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, 4906.201,"; delete "4928.644" and insert "4928.20, 4928.61, 4928.64, 4928.643, 4928.645, 4928.65"

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

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

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

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

- In line 22, delete "3706.471,"

- Delete lines 493 through 512

- After line 613, insert:

  "Sec. 4906.20. (A) No person shall commence to construct an economically significant wind farm in this state without first having obtained a certificate from the power siting board. An economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and"
maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications.

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

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

(2) Additionally, the rules shall prescribe reasonable regulations regarding any wind turbines and associated facilities of an economically significant wind farm, including, but not limited to, their location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement and including erosion control, aesthetics, recreational land use, wildlife protection, interconnection with power lines and with regional transmission organizations, independent transmission system operators, or similar organizations, ice throw, sound and noise levels, blade shear, shadow flicker, decommissioning, and necessary cooperation for site visits and enforcement investigations.
(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 the property line of 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
of this section as amended by that act. The amendments to this
section by that act shall not be construed to limit or abridge any
rights or remedies in equity or under the common law.

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

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

(B)(1) 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.

(2) 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.

(3) 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 of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law."

After line 1010, insert:

"Sec. 4928.20. (A) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, on or after the starting date of competitive retail electric service, it may aggregate in accordance with this section the retail electrical loads located, respectively, within the municipal corporation, township, or unincorporated area of the county and, for that purpose, may enter into service agreements to facilitate for those loads the sale and purchase of electricity. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For customers that are not mercantile customers, an ordinance or resolution under this division shall specify whether the aggregation will occur only with the prior, affirmative consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated or will occur automatically for all such persons pursuant to the opt-out requirements of division (D) of this
section. The aggregation of mercantile customers shall occur only with the prior, affirmative consent of each such person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this division, however, authorizes the aggregation of the retail electric loads of an electric load center, as defined in section 4933.81 of the Revised Code, that is located in the certified territory of a nonprofit electric supplier under sections 4933.81 to 4933.90 of the Revised Code or an electric load center served by transmission or distribution facilities of a municipal electric utility.

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

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at
least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

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

(E) (1) With respect to a governmental aggregation for a municipal corporation that 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 731.41 of the Revised Code.
(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:

(1) A customer that has opted out of the aggregation;

(2) A customer in contract with a certified electric services company;

(3) A customer that has a special contract with an electric distribution utility;

(4) A customer that is not located within the governmental aggregator's governmental boundaries;

(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.

(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.
(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written notice with the public utilities commission, the legislative authority that formed or is forming that governmental aggregation may elect not to receive standby service within the meaning of division (B)(2)(d) of section 4928.143 of the Revised Code from an electric distribution utility in whose certified territory the governmental aggregation is located and that operates under an approved electric security plan under that section. Upon the filing of that notice, the electric distribution utility shall not charge any such customer to whom competitive retail electric generation service is provided by another supplier under the governmental aggregation for the standby service. Any such consumer that returns to the utility for competitive retail electric service shall pay the market price of power incurred by the utility to serve that consumer plus any amount attributable to the utility's cost of compliance with the renewable energy resource provisions of Ohio generation and jobs incentive program under section 4928.64 of the Revised Code to serve the consumer. Such market price shall include, but not be limited to, capacity and energy charges; all charges associated with the provision of that power supply through the regional transmission organization, including, but not limited to, transmission, ancillary services, congestion, and settlement and administrative charges; and all other costs incurred by the utility that are associated with the procurement, provision, and administration of that power supply, as such costs may be approved by the commission. The period of time during which the market price and renewable energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that
period of time is expected to be more than two years, the
commission may reduce the time period to a period of not less than
two years.

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

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

After line 1124, insert:

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

(1) Revenues remitted to the director after collection by each electric distribution utility in this state of a temporary rider on retail electric distribution service rates as such rates are determined by the public utilities commission pursuant to this chapter. The rider shall be a uniform amount statewide, determined by the director of development, after consultation with the public benefits advisory board created by section 4928.58 of the Revised Code. The amount shall be determined by dividing an aggregate revenue target for a given year as determined by the director, after consultation with the advisory board, by the number of customers of electric distribution utilities in this state in the prior year. Such aggregate revenue target shall not exceed more than fifteen million dollars in any year through 2005 and shall not exceed more than five million dollars in any year after 2005. The rider shall be imposed beginning on the effective date of the amendment of this section by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, and shall terminate at 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.

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

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

(4) Revenues from renewable energy compliance payments as provided under division (C)(2) of section 4928.64 of the Revised
(5) Revenue from forfeitures under division (C) of section 4928.66 of the Revised Code;

(6) Funds transferred pursuant to division (B) of Section 512.10 of S.B. 315 of the 129th general assembly;

(7) Interest earnings on the advanced energy fund.

(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.

(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.

(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.

(D) Any moneys collected in rates for non-low-income customer
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;

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

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

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

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

(B)(1) By 2027 and thereafter, an electric distribution utility shall provide from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall provide a portion of its electricity supply for retail consumers in this state from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion shall equal twelve and one half fifty per cent of the total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state. However, nothing in this section precludes a utility
or company from providing a greater percentage.

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

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<th>By end of year</th>
<th>Renewable energy resources</th>
<th>Solar energy resources</th>
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</thead>
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<tr>
<td>2009</td>
<td>0.25%</td>
<td>0.004%</td>
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<tr>
<td>2010</td>
<td>0.50%</td>
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</tr>
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<td>2011</td>
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</tr>
<tr>
<td>2015</td>
<td>2.5%</td>
<td>0.12%</td>
</tr>
<tr>
<td>2016</td>
<td>2.5%</td>
<td>0.12%</td>
</tr>
<tr>
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</tr>
<tr>
<td>2020</td>
<td>6.5%</td>
<td>0.26% 0.3%</td>
</tr>
<tr>
<td>2021</td>
<td>7.5%</td>
<td>0.3% 0.4%</td>
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<tr>
<td>2022</td>
<td>8.5%</td>
<td>0.34% 0.5%</td>
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<tr>
<td>2023</td>
<td>9.5%</td>
<td>0.38% 0.6%</td>
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<tr>
<td>2024</td>
<td>10.5%</td>
<td>0.42% 0.75%</td>
</tr>
<tr>
<td>2025</td>
<td>11.5%</td>
<td>0.46% 0.9%</td>
</tr>
<tr>
<td>2026 and each calendar year thereafter</td>
<td>12.5% 12%</td>
<td>0.5% 1%</td>
</tr>
<tr>
<td>2027</td>
<td>12.5%</td>
<td>1.2%</td>
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<tr>
<td>2028</td>
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2034  24.1%  2.6%  468
2035  25%  2.8%  469
2036  27.5%  3%  470
2037  29.1%  3.2%  471
2038  30%  3.4%  472
2039  32.5%  3.6%  473
2040  34.1%  3.8%  474
2041  35%  4%  475
2042  36.6%  4.2%  476
2043  38.3%  4.4%  477
2044  40%  4.6%  478
2045  41.6%  4.8%  479
2046  43.3%  5%  480
2047  45%  5.25%  481
2048  46.6%  5.5%  482
2049  48.3%  5.75%  483
2050 and each calendar year thereafter  50%  6%  484

(3) The qualifying At least one-half of the renewable energy resources implemented by the utility or company shall be met either:
   
   (a) Through facilities located in this state; or
   
   (b) With the remainder shall be met with resources that can be shown to be deliverable into this state.

(4) At least half of the solar energy resources implemented by the utility or company shall be met through distributed solar projects of not more than twenty-five megawatts of base load capacity.
(C)(1) The commission annually shall review an electric distribution utility's or electric services company's compliance with the most recent applicable benchmark under division (B)(2) of this section and, in the course of that review, shall identify any undercompliance or noncompliance of the utility or company that it determines is weather-related, related to equipment or resource shortages for qualifying renewable energy resources as applicable, or is otherwise outside the utility's or company's control.

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

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

(i) Three hundred dollars for 2014, 2015, and 2016;
(ii) Two hundred fifty dollars for 2017 and 2018;
(iii) Two hundred dollars for 2019 and 2020;
(iv) Similarly reduced every two years thereafter through 2026 by fifty dollars, to a minimum of fifty dollars.

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

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

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

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

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

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

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

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

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

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

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.

(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.

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

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:
(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 the 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 of the 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;

(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;

(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.

(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 renewable energy compliance 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
biologically derived methane gas to an electricity equivalent, one megawatt hour equals 3,412,142 British thermal units.

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

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

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

(b) Identify all other solar renewable energy credits;

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

After line 1184, insert:

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

(1) That every electric distribution utility list, on all
customer bills sent by the utility, including utility consolidated 
bills that include both electric distribution utility and electric 
services company charges, the individual customer cost of the 
utility's compliance with all of the following for the applicable 
billing period:

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

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

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

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

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

(2) For purposes of division (A)(2) of this section, the cost
of compliance with the renewable energy resource requirements, Ohio generation and jobs incentive program shall be calculated by multiplying the individual customer's monthly usage by the combined weighted average of renewable-energy-credit costs, including solar-renewable-energy-credit costs, paid by all electric services companies, as listed in the commission's most recently available alternative energy portfolio standard report.

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

In line 1727, strike through "renewable energy resource"
In line 1728, strike through "requirements" and insert "standards for the Ohio generation and jobs incentive program"
In line 1824, after "4906.13," insert "4906.20, 4906.201,"; delete "4928.644" and insert "4928.20, 4928.61, 4928.64, 4928.643, 4928.645, 4928.65"

The motion was __________ agreed to.