

Sub. H.B. 6  
I\_133\_0905-14

**Topic:** Renewable energy standards and wind turbine siting

\_\_\_\_\_ moved to amend as follows:

In line 2 of the title, after "4906.13," insert "4906.20, 1  
4906.201,"; delete "4928.644" and insert "4928.20, 4928.61, 2  
4928.64, 4928.643, 4928.645, 4928.65" 3

In line 5 of the title, delete "3706.471," 4

In line 15 of the title, delete "and" and insert "to" 5

In line 18 of the title, after "state" insert ", and to alter 6  
the minimum setback requirement for certain wind farms" 7

In line 20, after "4906.13," insert "4906.20, 4906.201,"; 8  
delete "4928.644" and insert "4928.20, 4928.61, 4928.64, 4928.643, 9  
4928.645, 4928.65" 10

In line 22, delete "3706.471," 11

Delete lines 493 through 512 12

After line 613, insert: 13

"**Sec. 4906.20.** (A) No person shall commence to construct an 14  
economically significant wind farm in this state without first 15  
having obtained a certificate from the power siting board. An 16  
economically significant wind farm with respect to which such a 17  
certificate is required shall be constructed, operated, and 18

maintained in conformity with that certificate and any terms, 19  
 conditions, and modifications it contains. A certificate shall be 20  
 issued only pursuant to this section. The certificate may be 21  
 transferred, subject to the approval of the board, to a person 22  
 that agrees to comply with those terms, conditions, and 23  
 modifications. 24

(B) The board shall adopt rules governing the certificating 25  
 of economically significant wind farms under this section. Initial 26  
 rules shall be adopted within one hundred twenty days after June 27  
 24, 2008. 28

(1) The rules shall provide for an application process for 29  
 certificating economically significant wind farms that is 30  
 identical to the extent practicable to the process applicable to 31  
 certificating major utility facilities under sections 4906.06- 32  
~~4906.07, 4906.08, 4906.09, 4906.10, 4906.11,~~ and to 4906.12 of the 33  
 Revised Code and shall prescribe a reasonable schedule of 34  
 application filing fees structured in the manner of the schedule 35  
 of filing fees required for major utility facilities. 36

(2) Additionally, the rules shall prescribe reasonable 37  
 regulations regarding any wind turbines and associated facilities 38  
 of an economically significant wind farm, including, but not 39  
 limited to, their location, erection, construction, 40  
 reconstruction, change, alteration, maintenance, removal, use, or 41  
 enlargement and including erosion control, aesthetics, 42  
 recreational land use, wildlife protection, interconnection with 43  
 power lines and with regional transmission organizations, 44  
 independent transmission system operators, or similar 45  
 organizations, ice throw, sound and noise levels, blade shear, 46  
 shadow flicker, decommissioning, and necessary cooperation for 47  
 site visits and enforcement investigations. 48

(a) The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and be at least one thousand one hundred twenty-five feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to ~~property line~~ the exterior of the nearest habitable residential structure, if any, located on adjacent property at the time of the certification application.

(b)(i) For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

(ii) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483 of the 130th general assembly, September 15, 2014, and before the effective date of the amendment of this section by ...B... of the 133rd general assembly shall be subject to the setback provision of this section as amended by ~~that act~~ H.B. 483 of the 130th general assembly. The amendments to this section by ~~that act~~ H.B. 483 of the 130th general assembly shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

(iii) Any amendment made to an existing certificate after the effective date of the amendment of this section by ...B... of the

133rd general assembly shall be subject to the setback provision 79  
of this section as amended by that act. The amendments to this 80  
section by that act shall not be construed to limit or abridge any 81  
rights or remedies in equity or under the common law. 82

(c) The setback shall apply in all cases except those in 83  
 which all owners of property adjacent to the wind farm property 84  
 waive application of the setback to that property pursuant to a 85  
 procedure the board shall establish by rule and except in which, 86  
 in a particular case, the board determines that a setback greater 87  
 than the minimum is necessary. 88

**Sec. 4906.201.** (A) An electric generating plant that consists 89  
 of wind turbines and associated facilities with a single 90  
 interconnection to the electrical grid that is designed for, or 91  
 capable of, operation at an aggregate capacity of fifty megawatts 92  
 or more is subject to the minimum setback requirements established 93  
 in rules adopted by the power siting board under division (B)(2) 94  
 of section 4906.20 of the Revised Code. 95

(B)(1) For any existing certificates and amendments thereto, 96  
 and existing certification applications that have been found by 97  
 the chairperson to be in compliance with division (A) of section 98  
 4906.06 of the Revised Code before the effective date of the 99  
 amendment of this section by H.B. 59 of the 130th general 100  
 assembly, September 29, 2013, the distance shall be seven hundred 101  
 fifty feet instead of one thousand one hundred twenty-five feet. 102

(2) Any amendment made to an existing certificate after the 103  
 effective date of the amendment of this section by H.B. 483 of the 104  
 130th general assembly, September 15, 2014, and before the 105  
effective date of the amendment of this section by ...B... of the 106  
133rd general assembly shall be subject to the setback provision 107

of this section as amended by ~~that act~~ H.B. 483 of the 130th 108  
general assembly. The amendments to this section by ~~that act~~ H.B. 109  
483 of the 130th general assembly shall not be construed to limit 110  
or abridge any rights or remedies in equity or under the common 111  
law. 112

(3) Any amendment made to an existing certificate after the 113  
effective date of the amendment of this section by ...B... of the 114  
133rd general assembly shall be subject to the setback provision 115  
of this section as amended by that act. The amendments to this 116  
section by that act shall not be construed to limit or abridge any 117  
rights or remedies in equity or under the common law." 118

After line 1010, insert: 119

"**Sec. 4928.20.** (A) The legislative authority of a municipal 120  
corporation may adopt an ordinance, or the board of township 121  
trustees of a township or the board of county commissioners of a 122  
county may adopt a resolution, under which, on or after the 123  
starting date of competitive retail electric service, it may 124  
aggregate in accordance with this section the retail electrical 125  
loads located, respectively, within the municipal corporation, 126  
township, or unincorporated area of the county and, for that 127  
purpose, may enter into service agreements to facilitate for those 128  
loads the sale and purchase of electricity. The legislative 129  
authority or board also may exercise such authority jointly with 130  
any other such legislative authority or board. For customers that 131  
are not mercantile customers, an ordinance or resolution under 132  
this division shall specify whether the aggregation will occur 133  
only with the prior, affirmative consent of each person owning, 134  
occupying, controlling, or using an electric load center proposed 135  
to be aggregated or will occur automatically for all such persons 136  
pursuant to the opt-out requirements of division (D) of this 137

section. The aggregation of mercantile customers shall occur only 138  
with the prior, affirmative consent of each such person owning, 139  
occupying, controlling, or using an electric load center proposed 140  
to be aggregated. Nothing in this division, however, authorizes 141  
the aggregation of the retail electric loads of an electric load 142  
center, as defined in section 4933.81 of the Revised Code, that is 143  
located in the certified territory of a nonprofit electric 144  
supplier under sections 4933.81 to 4933.90 of the Revised Code or 145  
an electric load center served by transmission or distribution 146  
facilities of a municipal electric utility. 147

(B) If an ordinance or resolution adopted under division (A) 148  
of this section specifies that aggregation of customers that are 149  
not mercantile customers will occur automatically as described in 150  
that division, the ordinance or resolution shall direct the board 151  
of elections to submit the question of the authority to aggregate 152  
to the electors of the respective municipal corporation, township, 153  
or unincorporated area of a county at a special election on the 154  
day of the next primary or general election in the municipal 155  
corporation, township, or county. The legislative authority or 156  
board shall certify a copy of the ordinance or resolution to the 157  
board of elections not less than ninety days before the day of the 158  
special election. No ordinance or resolution adopted under 159  
division (A) of this section that provides for an election under 160  
this division shall take effect unless approved by a majority of 161  
the electors voting upon the ordinance or resolution at the 162  
election held pursuant to this division. 163

(C) Upon the applicable requisite authority under divisions 164  
(A) and (B) of this section, the legislative authority or board 165  
shall develop a plan of operation and governance for the 166  
aggregation program so authorized. Before adopting a plan under 167  
this division, the legislative authority or board shall hold at 168

least two public hearings on the plan. Before the first hearing, 169  
the legislative authority or board shall publish notice of the 170  
hearings once a week for two consecutive weeks in a newspaper of 171  
general circulation in the jurisdiction or as provided in section 172  
7.16 of the Revised Code. The notice shall summarize the plan and 173  
state the date, time, and location of each hearing. 174

(D) No legislative authority or board, pursuant to an 175  
ordinance or resolution under divisions (A) and (B) of this 176  
section that provides for automatic aggregation of customers that 177  
are not mercantile customers as described in division (A) of this 178  
section, shall aggregate the electrical load of any electric load 179  
center located within its jurisdiction unless it in advance 180  
clearly discloses to the person owning, occupying, controlling, or 181  
using the load center that the person will be enrolled 182  
automatically in the aggregation program and will remain so 183  
enrolled unless the person affirmatively elects by a stated 184  
procedure not to be so enrolled. The disclosure shall state 185  
prominently the rates, charges, and other terms and conditions of 186  
enrollment. The stated procedure shall allow any person enrolled 187  
in the aggregation program the opportunity to opt out of the 188  
program every three years, without paying a switching fee. Any 189  
such person that opts out before the commencement of the 190  
aggregation program pursuant to the stated procedure shall default 191  
to the standard service offer provided under section 4928.14 or 192  
division (D) of section 4928.35 of the Revised Code until the 193  
person chooses an alternative supplier. 194

(E)(1) With respect to a governmental aggregation for a 195  
municipal corporation that is authorized pursuant to divisions (A) 196  
to (D) of this section, resolutions may be proposed by initiative 197  
or referendum petitions in accordance with sections 731.28 to 198  
731.41 of the Revised Code. 199

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its



aggregation the accounts of any of the following:	230
(1) A customer that has opted out of the aggregation;	231
(2) A customer in contract with a certified electric services company;	232 233
(3) A customer that has a special contract with an electric distribution utility;	234 235
(4) A customer that is not located within the governmental aggregator's governmental boundaries;	236 237
(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.	238 239 240
(I) Customers that are part of a governmental aggregation under this section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation as a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code. Nothing in this section shall result in less than the full and timely imposition, charging, collection, and adjustment by an electric distribution utility, its assignee, or any collection agent, of the phase-in-recovery charges authorized pursuant to a final financing order issued pursuant to sections 4928.23 to 4928.2318 of the Revised Code.	241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258

(J) On behalf of the customers that are part of a 259  
governmental aggregation under this section and by filing written 260  
notice with the public utilities commission, the legislative 261  
authority that formed or is forming that governmental aggregation 262  
may elect not to receive standby service within the meaning of 263  
division (B)(2)(d) of section 4928.143 of the Revised Code from an 264  
electric distribution utility in whose certified territory the 265  
governmental aggregation is located and that operates under an 266  
approved electric security plan under that section. Upon the 267  
filing of that notice, the electric distribution utility shall not 268  
charge any such customer to whom competitive retail electric 269  
generation service is provided by another supplier under the 270  
governmental aggregation for the standby service. Any such 271  
consumer that returns to the utility for competitive retail 272  
electric service shall pay the market price of power incurred by 273  
the utility to serve that consumer plus any amount attributable to 274  
the utility's cost of compliance with the ~~renewable energy~~ 275  
~~resource provisions of Ohio generation and jobs incentive program~~ 276  
under section 4928.64 of the Revised Code to serve the consumer. 277  
Such market price shall include, but not be limited to, capacity 278  
and energy charges; all charges associated with the provision of 279  
that power supply through the regional transmission organization, 280  
including, but not limited to, transmission, ancillary services, 281  
congestion, and settlement and administrative charges; and all 282  
other costs incurred by the utility that are associated with the 283  
procurement, provision, and administration of that power supply, 284  
as such costs may be approved by the commission. The period of 285  
time during which the market price and renewable energy resource 286  
amount shall be so assessed on the consumer shall be from the time 287  
the consumer so returns to the electric distribution utility until 288  
the expiration of the electric security plan. However, if that 289

period of time is expected to be more than two years, the 290  
 commission may reduce the time period to a period of not less than 291  
 two years. 292

(K) The commission shall adopt rules to encourage and promote 293  
 large-scale governmental aggregation in this state. For that 294  
 purpose, the commission shall conduct an immediate review of any 295  
 rules it has adopted for the purpose of this section that are in 296  
 effect on the effective date of the amendment of this section by 297  
 S.B. 221 of the 127th general assembly, July 31, 2008. Further, 298  
 within the context of an electric security plan under section 299  
 4928.143 of the Revised Code, the commission shall consider the 300  
 effect on large-scale governmental aggregation of any 301  
 nonbypassable generation charges, however collected, that would be 302  
 established under that plan, except any nonbypassable generation 303  
 charges that relate to any cost incurred by the electric 304  
 distribution utility, the deferral of which has been authorized by 305  
 the commission prior to the effective date of the amendment of 306  
 this section by S.B. 221 of the 127th general assembly, July 31, 307  
 2008." 308

In line 1063, after "with" insert "the Ohio generation and 309  
jobs incentive program under" 310

After line 1124, insert: 311

"**Sec. 4928.61.** (A) There is hereby established in the state 312  
 treasury the advanced energy fund, into which shall be deposited 313  
 all advanced energy revenues remitted to the director of 314  
 development under division (B) of this section, for the exclusive 315  
 purposes of funding the advanced energy program created under 316  
 section 4928.62 of the Revised Code and paying the program's 317  
 administrative costs. Interest on the fund shall be credited to 318  
 the fund. 319

(B) Advanced energy revenues shall include all of the 320  
following: 321

(1) Revenues remitted to the director after collection by 322  
each electric distribution utility in this state of a temporary 323  
rider on retail electric distribution service rates as such rates 324  
are determined by the public utilities commission pursuant to this 325  
chapter. The rider shall be a uniform amount statewide, determined 326  
by the director of development, after consultation with the public 327  
benefits advisory board created by section 4928.58 of the Revised 328  
Code. The amount shall be determined by dividing an aggregate 329  
revenue target for a given year as determined by the director, 330  
after consultation with the advisory board, by the number of 331  
customers of electric distribution utilities in this state in the 332  
prior year. Such aggregate revenue target shall not exceed more 333  
than fifteen million dollars in any year through 2005 and shall 334  
not exceed more than five million dollars in any year after 2005. 335  
The rider shall be imposed beginning on the effective date of the 336  
amendment of this section by Sub. H.B. 251 of the 126th general 337  
assembly, January 4, 2007, and shall terminate at the end of ten 338  
years following the starting date of competitive retail electric 339  
service or until the advanced energy fund, including interest, 340  
reaches one hundred million dollars, whichever is first. 341

(2) Revenues from payments, repayments, and collections under 342  
the advanced energy program and from program income; 343

(3) Revenues remitted to the director after collection by a 344  
municipal electric utility or electric cooperative in this state 345  
upon the utility's or cooperative's decision to participate in the 346  
advanced energy fund; 347

(4) Revenues from ~~renewable energy compliance~~ payments as 348  
provided under division (C)(2) of section 4928.64 of the Revised 349

Code;	350
(5) Revenue from forfeitures under division (C) of section 4928.66 of the Revised Code;	351 352
(6) Funds transferred pursuant to division (B) of Section 512.10 of S.B. 315 of the 129th general assembly;	353 354
(7) Interest earnings on the advanced energy fund.	355
(C)(1) Each electric distribution utility in this state shall remit to the director on a quarterly basis the revenues described in divisions (B)(1) and (2) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter.	356 357 358 359 360
(2) Each participating electric cooperative and participating municipal electric utility shall remit to the director on a quarterly basis the revenues described in division (B)(3) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter. For the purpose of division (B)(3) of this section, the participation of an electric cooperative or municipal electric utility in the energy efficiency revolving loan program as it existed immediately prior to the effective date of the amendment of this section by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, does not constitute a decision to participate in the advanced energy fund under this section as so amended.	361 362 363 364 365 366 367 368 369 370 371 372
(3) All remittances under divisions (C)(1) and (2) of this section shall continue only until the end of ten years following the starting date of competitive retail electric service or until the advanced energy fund, including interest, reaches one hundred million dollars, whichever is first.	373 374 375 376 377
(D) Any moneys collected in rates for non-low-income customer	378

energy efficiency programs, as of October 5, 1999, and not  
 contributed to the energy efficiency revolving loan fund  
 authorized under this section prior to the effective date of its  
 amendment by Sub. H.B. 251 of the 126th general assembly, January  
 4, 2007, shall be used to continue to fund cost-effective,  
 residential energy efficiency programs, be contributed into the  
 universal service fund as a supplement to that required under  
 section 4928.53 of the Revised Code, or be returned to ratepayers  
 in the form of a rate reduction at the option of the affected  
 electric distribution utility.

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

(a) Has a placed-in-service date on or after January 1, 1998;

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

(c) Is a small hydroelectric facility;

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

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

(i) A resource that has the effect of improving the

relationship between real and reactive power; 407

(ii) A resource that makes efficient use of waste heat or 408  
other thermal capabilities owned or controlled by a mercantile 409  
customer; 410

(iii) Storage technology that allows a mercantile customer 411  
more flexibility to modify its demand or load and usage 412  
characteristics; 413

(iv) Electric generation equipment owned or controlled by a 414  
mercantile customer that uses a renewable energy resource. 415

(2) For the purpose of this section and as it considers 416  
appropriate, the public utilities commission may classify any new 417  
technology as such a qualifying renewable energy resource. 418

(B)(1) By ~~2027~~ 2050 and thereafter, an electric distribution 419  
utility shall provide from qualifying renewable energy resources, 420  
including, at its discretion, qualifying renewable energy 421  
resources obtained pursuant to an electricity supply contract, a 422  
portion of the electricity supply required for its standard 423  
service offer under section 4928.141 of the Revised Code, and an 424  
electric services company shall provide a portion of its 425  
electricity supply for retail consumers in this state from 426  
qualifying renewable energy resources, including, at its 427  
discretion, qualifying renewable energy resources obtained 428  
pursuant to an electricity supply contract. That portion shall 429  
equal ~~twelve and one-half~~ fifty per cent of the total number of 430  
kilowatt hours of electricity sold by the subject utility or 431  
company to any and all retail electric consumers whose electric 432  
load centers are served by that utility and are located within the 433  
utility's certified territory or, in the case of an electric 434  
services company, are served by the company and are located within 435  
this state. However, nothing in this section precludes a utility 436

or company from providing a greater percentage. 437

(2) The portion required under division (B)(1) of this 438  
 section shall be generated from renewable energy resources, 439  
 including ~~one-half~~ six per cent from solar energy resources, in 440  
 accordance with the following benchmarks: 441

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	443
2010	0.50%	0.010%	444
2011	1%	0.030%	445
2012	1.5%	0.060%	446
2013	2%	0.090%	447
2014	2.5%	0.12%	448
2015	2.5%	0.12%	449
2016	2.5%	0.12%	450
2017	3.5%	0.15%	451
2018	4.5%	0.18%	452
2019	5.5%	0.22%	453
2020	6.5%	<del>0.26%</del> <u>0.3%</u>	454
2021	7.5%	<del>0.3%</del> <u>0.4%</u>	455
2022	8.5%	<del>0.34%</del> <u>0.5%</u>	456
2023	9.5%	<del>0.38%</del> <u>0.6%</u>	457
2024	10.5%	<del>0.42%</del> <u>0.75%</u>	458
2025	11.5%	<del>0.46%</del> <u>0.9%</u>	459
2026 and each calendar year thereafter	<del>12.5%</del> <u>12%</u>	<del>0.5%</del> <u>1%</u>	460
<u>2027</u>	<u>12.5%</u>	<u>1.2%</u>	461
<u>2028</u>	<u>13.3%</u>	<u>1.4%</u>	462
<u>2029</u>	<u>15%</u>	<u>1.6%</u>	463
<u>2030</u>	<u>17.5%</u>	<u>1.8%</u>	464
<u>2031</u>	<u>19.1%</u>	<u>2%</u>	465



<u>2032</u>	<u>20%</u>	<u>2.2%</u>	466
<u>2033</u>	<u>22.5%</u>	<u>2.4%</u>	467
<u>2034</u>	<u>24.1%</u>	<u>2.6%</u>	468
<u>2035</u>	<u>25%</u>	<u>2.8%</u>	469
<u>2036</u>	<u>27.5%</u>	<u>3%</u>	470
<u>2037</u>	<u>29.1%</u>	<u>3.2%</u>	471
<u>2038</u>	<u>30%</u>	<u>3.4%</u>	472
<u>2039</u>	<u>32.5%</u>	<u>3.6%</u>	473
<u>2040</u>	<u>34.1%</u>	<u>3.8%</u>	474
<u>2041</u>	<u>35%</u>	<u>4%</u>	475
<u>2042</u>	<u>36.6%</u>	<u>4.2%</u>	476
<u>2043</u>	<u>38.3%</u>	<u>4.4%</u>	477
<u>2044</u>	<u>40%</u>	<u>4.6%</u>	478
<u>2045</u>	<u>41.6%</u>	<u>4.8%</u>	479
<u>2046</u>	<u>43.3%</u>	<u>5%</u>	480
<u>2047</u>	<u>45%</u>	<u>5.25%</u>	481
<u>2048</u>	<u>46.6%</u>	<u>5.5%</u>	482
<u>2049</u>	<u>48.3%</u>	<u>5.75%</u>	483
<u>2050 and each calendar</u>	<u>50%</u>	<u>6%</u>	484
<u>year thereafter</u>			

(3) ~~The qualifying~~ At least one-half of the renewable energy 485  
resources implemented by the utility or company shall be met 486  
either: 487

~~(a) Through~~ through facilities located in this state; ~~or~~ 488

~~(b) With~~ the remainder shall be met with resources that can 489  
be shown to be deliverable into this state. 490

(4) At least half of the solar energy resources implemented 491  
by the utility or company shall be met through distributed solar 492  
projects of not more than twenty-five megawatts of base load 493  
capacity. 494

(C)(1) The commission annually shall review an electric 495  
distribution utility's or electric services company's compliance 496  
with the most recent applicable benchmark under division (B)(2) of 497  
this section and, in the course of that review, shall identify any 498  
undercompliance or noncompliance of the utility or company that it 499  
determines is weather-related, related to equipment or resource 500  
shortages for qualifying renewable energy resources as applicable, 501  
or is otherwise outside the utility's or company's control. 502

(2) Subject to the cost cap provisions of division (C)(3) of 503  
this section, if the commission determines, after notice and 504  
opportunity for hearing, and based upon its findings in that 505  
review regarding avoidable undercompliance or noncompliance, but 506  
subject to division (C)(4) of this section, that the utility or 507  
company has failed to comply with any such benchmark, the 508  
commission shall impose a renewable energy compliance payment on 509  
the utility or company. 510

(a) The compliance payment pertaining to the solar energy 511  
resource benchmarks under division (B)(2) of this section shall be 512  
an amount per megawatt hour of undercompliance or noncompliance in 513  
the period under review, as follows: 514

(i) Three hundred dollars for 2014, 2015, and 2016; 515

(ii) Two hundred fifty dollars for 2017 and 2018; 516

(iii) Two hundred dollars for 2019 and 2020; 517

(iv) Similarly reduced every two years thereafter through 518  
~~2026~~ 2050 by fifty dollars, to a minimum of fifty dollars. 519

(b) The compliance payment pertaining to the renewable energy 520  
resource benchmarks under division (B)(2) of this section shall 521  
equal the number of additional renewable energy credits that the 522  
electric distribution utility or electric services company would 523

have needed to comply with the applicable benchmark in the period 524  
under review times an amount that shall begin at forty-five 525  
dollars and shall be adjusted annually by the commission to 526  
reflect any change in the consumer price index as defined in 527  
section 101.27 of the Revised Code, but shall not be less than 528  
forty-five dollars. 529

(c) The compliance payment shall not be passed through by the 530  
electric distribution utility or electric services company to 531  
consumers. The compliance payment shall be remitted to the 532  
commission, for deposit to the credit of the advanced energy fund 533  
created under section 4928.61 of the Revised Code. Payment of the 534  
compliance payment shall be subject to such collection and 535  
enforcement procedures as apply to the collection of a forfeiture 536  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 537

(3) An electric distribution utility or an electric services 538  
company need not comply with a benchmark under division (B)(2) of 539  
this section to the extent that its reasonably expected cost of 540  
that compliance exceeds its reasonably expected cost of otherwise 541  
producing or acquiring the requisite electricity by three per cent 542  
or more. The cost of compliance shall be calculated as though any 543  
exemption from taxes and assessments had not been granted under 544  
section 5727.75 of the Revised Code. 545

(4)(a) An electric distribution utility or electric services 546  
company may request the commission to make a force majeure 547  
determination pursuant to this division regarding all or part of 548  
the utility's or company's compliance with any minimum benchmark 549  
under division (B)(2) of this section during the period of review 550  
occurring pursuant to division (C)(2) of this section. The 551  
commission may require the electric distribution utility or 552  
electric services company to make solicitations for renewable 553

energy resource credits as part of its default service before the 554  
utility's or company's request of force majeure under this 555  
division can be made. 556

(b) Within ninety days after the filing of a request by an 557  
electric distribution utility or electric services company under 558  
division (C)(4)(a) of this section, the commission shall determine 559  
if qualifying renewable energy resources are reasonably available 560  
in the marketplace in sufficient quantities for the utility or 561  
company to comply with the subject minimum benchmark during the 562  
review period. In making this determination, the commission shall 563  
consider whether the electric distribution utility or electric 564  
services company has made a good faith effort to acquire 565  
sufficient qualifying renewable energy or, as applicable, solar 566  
energy resources to so comply, including, but not limited to, by 567  
banking or seeking renewable energy resource credits or by seeking 568  
the resources through long-term contracts. Additionally, the 569  
commission shall consider the availability of qualifying renewable 570  
energy or solar energy resources in this state and other 571  
jurisdictions in the PJM interconnection regional transmission 572  
organization, L.L.C., or its successor and the midcontinent 573  
independent system operator or its successor. 574

(c) If, pursuant to division (C)(4)(b) of this section, the 575  
commission determines that qualifying renewable energy or solar 576  
energy resources are not reasonably available to permit the 577  
electric distribution utility or electric services company to 578  
comply, during the period of review, with the subject minimum 579  
benchmark prescribed under division (B)(2) of this section, the 580  
commission shall modify that compliance obligation of the utility 581  
or company as it determines appropriate to accommodate the 582  
finding. Commission modification shall not automatically reduce 583  
the obligation for the electric distribution utility's or electric 584

services company's compliance in subsequent years. If it modifies 585  
the electric distribution utility or electric services company 586  
obligation under division (C)(4)(c) of this section, the 587  
commission may require the utility or company, if sufficient 588  
renewable energy resource credits exist in the marketplace, to 589  
acquire additional renewable energy resource credits in subsequent 590  
years equivalent to the utility's or company's modified obligation 591  
under division (C)(4)(c) of this section. 592

(5) The commission shall establish a process to provide for 593  
at least an annual review of the renewable energy resource market 594  
in this state and in the service territories of the regional 595  
transmission organizations that manage transmission systems 596  
located in this state. The commission shall use the results of 597  
this study to identify any needed changes to the amount of the 598  
renewable energy compliance payment specified under divisions 599  
(C)(2)(a) and (b) of this section. Specifically, the commission 600  
may increase the amount to ensure that payment of compliance 601  
payments is not used to achieve compliance with this section in 602  
lieu of actually acquiring or realizing energy derived from 603  
qualifying renewable energy resources. However, if the commission 604  
finds that the amount of the compliance payment should be 605  
otherwise changed, the commission shall present this finding to 606  
the general assembly for legislative enactment. 607

(D) The commission annually shall submit to the general 608  
assembly in accordance with section 101.68 of the Revised Code a 609  
report describing all of the following: 610

(1) The compliance of electric distribution utilities and 611  
electric services companies with division (B) of this section; 612

(2) The average annual cost of renewable energy credits 613  
purchased by utilities and companies for the year covered in the 614

report;

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

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

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(E) All costs incurred by an electric distribution utility in complying with the ~~requirements~~ standards of this section shall be bypassable by any consumer that has exercised choice of supplier under section 4928.03 of the Revised Code.

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(F) The provisions of this section shall collectively be referred to as the Ohio generation and jobs incentive program.

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**Sec. 4928.643.** (A) Except as provided in division (B) of this section and section 4928.644 of the Revised Code, the baseline for an electric distribution utility's or an electric services company's compliance with the ~~qualified renewable energy resource requirements~~ of Ohio generation and jobs incentive program under section 4928.64 of the Revised Code shall be the average of total kilowatt hours sold by the utility or company in the preceding three calendar years to the following:

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(1) In the case of an electric distribution utility, any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory;

(2) In the case of an electric services company, any and all retail electric consumers who are served by the company and are located within this state.

(B) Beginning with compliance year 2014, a utility or company may choose for its baseline for compliance with the ~~qualified renewable energy resource requirements of~~ Ohio generation and jobs incentive program under section 4928.64 of the Revised Code to be the total kilowatt hours sold to the applicable consumers, as described in division (A)(1) or (2) of this section, in the applicable compliance year.

(C) A utility or company that uses the baseline permitted under division (B) of this section may use the baseline described in division (A) of this section in any subsequent compliance year. A utility or company that makes this switch shall use the baseline described in division (A) of this section for at least three consecutive compliance years before again using the baseline permitted under division (B) of this section."

Delete lines 1125 through 1135 and insert:

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

(1) A mercantile customer;	673
(2) An owner or operator of a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state, or that produces power that can be shown to be deliverable into this state;	674 675 676 677 678
(3) A seller of compressed natural gas that has been produced from biologically derived methane gas, provided that the seller may only provide renewable energy credits for metered amounts of gas.	679 680 681 682
(B)(1) The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources, except that, for a generating facility of seventy-five megawatts or greater that is situated within this state and has committed by December 31, 2009, to modify or retrofit its generating unit or units to enable the facility to generate principally from biomass energy by June 30, 2013, each megawatt hour of electricity generated principally from that biomass energy shall equal, in units of credit, the product obtained by multiplying the actual percentage of biomass feedstock heat input used to generate such megawatt hour by the quotient obtained by dividing the then existing unit dollar amount used to determine a <del>renewable energy</del> <del>compliance</del> payment as provided under division (C)(2)(b) of section 4928.64 of the Revised Code by the then existing market value of one renewable energy credit, but such megawatt hour shall not equal less than one unit of credit. Renewable energy resources do not have to be converted to electricity in order to be eligible to receive renewable energy credits. The rules shall specify that, for purposes of converting the quantity of energy derived from	683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702



biologically derived methane gas to an electricity equivalent, one 703  
 megawatt hour equals 3,412,142 British thermal units. 704

(2) The rules also shall provide for this state a system of 705  
 registering renewable energy credits by specifying which of any 706  
 generally available registries shall be used for that purpose and 707  
 not by creating a registry. That selected system of registering 708  
 renewable energy credits shall allow a hydroelectric generating 709  
 facility to be eligible for obtaining renewable energy credits and 710  
 shall allow customer-sited projects or actions the broadest 711  
 opportunities to be eligible for obtaining renewable energy 712  
 credits. 713

(3) The rules also shall require the commission to do all of 714  
 the following with regard to certifying renewable energy credits: 715

(a) Identify solar renewable energy credits sourced from 716  
 projects that are twenty-five megawatts or smaller; 717

(b) Identify all other solar renewable energy credits; 718

(c) Identify the renewable energy credits that are projects 719  
 located in this state." 720

After line 1184, insert: 721

"**Sec. 4928.65.** (A) Not later than January 1, 2015, the public 722  
 utilities commission shall adopt rules governing the disclosure of 723  
 the costs to customers of ~~the renewable energy resource,~~ 724  
compliance with the Ohio generation and jobs incentive program 725  
under section 4928.64 of the Revised Code and the energy 726  
 efficiency savings, and peak demand reduction requirements of 727  
~~sections 4928.64 and~~ section 4928.66 of the Revised Code. The 728  
 rules shall include both of the following requirements: 729

(1) That every electric distribution utility list, on all 730

customer bills sent by the utility, including utility consolidated 731  
bills that include both electric distribution utility and electric 732  
services company charges, the individual customer cost of the 733  
utility's compliance with all of the following for the applicable 734  
billing period: 735

(a) ~~The renewable energy resource requirements~~ Compliance 736  
with the Ohio generation and jobs incentive program under section 737  
4928.64 of the Revised Code, subject to division (B) of this 738  
section; 739

(b) The energy efficiency savings requirements under section 740  
4928.66 of the Revised Code; 741

(c) The peak demand reduction requirements under section 742  
4928.66 of the Revised Code. 743

(2) That every electric services company list, on all 744  
customer bills sent by the company, the individual customer cost, 745  
subject to division (B) of this section, of the company's 746  
compliance with the ~~renewable energy resource requirements~~ Ohio 747  
generation and jobs incentive program under section 4928.64 of the 748  
Revised Code for the applicable billing period. 749

(B)(1) For purposes of division (A)(1)(a) of this section, 750  
the cost of compliance with the ~~renewable energy resource~~ 751  
~~requirements~~ Ohio generation and jobs incentive program shall be 752  
calculated by multiplying the individual customer's monthly usage 753  
by the combined weighted average of renewable-energy-credit costs, 754  
including solar-renewable-energy-credit costs, paid by all 755  
electric distribution utilities, as listed in the commission's 756  
most recently available alternative energy portfolio standard 757  
report. 758

(2) For purposes of division (A)(2) of this section, the cost 759

of compliance with the ~~renewable energy resource requirements~~ Ohio 760  
generation and jobs incentive program shall be calculated by 761  
multiplying the individual customer's monthly usage by the 762  
combined weighted average of renewable-energy-credit costs, 763  
including solar-renewable-energy-credit costs, paid by all 764  
electric services companies, as listed in the commission's most 765  
recently available alternative energy portfolio standard report. 766

(C) The costs required to be listed under division (A)(1) of 767  
this section shall be listed on each customer's monthly bill as 768  
three distinct line items. The cost required to be listed under 769  
division (A)(2) of this section shall be listed on each customer's 770  
monthly bill as a distinct line item." 771

In line 1727, strike through "renewable energy resource" 772

In line 1728, strike through "requirements" and insert 773  
"standards for the Ohio generation and jobs incentive program" 774

In line 1824, after "4906.13," insert "4906.20, 4906.201,;" 775  
delete "4928.644" and insert "4928.20, 4928.61, 4928.64, 4928.643, 776  
4928.645, 4928.65" 777

The motion was \_\_\_\_\_ agreed to.