, the 1701
number of full-time equivalent employees employed in the 1702
construction or installation of the energy project equals the 1703
number actually employed or the number projected to be employed 1704
by the director of development services, whichever is greater. 1705
To estimate the number of employees to be employed in the 1706
construction or installation of an energy project, the director 1707
shall use a generally accepted job-estimating model in use for 1708
renewable energy projects, including but not limited to the job 1709
and economic development impact model. The director may adjust 1710
an estimate produced by a model to account for variables not 1711
accounted for by the model. 1712

(7) For energy projects with a nameplate capacity in 1713
excess of ~~two~~ twenty megawatts, establish a relationship with a 1714
member of the university system of Ohio as defined in section 1715
3345.011 of the Revised Code or with a person offering an 1716

apprenticeship program registered with the employment and 1717
training administration within the United States department of 1718
labor or with the apprenticeship council created by section 1719
4139.02 of the Revised Code, to educate and train individuals 1720
for careers in the wind or solar energy industry. The 1721
relationship may include endowments, cooperative programs, 1722
internships, apprenticeships, research and development projects, 1723
and curriculum development. 1724

(8) Offer to sell power or renewable energy credits from 1725
the energy project to electric distribution utilities or 1726
electric service companies subject to renewable energy resource 1727
requirements under section 4928.64 of the Revised Code that have 1728
issued requests for proposal for such power or renewable energy 1729
credits. If no electric distribution utility or electric service 1730
company issues a request for proposal on or before December 31, 1731
2010, or accepts an offer for power or renewable energy credits 1732
within forty-five days after the offer is submitted, power or 1733
renewable energy credits from the energy project may be sold to 1734
other persons. Division (F)(8) of this section does not apply 1735
if: 1736

(a) The owner or lessee is a rural electric company or a 1737
municipal power agency as defined in section 3734.058 of the 1738
Revised Code. 1739

(b) The owner or lessee is a person that, before 1740
completion of the energy project, contracted for the sale of 1741
power or renewable energy credits with a rural electric company 1742
or a municipal power agency. 1743

(c) The owner or lessee contracts for the sale of power or 1744
renewable energy credits from the energy project before June 17, 1745
2010. 1746

(9) Make annual service payments as required by division 1747
(G) of this section and as may be required in a resolution 1748
adopted by a board of county commissioners under division (E) of 1749
this section. 1750

(G) The owner or a lessee pursuant to a sale and leaseback 1751
transaction of a qualified energy project shall make annual 1752
service payments in lieu of taxes to the county treasurer on or 1753
before the final dates for payments of taxes on public utility 1754
personal property on the real and public utility personal 1755
property tax list for each tax year for which property of the 1756
energy project is exempt from taxation under this section. The 1757
county treasurer shall allocate the payment on the basis of the 1758
project's physical location. Upon receipt of a payment, or if 1759
timely payment has not been received, the county treasurer shall 1760
certify such receipt or non-receipt to the director of 1761
development services and tax commissioner in a form determined 1762
by the director and commissioner, respectively. Each payment 1763
shall be in the following amount: 1764

(1) In the case of a solar energy project, seven thousand 1765
dollars per megawatt of nameplate capacity located in the county 1766
as of December 31, 2010, for tax year 2011, as of December 31, 1767
2011, for tax year 2012, as of December 31, 2012, for tax year 1768
2013, as of December 31, 2013, for tax year 2014, as of December 1769
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1770
year 2016, and as of December 31, 2016, for tax year 2017 and 1771
each tax year thereafter; 1772

(2) In the case of any other energy project using 1773
renewable energy resources, the following: 1774

(a) If the project maintains during the construction or 1775
installation of the energy facility a ratio of Ohio-domiciled 1776

full-time equivalent employees to total full-time equivalent 1777
employees of not less than seventy-five per cent, six thousand 1778
dollars per megawatt of nameplate capacity located in the county 1779
as of the thirty-first day of December of the preceding tax 1780
year; 1781

(b) If the project maintains during the construction or 1782
installation of the energy facility a ratio of Ohio-domiciled 1783
full-time equivalent employees to total full-time equivalent 1784
employees of less than seventy-five per cent but not less than 1785
sixty per cent, seven thousand dollars per megawatt of nameplate 1786
capacity located in the county as of the thirty-first day of 1787
December of the preceding tax year; 1788

(c) If the project maintains during the construction or 1789
installation of the energy facility a ratio of Ohio-domiciled 1790
full-time equivalent employees to total full-time equivalent 1791
employees of less than sixty per cent but not less than fifty 1792
per cent, eight thousand dollars per megawatt of nameplate 1793
capacity located in the county as of the thirty-first day of 1794
December of the preceding tax year. 1795

(3) In the case of an energy project using clean coal 1796
technology, advanced nuclear technology, or cogeneration 1797
technology, the following: 1798

(a) If the project maintains during the construction or 1799
installation of the energy facility a ratio of Ohio-domiciled 1800
full-time equivalent employees to total full-time equivalent 1801
employees of not less than seventy-five per cent, six thousand 1802
dollars per megawatt of nameplate capacity located in the county 1803
as of the thirty-first day of December of the preceding tax 1804
year; 1805

(b) If the project maintains during the construction or 1806
installation of the energy facility a ratio of Ohio-domiciled 1807
full-time equivalent employees to total full-time equivalent 1808
employees of less than seventy-five per cent but not less than 1809
sixty per cent, seven thousand dollars per megawatt of nameplate 1810
capacity located in the county as of the thirty-first day of 1811
December of the preceding tax year; 1812

(c) If the project maintains during the construction or 1813
installation of the energy facility a ratio of Ohio-domiciled 1814
full-time equivalent employees to total full-time equivalent 1815
employees of less than sixty per cent but not less than fifty 1816
per cent, eight thousand dollars per megawatt of nameplate 1817
capacity located in the county as of the thirty-first day of 1818
December of the preceding tax year. 1819

(H) The director of development services in consultation 1820
with the tax commissioner shall adopt rules pursuant to Chapter 1821
119. of the Revised Code to implement and enforce this section. 1822

Section 2. That existing sections 303.213, 519.213, 1823
713.081, 3706.02, 3706.03, 4906.13, 4928.01, 4928.644, 4928.66, 1824
4928.6610, and 5727.75 of the Revised Code are hereby repealed. 1825

Section 3. That section 4928.6616 of the Revised Code is 1826
hereby repealed. 1827

Section 4. (A) Not earlier than two years after the 1828
effective date of this section, the Director of Environmental 1829
Protection may apply to the Administrator of the United States 1830
Environmental Protection Agency for an exemption from the 1831
requirement to implement the decentralized motor vehicle 1832
inspection and maintenance program established under section 1833
3704.14 of the Revised Code. In making the application and for 1834

purposes of complying with the "Federal Clean Air Act," the 1835
Director shall request the Administrator to authorize the 1836
implementation of the Ohio Clean Air Program established by this 1837
act as an alternative to the decentralized program in those 1838
areas of the state where the program is currently operating. 1839

(B) As used in this section, "Federal Clean Air Act" has 1840
the same meaning as in section 3704.01 of the Revised Code. 1841

Section 5. If any provisions of a section as amended or 1842
enacted by this act, or the application thereof to any person or 1843
circumstance is held invalid, the invalidity does not affect 1844
other provisions or applications of the section or related 1845
sections that can be given effect without the invalid provision 1846
or application, and to this end the provisions are severable. 1847

Section 6. The amendment by this act of section 5725.75 of 1848
the Revised Code applies to both of the following: 1849

(A) Energy projects certified by the Director of 1850
Development Services on or after the effective date of this 1851
section; 1852

(B) Existing qualified energy projects that, on the 1853
effective date of this section, have a nameplate capacity of 1854
fewer than five megawatts. 1855