

As Reported by the Senate Energy and Natural Resources Committee

131st General Assembly

Regular Session

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Sub. H. B. No. 554

Representative Amstutz

Cosponsors: Representatives Hill, Landis, Schaffer

A BILL

To amend sections 4928.143, 4928.64, 4928.643, 1
4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, 2
and 5727.75 and to enact sections 4928.6620 and 3
4928.6621 of the Revised Code and to amend 4
Section 6 of Sub. S.B. 310 of the 130th General 5
Assembly and Section 257.80 of Am. Sub. H.B. 64 6
of the 131st General Assembly to revise the 7
requirements for renewable energy, energy 8
efficiency, and peak demand reduction and to 9
alter funding allocations under the Home Energy 10
Assistance Program. 11

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

Section 1. That sections 4928.143, 4928.64, 4928.643, 12
4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, and 5727.75 be 13
amended and sections 4928.6620 and 4928.6621 of the Revised Code 14
be enacted to read as follows: 15

Sec. 4928.143. (A) For the purpose of complying with 16
section 4928.141 of the Revised Code, an electric distribution 17
utility may file an application for public utilities commission 18

approval of an electric security plan as prescribed under 19
division (B) of this section. The utility may file that 20
application prior to the effective date of any rules the 21
commission may adopt for the purpose of this section, and, as 22
the commission determines necessary, the utility immediately 23
shall conform its filing to those rules upon their taking 24
effect. 25

(B) Notwithstanding any other provision of Title XLIX of 26
the Revised Code to the contrary except division (D) of this 27
section, divisions (I), (J), and (K) of section 4928.20, 28
division ~~(E)~~ (F) of section 4928.64, and section 4928.69 of the 29
Revised Code: 30

(1) An electric security plan shall include provisions 31
relating to the supply and pricing of electric generation 32
service. In addition, if the proposed electric security plan has 33
a term longer than three years, it may include provisions in the 34
plan to permit the commission to test the plan pursuant to 35
division (E) of this section and any transitional conditions 36
that should be adopted by the commission if the commission 37
terminates the plan as authorized under that division. 38

(2) The plan may provide for or include, without 39
limitation, any of the following: 40

(a) Automatic recovery of any of the following costs of 41
the electric distribution utility, provided the cost is 42
prudently incurred: the cost of fuel used to generate the 43
electricity supplied under the offer; the cost of purchased 44
power supplied under the offer, including the cost of energy and 45
capacity, and including purchased power acquired from an 46
affiliate; the cost of emission allowances; and the cost of 47
federally mandated carbon or energy taxes; 48

(b) A reasonable allowance for construction work in progress for any of the electric distribution utility's cost of constructing an electric generating facility or for an environmental expenditure for any electric generating facility of the electric distribution utility, provided the cost is incurred or the expenditure occurs on or after January 1, 2009. Any such allowance shall be subject to the construction work in progress allowance limitations of division (A) of section 4909.15 of the Revised Code, except that the commission may authorize such an allowance upon the incurrence of the cost or occurrence of the expenditure. No such allowance for generating facility construction shall be authorized, however, unless the commission first determines in the proceeding that there is need for the facility based on resource planning projections submitted by the electric distribution utility. Further, no such allowance shall be authorized unless the facility's construction was sourced through a competitive bid process, regarding which process the commission may adopt rules. An allowance approved under division (B) (2) (b) of this section shall be established as a nonbypassable surcharge for the life of the facility.

(c) The establishment of a nonbypassable surcharge for the life of an electric generating facility that is owned or operated by the electric distribution utility, was sourced through a competitive bid process subject to any such rules as the commission adopts under division (B) (2) (b) of this section, and is newly used and useful on or after January 1, 2009, which surcharge shall cover all costs of the utility specified in the application, excluding costs recovered through a surcharge under division (B) (2) (b) of this section. However, no surcharge shall be authorized unless the commission first determines in the proceeding that there is need for the facility based on resource

planning projections submitted by the electric distribution 80
utility. Additionally, if a surcharge is authorized for a 81
facility pursuant to plan approval under division (C) of this 82
section and as a condition of the continuation of the surcharge, 83
the electric distribution utility shall dedicate to Ohio 84
consumers the capacity and energy and the rate associated with 85
the cost of that facility. Before the commission authorizes any 86
surcharge pursuant to this division, it may consider, as 87
applicable, the effects of any decommissioning, deratings, and 88
retirements. 89

(d) Terms, conditions, or charges relating to limitations 90
on customer shopping for retail electric generation service, 91
bypassability, standby, back-up, or supplemental power service, 92
default service, carrying costs, amortization periods, and 93
accounting or deferrals, including future recovery of such 94
deferrals, as would have the effect of stabilizing or providing 95
certainty regarding retail electric service; 96

(e) Automatic increases or decreases in any component of 97
the standard service offer price; 98

(f) Consistent with sections 4928.23 to 4928.2318 of the 99
Revised Code, both of the following: 100

(i) Provisions for the electric distribution utility to 101
securitize any phase-in, inclusive of carrying charges, of the 102
utility's standard service offer price, which phase-in is 103
authorized in accordance with section 4928.144 of the Revised 104
Code; 105

(ii) Provisions for the recovery of the utility's cost of 106
securitization. 107

(g) Provisions relating to transmission, ancillary, 108

congestion, or any related service required for the standard 109
service offer, including provisions for the recovery of any cost 110
of such service that the electric distribution utility incurs on 111
or after that date pursuant to the standard service offer; 112

(h) Provisions regarding the utility's distribution 113
service, including, without limitation and notwithstanding any 114
provision of Title XLIX of the Revised Code to the contrary, 115
provisions regarding single issue ratemaking, a revenue 116
decoupling mechanism or any other incentive ratemaking, and 117
provisions regarding distribution infrastructure and 118
modernization incentives for the electric distribution utility. 119
The latter may include a long-term energy delivery 120
infrastructure modernization plan for that utility or any plan 121
providing for the utility's recovery of costs, including lost 122
revenue, shared savings, and avoided costs, and a just and 123
reasonable rate of return on such infrastructure modernization. 124
As part of its determination as to whether to allow in an 125
electric distribution utility's electric security plan inclusion 126
of any provision described in division (B) (2) (h) of this 127
section, the commission shall examine the reliability of the 128
electric distribution utility's distribution system and ensure 129
that customers' and the electric distribution utility's 130
expectations are aligned and that the electric distribution 131
utility is placing sufficient emphasis on and dedicating 132
sufficient resources to the reliability of its distribution 133
system. 134

(i) Provisions under which the electric distribution 135
utility may implement economic development, job retention, and 136
energy efficiency programs, which provisions may allocate 137
program costs across all classes of customers of the utility and 138
those of electric distribution utilities in the same holding 139

company system. 140

(C) (1) The burden of proof in the proceeding shall be on 141
the electric distribution utility. The commission shall issue an 142
order under this division for an initial application under this 143
section not later than one hundred fifty days after the 144
application's filing date and, for any subsequent application by 145
the utility under this section, not later than two hundred 146
seventy-five days after the application's filing date. Subject 147
to division (D) of this section, the commission by order shall 148
approve or modify and approve an application filed under 149
division (A) of this section if it finds that the electric 150
security plan so approved, including its pricing and all other 151
terms and conditions, including any deferrals and any future 152
recovery of deferrals, is more favorable in the aggregate as 153
compared to the expected results that would otherwise apply 154
under section 4928.142 of the Revised Code. Additionally, if the 155
commission so approves an application that contains a surcharge 156
under division (B) (2) (b) or (c) of this section, the commission 157
shall ensure that the benefits derived for any purpose for which 158
the surcharge is established are reserved and made available to 159
those that bear the surcharge. Otherwise, the commission by 160
order shall disapprove the application. 161

(2) (a) If the commission modifies and approves an 162
application under division (C) (1) of this section, the electric 163
distribution utility may withdraw the application, thereby 164
terminating it, and may file a new standard service offer under 165
this section or a standard service offer under section 4928.142 166
of the Revised Code. 167

(b) If the utility terminates an application pursuant to 168
division (C) (2) (a) of this section or if the commission 169

disapproves an application under division (C) (1) of this 170
section, the commission shall issue such order as is necessary 171
to continue the provisions, terms, and conditions of the 172
utility's most recent standard service offer, along with any 173
expected increases or decreases in fuel costs from those 174
contained in that offer, until a subsequent offer is authorized 175
pursuant to this section or section 4928.142 of the Revised 176
Code, respectively. 177

(D) Regarding the rate plan requirement of division (A) of 178
section 4928.141 of the Revised Code, if an electric 179
distribution utility that has a rate plan that extends beyond 180
December 31, 2008, files an application under this section for 181
the purpose of its compliance with division (A) of section 182
4928.141 of the Revised Code, that rate plan and its terms and 183
conditions are hereby incorporated into its proposed electric 184
security plan and shall continue in effect until the date 185
scheduled under the rate plan for its expiration, and that 186
portion of the electric security plan shall not be subject to 187
commission approval or disapproval under division (C) of this 188
section, and the earnings test provided for in division (F) of 189
this section shall not apply until after the expiration of the 190
rate plan. However, that utility may include in its electric 191
security plan under this section, and the commission may 192
approve, modify and approve, or disapprove subject to division 193
(C) of this section, provisions for the incremental recovery or 194
the deferral of any costs that are not being recovered under the 195
rate plan and that the utility incurs during that continuation 196
period to comply with section 4928.141, division (B) of section 197
4928.64, or division (A) of section 4928.66 of the Revised Code. 198

(E) If an electric security plan approved under division 199
(C) of this section, except one withdrawn by the utility as 200

authorized under that division, has a term, exclusive of phase- 201
ins or deferrals, that exceeds three years from the effective 202
date of the plan, the commission shall test the plan in the 203
fourth year, and if applicable, every fourth year thereafter, to 204
determine whether the plan, including its then-existing pricing 205
and all other terms and conditions, including any deferrals and 206
any future recovery of deferrals, continues to be more favorable 207
in the aggregate and during the remaining term of the plan as 208
compared to the expected results that would otherwise apply 209
under section 4928.142 of the Revised Code. The commission shall 210
also determine the prospective effect of the electric security 211
plan to determine if that effect is substantially likely to 212
provide the electric distribution utility with a return on 213
common equity that is significantly in excess of the return on 214
common equity that is likely to be earned by publicly traded 215
companies, including utilities, that face comparable business 216
and financial risk, with such adjustments for capital structure 217
as may be appropriate. The burden of proof for demonstrating 218
that significantly excessive earnings will not occur shall be on 219
the electric distribution utility. If the test results are in 220
the negative or the commission finds that continuation of the 221
electric security plan will result in a return on equity that is 222
significantly in excess of the return on common equity that is 223
likely to be earned by publicly traded companies, including 224
utilities, that will face comparable business and financial 225
risk, with such adjustments for capital structure as may be 226
appropriate, during the balance of the plan, the commission may 227
terminate the electric security plan, but not until it shall 228
have provided interested parties with notice and an opportunity 229
to be heard. The commission may impose such conditions on the 230
plan's termination as it considers reasonable and necessary to 231
accommodate the transition from an approved plan to the more 232

advantageous alternative. In the event of an electric security 233
plan's termination pursuant to this division, the commission 234
shall permit the continued deferral and phase-in of any amounts 235
that occurred prior to that termination and the recovery of 236
those amounts as contemplated under that electric security plan. 237

(F) With regard to the provisions that are included in an 238
electric security plan under this section, the commission shall 239
consider, following the end of each annual period of the plan, 240
if any such adjustments resulted in excessive earnings as 241
measured by whether the earned return on common equity of the 242
electric distribution utility is significantly in excess of the 243
return on common equity that was earned during the same period 244
by publicly traded companies, including utilities, that face 245
comparable business and financial risk, with such adjustments 246
for capital structure as may be appropriate. Consideration also 247
shall be given to the capital requirements of future committed 248
investments in this state. The burden of proof for demonstrating 249
that significantly excessive earnings did not occur shall be on 250
the electric distribution utility. If the commission finds that 251
such adjustments, in the aggregate, did result in significantly 252
excessive earnings, it shall require the electric distribution 253
utility to return to consumers the amount of the excess by 254
prospective adjustments; provided that, upon making such 255
prospective adjustments, the electric distribution utility shall 256
have the right to terminate the plan and immediately file an 257
application pursuant to section 4928.142 of the Revised Code. 258
Upon termination of a plan under this division, rates shall be 259
set on the same basis as specified in division (C) (2) (b) of this 260
section, and the commission shall permit the continued deferral 261
and phase-in of any amounts that occurred prior to that 262
termination and the recovery of those amounts as contemplated 263

under that electric security plan. In making its determination 264
of significantly excessive earnings under this division, the 265
commission shall not consider, directly or indirectly, the 266
revenue, expenses, or earnings of any affiliate or parent 267
company. 268

Sec. 4928.64. (A) (1) As used in this section, "qualifying 269
renewable energy resource" means a renewable energy resource, as 270
defined in section 4928.01 of the Revised Code that has a 271
placed-in-service date on or after January 1, 1998, or with 272
respect to any run-of-the-river hydroelectric facility, an in- 273
service date on or after January 1, 1980; a renewable energy 274
resource created on or after January 1, 1998, by the 275
modification or retrofit of any facility placed in service prior 276
to January 1, 1998; or a mercantile customer-sited renewable 277
energy resource, whether new or existing, that the mercantile 278
customer commits for integration into the electric distribution 279
utility's demand-response, energy efficiency, or peak demand 280
reduction programs as provided under division (A) (2) (c) of 281
section 4928.66 of the Revised Code, including, but not limited 282
to, any of the following: 283

(a) A resource that has the effect of improving the 284
relationship between real and reactive power; 285

(b) A resource that makes efficient use of waste heat or 286
other thermal capabilities owned or controlled by a mercantile 287
customer; 288

(c) Storage technology that allows a mercantile customer 289
more flexibility to modify its demand or load and usage 290
characteristics; 291

(d) Electric generation equipment owned or controlled by a 292

mercantile customer that uses a renewable energy resource. 293

(2) For the purpose of this section and as it considers 294
appropriate, the public utilities commission may classify any 295
new technology as such a qualifying renewable energy resource. 296

(B) (1) By 2027 and thereafter, an electric distribution 297
utility shall provide from qualifying renewable energy 298
resources, including, at its discretion, qualifying renewable 299
energy resources obtained pursuant to an electricity supply 300
contract, a portion of the electricity supply required for its 301
standard service offer under section 4928.141 of the Revised 302
Code, and an electric services company shall provide a portion 303
of its electricity supply for retail consumers in this state 304
from qualifying renewable energy resources, including, at its 305
discretion, qualifying renewable energy resources obtained 306
pursuant to an electricity supply contract. That portion shall 307
equal twelve and one-half per cent of the total number of 308
kilowatt hours of electricity sold by the subject utility or 309
company to any and all retail electric consumers whose electric 310
load centers are served by that utility and are located within 311
the utility's certified territory or, in the case of an electric 312
services company, are served by the company and are located 313
within this state. However, nothing in this section precludes a 314
utility or company from providing a greater percentage. 315

(2) The portion required under division (B) (1) of this 316
section shall be generated from renewable energy resources, 317
including one-half per cent from solar energy resources, in 318
accordance with the following benchmarks, subject to section 319
4928.6620 of the Revised Code: 320

By end of year	Renewable energy	Solar energy	321
	resources	resources	322

2009	0.25%	0.004%	323
2010	0.50%	0.010%	324
2011	1%	0.030%	325
2012	1.5%	0.060%	326
2013	2%	0.090%	327
2014	2.5%	0.12%	328
2015	2.5%	0.12%	329
2016	2.5%	0.12%	330
2017	3.5%	0.15%	331
2018	4.5%	0.18%	332
2019	5.5%	0.22%	333
2020	6.5%	0.26%	334
2021	7.5%	0.3%	335
2022	8.5%	0.34%	336
2023	9.5%	0.38%	337
2024	10.5%	0.42%	338
2025	11.5%	0.46%	339
2026 and each calendar	12.5%	0.5%.	340
year thereafter			341
(3) The qualifying renewable energy resources implemented			342
by the utility or company shall be met either:			343
(a) Through facilities located in this state; or			344
(b) With resources that can be shown to be deliverable			345
into this state.			346
(C) <u>Beginning in 2020:</u>			347
(1) The <u>Based on the information reported under section</u>			348
<u>4928.6620 of the Revised Code and any other information that is</u>			349
<u>public, the</u> commission annually shall review an electric			350
distribution utility's or electric services company's compliance			351

with the ~~most recent applicable~~ benchmark under division (B) (2) 352
of this section for the previous year and, in the course of that 353
review, shall identify any undercompliance or noncompliance of 354
the utility or company that it determines is weather-related, 355
related to equipment or resource shortages for qualifying 356
renewable energy resources as applicable, or is otherwise 357
outside the utility's or company's control. 358

(2) Subject to the cost cap provisions of division (C) (3) 359
of this section, if the commission determines, after notice and 360
opportunity for hearing, and based upon its findings in ~~that the~~ 361
review under division (C) (1) of this section regarding avoidable 362
undercompliance or noncompliance, but subject to division (C) (4) 363
of this section, that the utility or company has failed to 364
comply with ~~any such the benchmark for the previous year~~, the 365
commission shall impose a renewable energy compliance payment on 366
the utility or company. 367

(a) The compliance payment pertaining to the solar energy 368
resource benchmarks under division (B) (2) of this section shall 369
be an amount per megawatt hour of undercompliance or 370
noncompliance in the period under review, as follows: 371

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 372

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 373

~~(iii) Two hundred dollars for 2019 and 2020;~~ 374

~~(iv) (ii) One hundred fifty dollars for 2021 and 2022;~~ 375

(iii) Similarly reduced every two years thereafter through 376
2026 by fifty dollars, to a minimum of fifty dollars. 377

(b) The compliance payment pertaining to the renewable 378
energy resource benchmarks under division (B) (2) of this section 379

shall equal the number of additional renewable energy credits 380
that the electric distribution utility or electric services 381
company would have needed to comply with the applicable 382
benchmark in the period under review times an amount that shall 383
begin at forty-five dollars and shall be adjusted annually by 384
the commission to reflect any change in the consumer price index 385
as defined in section 101.27 of the Revised Code, but shall not 386
be less than forty-five dollars. 387

(c) The compliance payment shall not be passed through by 388
the electric distribution utility or electric services company 389
to consumers. The compliance payment shall be remitted to the 390
commission, for deposit to the credit of the advanced energy 391
fund created under section 4928.61 of the Revised Code. Payment 392
of the compliance payment shall be subject to such collection 393
and enforcement procedures as apply to the collection of a 394
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 395
Revised Code. 396

(3) An electric distribution utility or an electric 397
services company need not comply with a benchmark under division 398
(B) (2) of this section to the extent that its reasonably 399
expected cost of that compliance exceeds its reasonably expected 400
cost of otherwise producing or acquiring the requisite 401
electricity by three per cent or more. The cost of compliance 402
shall be calculated as though any exemption from taxes and 403
assessments had not been granted under section 5727.75 of the 404
Revised Code. 405

(4) (a) An electric distribution utility or electric 406
services company may request the commission to make a force 407
majeure determination pursuant to this division regarding all or 408
part of the utility's or company's compliance with any minimum 409

benchmark under division (B) (2) of this section during the 410
period of review occurring pursuant to division (C) (2) of this 411
section. The commission may require the electric distribution 412
utility or electric services company to make solicitations for 413
renewable energy resource credits as part of its default service 414
before the utility's or company's request of force majeure under 415
this division can be made. 416

(b) Within ninety days after the filing of a request by an 417
electric distribution utility or electric services company under 418
division (C) (4) (a) of this section, the commission shall 419
determine if qualifying renewable energy resources are 420
reasonably available in the marketplace in sufficient quantities 421
for the utility or company to comply with the subject minimum 422
benchmark during the review period. In making this 423
determination, the commission shall consider whether the 424
electric distribution utility or electric services company has 425
made a good faith effort to acquire sufficient qualifying 426
renewable energy or, as applicable, solar energy resources to so 427
comply, including, but not limited to, by banking or seeking 428
renewable energy resource credits or by seeking the resources 429
through long-term contracts. Additionally, the commission shall 430
consider the availability of qualifying renewable energy or 431
solar energy resources in this state and other jurisdictions in 432
the PJM interconnection regional transmission organization, 433
L.L.C., or its successor and the midcontinent independent system 434
operator or its successor. 435

(c) If, pursuant to division (C) (4) (b) of this section, 436
the commission determines that qualifying renewable energy or 437
solar energy resources are not reasonably available to permit 438
the electric distribution utility or electric services company 439
to comply, during the period of review, with the subject minimum 440

benchmark prescribed under division (B) (2) of this section, the 441
commission shall modify that compliance obligation of the 442
utility or company as it determines appropriate to accommodate 443
the finding. Commission modification shall not automatically 444
reduce the obligation for the electric distribution utility's or 445
electric services company's compliance in subsequent years. If 446
it modifies the electric distribution utility or electric 447
services company obligation under division (C) (4) (c) of this 448
section, the commission may require the utility or company, if 449
sufficient renewable energy resource credits exist in the 450
marketplace, to acquire additional renewable energy resource 451
credits in subsequent years equivalent to the utility's or 452
company's modified obligation under division (C) (4) (c) of this 453
section. 454

~~(5)~~(D) The sole penalty for an electric distribution 455
utility's or electric services company's failure to comply with 456
any provision of division (B) (2) of this section shall be the 457
imposition of compliance payments in accordance with division 458
(C) of this section. 459

(E) The commission shall establish a process to provide 460
for at least an annual review of the renewable energy resource 461
market in this state and in the service territories of the 462
regional transmission organizations that manage transmission 463
systems located in this state. The commission shall use the 464
results of this study to identify any needed changes to the 465
amount of the renewable energy compliance payment specified 466
under divisions (C) (2) (a) and (b) of this section. Specifically, 467
the commission may increase the amount to ensure that payment of 468
compliance payments is not used to achieve compliance with this 469
section in lieu of actually acquiring or realizing energy 470
derived from qualifying renewable energy resources. However, if 471

the commission finds that the amount of the compliance payment 472
should be otherwise changed, the commission shall present this 473
finding to the general assembly for legislative enactment. 474

~~(D) The commission annually shall submit to the general 475
assembly in accordance with section 101.68 of the Revised Code a 476
report describing all of the following: 477~~

~~(1) The compliance of electric distribution utilities and 478
electric services companies with division (B) of this section; 479~~

~~(2) The average annual cost of renewable energy credits 480
purchased by utilities and companies for the year covered in the 481
report; 482~~

~~(3) Any strategy for utility and company compliance or for 483
encouraging the use of qualifying renewable energy resources in 484
supplying this state's electricity needs in a manner that 485
considers available technology, costs, job creation, and 486
economic impacts. 487~~

~~The commission shall begin providing the information 488
described in division (D) (2) of this section in each report 489
submitted after September 10, 2012. The commission shall allow 490
and consider public comments on the report prior to its 491
submission to the general assembly. Nothing in the report shall 492
be binding on any person, including any utility or company for 493
the purpose of its compliance with any benchmark under division 494
(B) of this section, or the enforcement of that provision under 495
division (C) of this section. 496~~

~~(E)~~ (F) All costs incurred by an electric distribution 497
utility in complying with the ~~requirements~~ provisions of this 498
section shall be bypassable by any consumer that has exercised 499
choice of supplier under section 4928.03 of the Revised Code. 500

Sec. 4928.643. (A) Except as provided in division (B) of 501
this section and section 4928.644 of the Revised Code, the 502
baseline for an electric distribution utility's or an electric 503
services company's compliance with the qualified renewable 504
energy resource ~~requirements~~ provisions of section 4928.64 of 505
the Revised Code shall be the average of total kilowatt hours 506
sold by the utility or company in the preceding three calendar 507
years to the following: 508

(1) In the case of an electric distribution utility, any 509
and all retail electric consumers whose electric load centers 510
are served by that utility and are located within the utility's 511
certified territory; 512

(2) In the case of an electric services company, any and 513
all retail electric consumers who are served by the company and 514
are located within this state. 515

(B) Beginning with compliance year 2014, a utility or 516
company may choose for its baseline for compliance with the 517
qualified renewable energy resource ~~requirements~~ provisions of 518
section 4928.64 of the Revised Code to be the total kilowatt 519
hours sold to the applicable consumers, as described in division 520
(A) (1) or (2) of this section, in the applicable compliance 521
year. 522

(C) A utility or company that uses the baseline permitted 523
under division (B) of this section may use the baseline 524
described in division (A) of this section in any subsequent 525
compliance year. A utility or company that makes this switch 526
shall use the baseline described in division (A) of this section 527
for at least three consecutive compliance years before again 528
using the baseline permitted under division (B) of this section. 529

Sec. 4928.645. (A) An electric distribution utility or 530
electric services company may use, for the purpose of complying 531
with the ~~requirements~~ provisions under divisions (B) (1) and (2) 532
of section 4928.64 of the Revised Code, renewable energy credits 533
any time in the five calendar years following the date of their 534
purchase or acquisition from any entity, including, but not 535
limited to, the following: 536

(1) A mercantile customer; 537

(2) An owner or operator of a hydroelectric generating 538
facility that is located at a dam on a river, or on any water 539
discharged to a river, that is within or bordering this state or 540
within or bordering an adjoining state, or that produces power 541
that can be shown to be deliverable into this state; 542

(3) A seller of compressed natural gas that has been 543
produced from biologically derived methane gas, provided that 544
the seller may only provide renewable energy credits for metered 545
amounts of gas. 546

(B) (1) The public utilities commission shall adopt rules 547
specifying that one unit of credit shall equal one megawatt hour 548
of electricity derived from renewable energy resources, except 549
that, for a generating facility of seventy-five megawatts or 550
greater that is situated within this state and has committed by 551
December 31, 2009, to modify or retrofit its generating unit or 552
units to enable the facility to generate principally from 553
biomass energy by June 30, 2013, each megawatt hour of 554
electricity generated principally from that biomass energy shall 555
equal, in units of credit, the product obtained by multiplying 556
the actual percentage of biomass feedstock heat input used to 557
generate such megawatt hour by the quotient obtained by dividing 558
the then existing unit dollar amount used to determine a 559

renewable energy compliance payment as provided under division 560
(C) (2) (b) of section 4928.64 of the Revised Code by the then 561
existing market value of one renewable energy credit, but such 562
megawatt hour shall not equal less than one unit of credit. 563
Renewable energy resources do not have to be converted to 564
electricity in order to be eligible to receive renewable energy 565
credits. The rules shall specify that, for purposes of 566
converting the quantity of energy derived from biologically 567
derived methane gas to an electricity equivalent, one megawatt 568
hour equals 3,412,142 British thermal units. 569

(2) The rules also shall provide for this state a system 570
of registering renewable energy credits by specifying which of 571
any generally available registries shall be used for that 572
purpose and not by creating a registry. That selected system of 573
registering renewable energy credits shall allow a hydroelectric 574
generating facility to be eligible for obtaining renewable 575
energy credits and shall allow customer-sited projects or 576
actions the broadest opportunities to be eligible for obtaining 577
renewable energy credits. 578

Sec. 4928.65. (A) Not later than January 1, 2015, the 579
public utilities commission shall adopt rules governing the 580
disclosure of the costs to customers of the renewable energy 581
resource, energy efficiency savings, and peak demand reduction 582
~~requirements~~ provisions of sections 4928.64 and 4928.66 of the 583
Revised Code. The rules shall include both of the following 584
requirements: 585

(1) That every electric distribution utility list, on all 586
customer bills sent by the utility, including utility 587
consolidated bills that include both electric distribution 588
utility and electric services company charges, the individual 589

customer cost of the utility's compliance with all of the 590
following for the applicable billing period: 591

(a) The renewable energy resource ~~requirements~~ provisions 592
under section 4928.64 of the Revised Code, subject to division 593
(B) of this section; 594

(b) The energy efficiency savings ~~requirements~~ provisions 595
under section 4928.66 of the Revised Code; 596

(c) The peak demand reduction ~~requirements~~ provisions 597
under section 4928.66 of the Revised Code. 598

(2) That every electric services company list, on all 599
customer bills sent by the company, the individual customer 600
cost, subject to division (B) of this section, of the company's 601
compliance with the renewable energy resource ~~requirements~~ 602
provisions under section 4928.64 of the Revised Code for the 603
applicable billing period. 604

(B) (1) For purposes of division (A) (1) (a) of this section, 605
the cost of compliance with the renewable energy resource 606
~~requirements~~ provisions shall be calculated by multiplying the 607
individual customer's monthly usage by the combined weighted 608
average of renewable-energy-credit costs, including solar- 609
renewable-energy-credit costs, paid by all electric distribution 610
utilities, as listed in the commission's most recently available 611
alternative energy portfolio standard report. 612

(2) For purposes of division (A) (2) of this section, the 613
cost of compliance with the renewable energy resource 614
~~requirements~~ provisions shall be calculated by multiplying the 615
individual customer's monthly usage by the combined weighted 616
average of renewable-energy-credit costs, including solar- 617
renewable-energy-credit costs, paid by all electric services 618

companies, as listed in the commission's most recently available 619
alternative energy portfolio standard report. 620

(C) The costs required to be listed under division (A)(1) 621
of this section shall be listed on each customer's monthly bill 622
as three distinct line items. The cost required to be listed 623
under division (A)(2) of this section shall be listed on each 624
customer's monthly bill as a distinct line item. 625

Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric 626
distribution utility shall implement energy efficiency programs 627
that achieve energy savings equivalent to at least three-tenths 628
of one per cent of the total, annual average, and normalized 629
kilowatt-hour sales of the electric distribution utility during 630
the preceding three calendar years to customers in this state. 631
An energy efficiency program may include a combined heat and 632
power system placed into service or retrofitted on or after the 633
effective date of the amendment of this section by S.B. 315 of 634
the 129th general assembly, September 10, 2012, or a waste 635
energy recovery system placed into service or retrofitted on or 636
after September 10, 2012, except that a waste energy recovery 637
system described in division (A)(38)(b) of section 4928.01 of 638
the Revised Code may be included only if it was placed into 639
service between January 1, 2002, and December 31, 2004. For a 640
waste energy recovery or combined heat and power system, the 641
savings shall be as estimated by the public utilities 642
commission. The savings requirement, using such a three-year 643
average, shall increase to an additional five-tenths of one per 644
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 645
of one per cent in 2012, nine-tenths of one per cent in 2013, 646
and one per cent in 2014. In 2015 and 2016, an electric 647
distribution utility shall achieve energy savings equal to the 648
result of subtracting the cumulative energy savings achieved 649

since 2009 from the product of multiplying the baseline for 650
energy savings, described in division (A) (2) (a) of this section, 651
by four and two-tenths of one per cent. If the result is zero or 652
less for the year for which the calculation is being made, the 653
utility shall not be required to achieve additional energy 654
savings for that year, but may achieve additional energy savings 655
for that year. Thereafter, the annual savings requirements shall 656
be, for years 2017, 2018, 2019, ~~and 2020~~, 2021, 2022, 2023, 657
2024, and 2025, one per cent of the baseline, and two per cent 658
~~each year thereafter~~ for years 2026 and 2027, achieving 659
cumulative energy savings in excess of ~~twenty-two~~ seventeen per 660
cent by the end of 2027. For purposes of a waste energy recovery 661
or combined heat and power system, an electric distribution 662
utility shall not apply more than the total annual percentage of 663
the electric distribution utility's industrial-customer load, 664
relative to the electric distribution utility's total load, to 665
the annual energy savings requirement. 666

(b) Beginning in 2009, an electric distribution utility 667
shall implement peak demand reduction programs designed to 668
achieve a one per cent reduction in peak demand in 2009 and an 669
additional seventy-five hundredths of one per cent reduction 670
each year through 2014. In 2015 and 2016, an electric 671
distribution utility shall achieve a reduction in peak demand 672
equal to the result of subtracting the cumulative peak demand 673
reductions achieved since 2009 from the product of multiplying 674
the baseline for peak demand reduction, described in division 675
(A) (2) (a) of this section, by four and seventy-five hundredths 676
of one per cent. If the result is zero or less for the year for 677
which the calculation is being made, the utility shall not be 678
required to achieve an additional reduction in peak demand for 679
that year, but may achieve an additional reduction in peak 680

demand for that year. In 2017 and each year thereafter through 681
2020, the utility shall achieve an additional seventy-five 682
hundredths of one per cent reduction in peak demand. 683

(c) Subject to section 4928.6620 of the Revised Code, 684
noncompliance with the provisions of divisions (A) (1) (a) and (b) 685
of this section shall be subject to forfeitures under division 686
(C) of this section only for the requirements for years 2016, 687
2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, and 2027, as 688
applicable. The sole penalty for an electric distribution 689
utility's failure to comply with any provision of divisions (A) 690
(1) (a) and (b) of this section shall be the assessment of 691
forfeitures in accordance with division (C) of this section. 692

(2) For the purposes of divisions (A) (1) (a) and (b) of 693
this section: 694

(a) The baseline for energy savings under division (A) (1) 695
(a) of this section shall be the average of the total kilowatt 696
hours the electric distribution utility sold in the preceding 697
three calendar years. The baseline for a peak demand reduction 698
under division (A) (1) (b) of this section shall be the average 699
peak demand on the utility in the preceding three calendar 700
years, except that the commission may reduce either baseline to 701
adjust for new economic growth in the utility's certified 702
territory. Neither baseline shall include the load and usage of 703
any of the following customers: 704

(i) Beginning January 1, 2017, a customer for which a 705
reasonable arrangement has been approved under section 4905.31 706
of the Revised Code; 707

(ii) A customer that has opted out of the utility's 708
portfolio plan under section 4928.6611 of the Revised Code; 709

(iii) A customer that has opted out of the utility's 710
portfolio plan under Section 8 of S.B. 310 of the 130th general 711
assembly. 712

(b) The commission may amend the benchmarks set forth in 713
division (A)(1)(a) or (b) of this section if, after application 714
by the electric distribution utility, the commission determines 715
that the amendment is necessary because the utility cannot 716
reasonably achieve the benchmarks due to regulatory, economic, 717
or technological reasons beyond its reasonable control. 718

(c) Compliance with divisions (A)(1)(a) and (b) of this 719
section shall be measured by including the effects of all 720
demand-response programs for mercantile customers of the subject 721
electric distribution utility, all waste energy recovery systems 722
and all combined heat and power systems, and all such mercantile 723
customer-sited energy efficiency, including waste energy 724
recovery and combined heat and power, and peak demand reduction 725
programs, adjusted upward by the appropriate loss factors. Any 726
mechanism designed to recover the cost of energy efficiency, 727
including waste energy recovery and combined heat and power, and 728
peak demand reduction programs under divisions (A)(1)(a) and (b) 729
of this section may exempt mercantile customers that commit 730
their demand-response or other customer-sited capabilities, 731
whether existing or new, for integration into the electric 732
distribution utility's demand-response, energy efficiency, 733
including waste energy recovery and combined heat and power, or 734
peak demand reduction programs, if the commission determines 735
that that exemption reasonably encourages such customers to 736
commit those capabilities to those programs. If a mercantile 737
customer makes such existing or new demand-response, energy 738
efficiency, including waste energy recovery and combined heat 739
and power, or peak demand reduction capability available to an 740

electric distribution utility pursuant to division (A) (2) (c) of 741
this section, the electric utility's baseline under division (A) 742
(2) (a) of this section shall be adjusted to exclude the effects 743
of all such demand-response, energy efficiency, including waste 744
energy recovery and combined heat and power, or peak demand 745
reduction programs that may have existed during the period used 746
to establish the baseline. The baseline also shall be normalized 747
for changes in numbers of customers, sales, weather, peak 748
demand, and other appropriate factors so that the compliance 749
measurement is not unduly influenced by factors outside the 750
control of the electric distribution utility. 751

(d) (i) Programs implemented by a utility may include the 752
following: 753

(I) Demand-response programs; 754

(II) Smart grid investment programs, provided that such 755
programs are demonstrated to be cost-beneficial; 756

(III) Customer-sited programs, including waste energy 757
recovery and combined heat and power systems; 758

(IV) Transmission and distribution infrastructure 759
improvements that reduce line losses; 760

(V) Energy intensity reductions resulting from heat rate 761
improvements at electric generating plants. As used in this 762
division, "energy intensity" has the same meaning as in section 763
4928.6610 of the Revised Code. 764

(VI) Energy efficiency savings and peak demand reduction 765
that are achieved, in whole or in part, as a result of funding 766
provided from the universal service fund established by section 767
4928.51 of the Revised Code to benefit low-income customers 768
through programs that include, but are not limited to, energy 769

audits, the installation of energy efficiency insulation, 770
appliances, and windows, and other weatherization measures. 771

(ii) No energy efficiency or peak demand reduction 772
achieved under divisions (A) (2) (d) (i) (IV) ~~and~~, (V), and (VI) of 773
this section shall qualify for shared savings. 774

(iii) Division (A) (2) (c) of this section shall be applied 775
to include facilitating efforts by a mercantile customer or 776
group of those customers to offer customer-sited demand- 777
response, energy efficiency, including waste energy recovery and 778
combined heat and power, or peak demand reduction capabilities 779
to the electric distribution utility as part of a reasonable 780
arrangement submitted to the commission pursuant to section 781
4905.31 of the Revised Code. 782

(e) No programs or improvements described in division (A) 783
(2) (d) of this section shall conflict with any statewide 784
building code adopted by the board of building standards. 785

(B) In accordance with rules it shall adopt, the public 786
utilities commission shall produce and docket at the commission 787
an annual report, based on the information reported under 788
section 4928.6620 of the Revised Code and any other information 789
that is public, containing the results of its verification of 790
the annual levels of energy efficiency and of peak demand 791
reductions achieved by each electric distribution utility 792
pursuant to division (A) of this section. A copy of the report 793
shall be provided to the consumers' counsel. 794

(C) If the commission determines, after notice and 795
opportunity for hearing and based upon its report under division 796
(B) of this section, that an electric distribution utility has 797
failed to comply with an energy efficiency or peak demand 798

reduction requirement ~~of for years 2016, 2019, 2020, 2021, 2022,~~ 799
2023, 2024, 2025, 2026, or 2027, as applicable, under division 800
(A) of this section, the commission shall assess a forfeiture on 801
the utility as provided under sections 4905.55 to 4905.60 and 802
4905.64 of the Revised Code, either in the amount, per day per 803
undercompliance or noncompliance, relative to the period of the 804
report, equal to that prescribed for noncompliances under 805
section 4905.54 of the Revised Code, or in an amount equal to 806
the then existing market value of one renewable energy credit 807
per megawatt hour of undercompliance or noncompliance. Revenue 808
from any forfeiture assessed under this division shall be 809
deposited to the credit of the advanced energy fund created 810
under section 4928.61 of the Revised Code. 811

(D) The commission may establish rules regarding the 812
content of an application by an electric distribution utility 813
for commission approval of a revenue decoupling mechanism under 814
this division. Such an application shall not be considered an 815
application to increase rates and may be included as part of a 816
proposal to establish, continue, or expand energy efficiency or 817
conservation programs. The commission by order may approve an 818
application under this division if it determines both that the 819
revenue decoupling mechanism provides for the recovery of 820
revenue that otherwise may be forgone by the utility as a result 821
of or in connection with the implementation by the electric 822
distribution utility of any energy efficiency or energy 823
conservation programs and reasonably aligns the interests of the 824
utility and of its customers in favor of those programs. 825

(E) The commission additionally shall adopt rules that 826
require an electric distribution utility to provide a customer 827
upon request with two years' consumption data in an accessible 828
form. 829

Sec. 4928.662. For the purpose of measuring and 830
determining compliance with the energy efficiency and peak 831
demand reduction requirements under section 4928.66 of the 832
Revised Code, the public utilities commission shall count and 833
recognize compliance as follows: 834

(A) Energy efficiency savings and peak demand reduction 835
achieved through actions taken by customers or through electric 836
distribution utility programs that comply with federal standards 837
for either or both energy efficiency and peak demand reduction 838
requirements, including resources associated with such savings 839
or reduction that are recognized as capacity resources by the 840
regional transmission organization operating in Ohio in 841
compliance with section 4928.12 of the Revised Code, shall count 842
toward compliance with the energy efficiency and peak demand 843
reduction requirements. 844

(B) Energy efficiency savings and peak demand reduction 845
achieved on and after the effective date of S.B. 310 of the 846
130th general assembly, September 12, 2014, shall be measured on 847
the higher of an as found or deemed basis, except that, solely 848
at the option of the electric distribution utility, such savings 849
and reduction achieved since 2006 may also be measured using 850
this method. For new construction, the energy efficiency savings 851
and peak demand reduction shall be counted based on 2008 federal 852
standards, provided that when new construction replaces an 853
existing facility, the difference in energy consumed, energy 854
intensity, and peak demand between the new and replaced facility 855
shall be counted toward meeting the energy efficiency and peak 856
demand reduction requirements. 857

(C) The commission shall count both the energy efficiency 858
savings and peak demand reduction on an annualized basis. 859

(D) The commission shall count both the energy efficiency savings and peak demand reduction on a gross savings basis. 860
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(E) The commission shall count energy efficiency savings and peak demand reductions associated with transmission and distribution infrastructure improvements that reduce line losses and with energy intensity reductions resulting from heat rate improvements at electric generating plants. No energy efficiency or peak demand reduction achieved under division (E) of this section shall qualify for shared savings. 862
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(F) Energy efficiency savings and peak demand reduction amounts approved by the commission shall continue to be counted toward achieving the energy efficiency and peak demand reduction requirements as long as the requirements remain in effect. 869
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~~(G) Any energy efficiency savings or peak demand reduction amount achieved in excess of the requirements may, at the discretion of the electric distribution utility, be banked and applied toward achieving the energy efficiency or peak demand reduction requirements in future years.~~ The commission shall recognize and count energy efficiency savings and peak demand reductions that occur as a consequence of consumer reductions in water usage or reductions and improvements in wastewater treatment. 873
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(H) The commission shall recognize and count, on a British-thermal-unit-equivalent basis, nonelectric energy efficiency savings or nonelectric peak demand reductions that occur as a consequence of a portfolio plan, as defined in section 4928.6610 of the Revised Code. 882
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(I) The commission shall recognize and count, as energy efficiency savings and peak demand reduction, the savings and 887
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<u>reduction associated with heat rate improvements, other</u>	889
<u>efficiency improvements, or other energy intensity improvements,</u>	890
<u>if such savings and reduction are both of the following:</u>	891
<u>(1) Proposed by an electric distribution utility in its</u>	892
<u>sole discretion;</u>	893
<u>(2) Achieved since 2006 from an electric generating plant</u>	894
<u>that is either:</u>	895
<u>(a) Owned by the electric distribution utility; or</u>	896
<u>(b) Owned and operated by an affiliate of the electric</u>	897
<u>distribution utility provided that the generating plant was</u>	898
<u>previously owned, in whole or in part, by an electric</u>	899
<u>distribution utility located in this state.</u>	900
<u>No energy efficiency savings or peak demand reduction</u>	901
<u>achieved under division (I) of this section shall qualify for</u>	902
<u>shared savings.</u>	903
<u>(J) The commission shall count energy efficiency savings</u>	904
<u>associated with any plan, policy, behavior, or practice that</u>	905
<u>reduces either of the following:</u>	906
<u>(1) The total energy intensity of a facility, pipeline,</u>	907
<u>building, plant, or equipment, regardless of the type of energy</u>	908
<u>intensity reduction;</u>	909
<u>(2) The energy intensity of any water supply function or</u>	910
<u>water treatment function.</u>	911
<u>(K) As used in this section:</u>	912
<u>(1) "Energy intensity" has the same meaning as in section</u>	913
<u>4928.6610 of the Revised Code.</u>	914
<u>(2) "Water supply function" means the functions associated</u>	915

<u>with the following:</u>	916
<u>(a) Raw water collection, purification, treatment, and storage;</u>	917 918
<u>(b) Establishing or maintaining pressure to balance water supply and demand;</u>	919 920
<u>(c) Water delivery and transfer.</u>	921
<u>(3) "Water treatment function" means any of the preliminary, secondary, tertiary, and advanced activities, whether physical, biological, or chemical, associated with the removal of contaminants from, or conditioning of, wastewater prior to its return to the environment or recycled use.</u>	922 923 924 925 926
Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 of the Revised Code:	927 928
(A) "Customer" means any <u>either of the following:</u>	929
<u>(1) A mercantile customer of an electric distribution utility;</u>	930 931
<u>(2) Any customer of an electric distribution utility to which either of the following applies:</u>	932 933
(1) <u>(a) The customer receives service above the primary voltage level as determined by the utility's tariff classification.</u>	934 935 936
(2) <u>(b) The customer is a commercial or industrial customer to which both of the following apply:</u>	937 938
(a) <u>(i) The customer receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds forty-five million kilowatt hours of electricity for the preceding calendar year.</u>	939 940 941 942

~~(b)-(ii)~~ The customer has made a written request for 943
registration as a self-assessing purchaser pursuant to section 944
5727.81 of the Revised Code. 945

(B) "Energy intensity" means the amount of energy, ~~from~~ 946
~~electricity, used or consumed per unit of production to produce~~ 947
a certain level of output or activity, measured by the quantity 948
of energy needed to perform a particular activity, expressed as 949
energy per unit of output, energy per unit of gross total floor 950
space, or an activity measure of service. 951

(C) "Portfolio plan" means the comprehensive energy 952
efficiency and peak-demand reduction program portfolio plan 953
required under rules adopted by the public utilities commission 954
and codified in Chapter 4901:1-39 of the Administrative Code or 955
hereafter recodified or amended. 956

Sec. 4928.6620. (A) Every electric distribution utility 957
and electric services company shall submit an annual report for 958
the prior calendar year to the public utilities commission not 959
later than the first day of July of each year. The report shall 960
detail the utility's or company's status of compliance with the 961
provisions of sections 4928.64 and 4928.66 of the Revised Code, 962
as applicable. The commission shall modify its rules in 963
accordance with the reporting requirement, including the filing 964
date, set forth in this section. 965

(B) The commission shall submit a report to the general 966
assembly not later than the first day of August of each year and 967
in accordance with section 101.68 of the Revised Code. The 968
report shall detail all of the following: 969

(1) The compliance of electric distribution utilities and 970
electric services companies with sections 4928.64 and 4928.66 of 971

the Revised Code, based on the information provided to the 972
commission described in division (A) of this section; 973

(2) The average annual cost of renewable energy credits 974
purchased by utilities and companies for the year covered in the 975
report; 976

(3) Any strategy for utility and company compliance or for 977
encouraging the use of qualifying renewable energy resources in 978
supplying this state's electricity needs in a manner that 979
considers available technology, costs, job creation, and 980
economic impacts. 981

(C) Not later than the first day of September of each 982
year, the commission chairperson shall provide testimony on the 983
report required in that year under division (B) of this section 984
to the standing committees of both houses of the general 985
assembly that deal with public utility matters. 986

Sec. 4928.6621. (A) Any energy efficiency savings or peak 987
demand reduction amount achieved in excess of the requirements 988
under section 4928.66 of the Revised Code may, at the discretion 989
of the electric distribution utility, be banked and applied 990
toward achieving the energy efficiency or peak demand reduction 991
requirements in future years. 992

(B) An electric distribution utility shall be deemed in 993
compliance with the energy efficiency and peak demand reduction 994
savings requirements and shall be eligible for incentives 995
approved by the public utilities commission in any year in which 996
the utility's actual cumulative energy efficiency and peak 997
demand reduction savings meet or exceed the cumulative mandates 998
under division (A)(1) of section 4928.66 of the Revised Code. 999

Sec. 5727.75. (A) For purposes of this section: 1000

(1) "Qualified energy project" means an energy project 1001
certified by the director of development services pursuant to 1002
this section. 1003

(2) "Energy project" means a project to provide electric 1004
power through the construction, installation, and use of an 1005
energy facility. 1006

(3) "Alternative energy zone" means a county declared as 1007
such by the board of county commissioners under division (E)(1) 1008
(b) or (c) of this section. 1009

(4) "Full-time equivalent employee" means the total number 1010
of employee-hours for which compensation was paid to individuals 1011
employed at a qualified energy project for services performed at 1012
the project during the calendar year divided by two thousand 1013
eighty hours. 1014

(5) "Solar energy project" means an energy project 1015
composed of an energy facility using solar panels to generate 1016
electricity. 1017

(B)(1) Tangible personal property of a qualified energy 1018
project using renewable energy resources is exempt from taxation 1019
for tax years 2011 through 2021 if all of the following 1020
conditions are satisfied: 1021

(a) On or before December 31, 2020, the owner or a lessee 1022
pursuant to a sale and leaseback transaction of the project 1023
submits an application to the power siting board for a 1024
certificate under section 4906.20 of the Revised Code, or if 1025
that section does not apply, submits an application for any 1026
approval, consent, permit, or certificate or satisfies any 1027
condition required by a public agency or political subdivision 1028
of this state for the construction or initial operation of an 1029

energy project. 1030

(b) Construction or installation of the energy facility 1031
begins on or after January 1, 2009, and before January 1, 2021. 1032
For the purposes of this division, construction begins on the 1033
earlier of the date of application for a certificate or other 1034
approval or permit described in division (B)(1)(a) of this 1035
section, or the date the contract for the construction or 1036
installation of the energy facility is entered into. 1037

(c) For a qualified energy project with a nameplate 1038
capacity of five megawatts or greater, a board of county 1039
commissioners of a county in which property of the project is 1040
located has adopted a resolution under division (E)(1)(b) or (c) 1041
of this section to approve the application submitted under 1042
division (E) of this section to exempt the property located in 1043
that county from taxation. A board's adoption of a resolution 1044
rejecting an application or its failure to adopt a resolution 1045
approving the application does not affect the tax-exempt status 1046
of the qualified energy project's property that is located in 1047
another county. 1048

(2) If tangible personal property of a qualified energy 1049
project using renewable energy resources was exempt from 1050
taxation under this section beginning in any of tax years 2011 1051
through 2021, and the certification under division (E)(2) of 1052
this section has not been revoked, the tangible personal 1053
property of the qualified energy project is exempt from taxation 1054
for tax year 2022 and all ensuing tax years if the property was 1055
placed into service before January 1, 2022, as certified in the 1056
construction progress report required under division (F)(2) of 1057
this section. Tangible personal property that has not been 1058
placed into service before that date is taxable property subject 1059

to taxation. An energy project for which certification has been 1060
revoked is ineligible for further exemption under this section. 1061
Revocation does not affect the tax-exempt status of the 1062
project's tangible personal property for the tax year in which 1063
revocation occurs or any prior tax year. 1064

(C) Tangible personal property of a qualified energy 1065
project using clean coal technology, advanced nuclear 1066
technology, or cogeneration technology is exempt from taxation 1067
for the first tax year that the property would be listed for 1068
taxation and all subsequent years if all of the following 1069
circumstances are met: 1070

(1) The property was placed into service before January 1, 1071
2021. Tangible personal property that has not been placed into 1072
service before that date is taxable property subject to 1073
taxation. 1074

(2) For such a qualified energy project with a nameplate 1075
capacity of five megawatts or greater, a board of county 1076
commissioners of a county in which property of the qualified 1077
energy project is located has adopted a resolution under 1078
division (E) (1) (b) or (c) of this section to approve the 1079
application submitted under division (E) of this section to 1080
exempt the property located in that county from taxation. A 1081
board's adoption of a resolution rejecting the application or 1082
its failure to adopt a resolution approving the application does 1083
not affect the tax-exempt status of the qualified energy 1084
project's property that is located in another county. 1085

(3) The certification for the qualified energy project 1086
issued under division (E) (2) of this section has not been 1087
revoked. An energy project for which certification has been 1088
revoked is ineligible for exemption under this section. 1089

Revocation does not affect the tax-exempt status of the 1090
project's tangible personal property for the tax year in which 1091
revocation occurs or any prior tax year. 1092

(D) Except as otherwise provided in this section, real 1093
property of a qualified energy project is exempt from taxation 1094
for any tax year for which the tangible personal property of the 1095
qualified energy project is exempted under this section. 1096

(E) (1) (a) A person may apply to the director of 1097
development services for certification of an energy project as a 1098
qualified energy project on or before the following dates: 1099

(i) December 31, 2020, for an energy project using 1100
renewable energy resources; 1101

(ii) December 31, 2017, for an energy project using clean 1102
coal technology, advanced nuclear technology, or cogeneration 1103
technology. 1104

(b) The director shall forward a copy of each application 1105
for certification of an energy project with a nameplate capacity 1106
of five megawatts or greater to the board of county 1107
commissioners of each county in which the project is located and 1108
to each taxing unit with territory located in each of the 1109
affected counties. Any board that receives from the director a 1110
copy of an application submitted under this division shall adopt 1111
a resolution approving or rejecting the application unless it 1112
has adopted a resolution under division (E) (1) (c) of this 1113
section. A resolution adopted under division (E) (1) (b) or (c) of 1114
this section may require an annual service payment to be made in 1115
addition to the service payment required under division (G) of 1116
this section. The sum of the service payment required in the 1117
resolution and the service payment required under division (G) 1118

of this section shall not exceed nine thousand dollars per 1119
megawatt of nameplate capacity located in the county. The 1120
resolution shall specify the time and manner in which the 1121
payments required by the resolution shall be paid to the county 1122
treasurer. The county treasurer shall deposit the payment to the 1123
credit of the county's general fund to be used for any purpose 1124
for which money credited to that fund may be used. 1125

The board shall send copies of the resolution by certified 1126
mail to the owner of the facility and the director within thirty 1127
days after receipt of the application, or a longer period of 1128
time if authorized by the director. 1129

(c) A board of county commissioners may adopt a resolution 1130
declaring the county to be an alternative energy zone and 1131
declaring all applications submitted to the director of 1132
development services under this division after the adoption of 1133
the resolution, and prior to its repeal, to be approved by the 1134
board. 1135

All tangible personal property and real property of an 1136
energy project with a nameplate capacity of five megawatts or 1137
greater is taxable if it is located in a county in which the 1138
board of county commissioners adopted a resolution rejecting the 1139
application submitted under this division or failed to adopt a 1140
resolution approving the application under division (E) (1) (b) or 1141
(c) of this section. 1142

(2) The director shall certify an energy project if all of 1143
the following circumstances exist: 1144

(a) The application was timely submitted. 1145

(b) For an energy project with a nameplate capacity of 1146
five megawatts or greater, a board of county commissioners of at 1147

least one county in which the project is located has adopted a 1148
resolution approving the application under division (E) (1) (b) or 1149
(c) of this section. 1150

(c) No portion of the project's facility was used to 1151
supply electricity before December 31, 2009. 1152

(3) The director shall deny a certification application if 1153
the director determines the person has failed to comply with any 1154
requirement under this section. The director may revoke a 1155
certification if the director determines the person, or 1156
subsequent owner or lessee pursuant to a sale and leaseback 1157
transaction of the qualified energy project, has failed to 1158
comply with any requirement under this section. Upon 1159
certification or revocation, the director shall notify the 1160
person, owner, or lessee, the tax commissioner, and the county 1161
auditor of a county in which the project is located of the 1162
certification or revocation. Notice shall be provided in a 1163
manner convenient to the director. 1164

(F) The owner or a lessee pursuant to a sale and leaseback 1165
transaction of a qualified energy project shall do each of the 1166
following: 1167

(1) Comply with all applicable regulations; 1168

(2) File with the director of development services a 1169
certified construction progress report before the first day of 1170
March of each year during the energy facility's construction or 1171
installation indicating the percentage of the project completed, 1172
and the project's nameplate capacity, as of the preceding 1173
thirty-first day of December. Unless otherwise instructed by the 1174
director of development services, the owner or lessee of an 1175
energy project shall file a report with the director on or 1176

before the first day of March each year after completion of the 1177
energy facility's construction or installation indicating the 1178
project's nameplate capacity as of the preceding thirty-first 1179
day of December. Not later than sixty days after June 17, 2010, 1180
the owner or lessee of an energy project, the construction of 1181
which was completed before June 17, 2010, shall file a 1182
certificate indicating the project's nameplate capacity. 1183

(3) File with the director of development services, in a 1184
manner prescribed by the director, a report of the total number 1185
of full-time equivalent employees, and the total number of full- 1186
time equivalent employees domiciled in Ohio, who are employed in 1187
the construction or installation of the energy facility; 1188

(4) For energy projects with a nameplate capacity of five 1189
megawatts or greater, repair all roads, bridges, and culverts 1190
affected by construction as reasonably required to restore them 1191
to their preconstruction condition, as determined by the county 1192
engineer in consultation with the local jurisdiction responsible 1193
for the roads, bridges, and culverts. In the event that the 1194
county engineer deems any road, bridge, or culvert to be 1195
inadequate to support the construction or decommissioning of the 1196
energy facility, the road, bridge, or culvert shall be rebuilt 1197
or reinforced to the specifications established by the county 1198
engineer prior to the construction or decommissioning of the 1199
facility. The owner or lessee of the facility shall post a bond 1200
in an amount established by the county engineer and to be held 1201
by the board of county commissioners to ensure funding for 1202
repairs of roads, bridges, and culverts affected during the 1203
construction. The bond shall be released by the board not later 1204
than one year after the date the repairs are completed. The 1205
energy facility owner or lessee pursuant to a sale and leaseback 1206
transaction shall post a bond, as may be required by the Ohio 1207

power siting board in the certificate authorizing commencement 1208
of construction issued pursuant to section 4906.10 of the 1209
Revised Code, to ensure funding for repairs to roads, bridges, 1210
and culverts resulting from decommissioning of the facility. The 1211
energy facility owner or lessee and the county engineer may 1212
enter into an agreement regarding specific transportation plans, 1213
reinforcements, modifications, use and repair of roads, 1214
financial security to be provided, and any other relevant issue. 1215

(5) Provide or facilitate training for fire and emergency 1216
responders for response to emergency situations related to the 1217
energy project and, for energy projects with a nameplate 1218
capacity of five megawatts or greater, at the person's expense, 1219
equip the fire and emergency responders with proper equipment as 1220
reasonably required to enable them to respond to such emergency 1221
situations; 1222

(6) Maintain a ratio of Ohio-domiciled full-time 1223
equivalent employees employed in the construction or 1224
installation of the energy project to total full-time equivalent 1225
employees employed in the construction or installation of the 1226
energy project of not less than eighty per cent in the case of a 1227
solar energy project, and not less than fifty per cent in the 1228
case of any other energy project. In the case of an energy 1229
project for which certification from the power siting board is 1230
required under section 4906.20 of the Revised Code, the number 1231
of full-time equivalent employees employed in the construction 1232
or installation of the energy project equals the number actually 1233
employed or the number projected to be employed in the 1234
certificate application, if such projection is required under 1235
regulations adopted pursuant to section 4906.03 of the Revised 1236
Code, whichever is greater. For all other energy projects, the 1237
number of full-time equivalent employees employed in the 1238

construction or installation of the energy project equals the 1239
number actually employed or the number projected to be employed 1240
by the director of development services, whichever is greater. 1241
To estimate the number of employees to be employed in the 1242
construction or installation of an energy project, the director 1243
shall use a generally accepted job-estimating model in use for 1244
renewable energy projects, including but not limited to the job 1245
and economic development impact model. The director may adjust 1246
an estimate produced by a model to account for variables not 1247
accounted for by the model. 1248

(7) For energy projects with a nameplate capacity in 1249
excess of two megawatts, establish a relationship with a member 1250
of the university system of Ohio as defined in section 3345.011 1251
of the Revised Code or with a person offering an apprenticeship 1252
program registered with the employment and training 1253
administration within the United States department of labor or 1254
with the apprenticeship council created by section 4139.02 of 1255
the Revised Code, to educate and train individuals for careers 1256
in the wind or solar energy industry. The relationship may 1257
include endowments, cooperative programs, internships, 1258
apprenticeships, research and development projects, and 1259
curriculum development. 1260

(8) Offer to sell power or renewable energy credits from 1261
the energy project to electric distribution utilities or 1262
electric service companies subject to renewable energy resource 1263
~~requirements~~ provisions under section 4928.64 of the Revised 1264
Code that have issued requests for proposal for such power or 1265
renewable energy credits. If no electric distribution utility or 1266
electric service company issues a request for proposal on or 1267
before December 31, 2010, or accepts an offer for power or 1268
renewable energy credits within forty-five days after the offer 1269

is submitted, power or renewable energy credits from the energy 1270
project may be sold to other persons. Division (F)(8) of this 1271
section does not apply if: 1272

(a) The owner or lessee is a rural electric company or a 1273
municipal power agency as defined in section 3734.058 of the 1274
Revised Code. 1275

(b) The owner or lessee is a person that, before 1276
completion of the energy project, contracted for the sale of 1277
power or renewable energy credits with a rural electric company 1278
or a municipal power agency. 1279

(c) The owner or lessee contracts for the sale of power or 1280
renewable energy credits from the energy project before June 17, 1281
2010. 1282

(9) Make annual service payments as required by division 1283
(G) of this section and as may be required in a resolution 1284
adopted by a board of county commissioners under division (E) of 1285
this section. 1286

(G) The owner or a lessee pursuant to a sale and leaseback 1287
transaction of a qualified energy project shall make annual 1288
service payments in lieu of taxes to the county treasurer on or 1289
before the final dates for payments of taxes on public utility 1290
personal property on the real and public utility personal 1291
property tax list for each tax year for which property of the 1292
energy project is exempt from taxation under this section. The 1293
county treasurer shall allocate the payment on the basis of the 1294
project's physical location. Upon receipt of a payment, or if 1295
timely payment has not been received, the county treasurer shall 1296
certify such receipt or non-receipt to the director of 1297
development services and tax commissioner in a form determined 1298

by the director and commissioner, respectively. Each payment 1299
shall be in the following amount: 1300

(1) In the case of a solar energy project, seven thousand 1301
dollars per megawatt of nameplate capacity located in the county 1302
as of December 31, 2010, for tax year 2011, as of December 31, 1303
2011, for tax year 2012, as of December 31, 2012, for tax year 1304
2013, as of December 31, 2013, for tax year 2014, as of December 1305
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1306
year 2016, and as of December 31, 2016, for tax year 2017 and 1307
each tax year thereafter; 1308

(2) In the case of any other energy project using 1309
renewable energy resources, the following: 1310

(a) If the project maintains during the construction or 1311
installation of the energy facility a ratio of Ohio-domiciled 1312
full-time equivalent employees to total full-time equivalent 1313
employees of not less than seventy-five per cent, six thousand 1314
dollars per megawatt of nameplate capacity located in the county 1315
as of the thirty-first day of December of the preceding tax 1316
year; 1317

(b) If the project maintains during the construction or 1318
installation of the energy facility a ratio of Ohio-domiciled 1319
full-time equivalent employees to total full-time equivalent 1320
employees of less than seventy-five per cent but not less than 1321
sixty per cent, seven thousand dollars per megawatt of nameplate 1322
capacity located in the county as of the thirty-first day of 1323
December of the preceding tax year; 1324

(c) If the project maintains during the construction or 1325
installation of the energy facility a ratio of Ohio-domiciled 1326
full-time equivalent employees to total full-time equivalent 1327

employees of less than sixty per cent but not less than fifty 1328
per cent, eight thousand dollars per megawatt of nameplate 1329
capacity located in the county as of the thirty-first day of 1330
December of the preceding tax year. 1331

(3) In the case of an energy project using clean coal 1332
technology, advanced nuclear technology, or cogeneration 1333
technology, the following: 1334

(a) If the project maintains during the construction or 1335
installation of the energy facility a ratio of Ohio-domiciled 1336
full-time equivalent employees to total full-time equivalent 1337
employees of not less than seventy-five per cent, six thousand 1338
dollars per megawatt of nameplate capacity located in the county 1339
as of the thirty-first day of December of the preceding tax 1340
year; 1341

(b) If the project maintains during the construction or 1342
installation of the energy facility a ratio of Ohio-domiciled 1343
full-time equivalent employees to total full-time equivalent 1344
employees of less than seventy-five per cent but not less than 1345
sixty per cent, seven thousand dollars per megawatt of nameplate 1346
capacity located in the county as of the thirty-first day of 1347
December of the preceding tax year; 1348

(c) If the project maintains during the construction or 1349
installation of the energy facility a ratio of Ohio-domiciled 1350
full-time equivalent employees to total full-time equivalent 1351
employees of less than sixty per cent but not less than fifty 1352
per cent, eight thousand dollars per megawatt of nameplate 1353
capacity located in the county as of the thirty-first day of 1354
December of the preceding tax year. 1355

(H) The director of development services in consultation 1356

with the tax commissioner shall adopt rules pursuant to Chapter 1357
119. of the Revised Code to implement and enforce this section. 1358

Section 2. That existing sections 4928.143, 4928.64, 1359
4928.643, 4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, and 1360
5727.75 of the Revised Code are hereby repealed. 1361

Section 3. That Section 6 of Sub. S.B. 310 of the 130th 1362
General Assembly be amended to read as follows: 1363

Sec. 6. (A) If an electric distribution utility has a 1364
portfolio plan that is in effect on the effective date of this 1365
section, the utility shall do either of the following, at its 1366
sole discretion: 1367

(1) Continue to implement the portfolio plan with no 1368
amendments to the plan, for the duration that the Public 1369
Utilities Commission originally approved, subject to divisions 1370
(D) and (E) of this section; 1371

(2) Seek an amendment of the portfolio plan under division 1372
(B) of this section. 1373

(B) (1) An electric distribution utility that seeks to 1374
amend its portfolio plan under division (A) (2) of this section 1375
shall file an application with the Commission to amend the plan 1376
not later than thirty days after ~~the effective date of this~~ 1377
~~section~~ September 12, 2014. The Commission shall review the 1378
application in accordance with its rules as if the application 1379
were for a new portfolio plan. The Commission shall review and 1380
approve, or modify and approve, the application not later than 1381
sixty days after the date that the application is filed. Any 1382
portfolio plan amended under this division shall take effect on 1383
January 1, 2015, and expire on December 31, 2016. If the 1384
Commission fails to review and approve, or modify and approve, 1385

the application on or before January 1, 2015, the plan shall be 1386
deemed approved as amended in the application and shall take 1387
effect on January 1, 2015, and expire on December 31, 2016. 1388

(2) Section 4928.66 of the Revised Code, as amended by 1389
~~this act~~ Sub. S.B. 310 of the 130th General Assembly, shall 1390
apply to an electric distribution utility that applies to amend 1391
its portfolio plan under division (B) of this section. 1392

(C) If an electric distribution utility fails to file an 1393
application to amend its portfolio plan under division (B) of 1394
this section within the required thirty-day period, the electric 1395
distribution utility shall proceed in accordance with division 1396
(A) (1) of this section. 1397

(D) If an electric distribution utility implements its 1398
portfolio plan under division (A) (1) of this section for the 1399
plan's original duration and if the plan expires before December 1400
31, 2016, the Commission shall automatically extend the plan 1401
through December 31, 2016, with no amendments to the plan. 1402

(E) (1) The provisions of section 4928.66 of the Revised 1403
Code, as it existed prior to ~~the effective date of this section~~ 1404
September 12, 2014, shall apply to an electric distribution 1405
utility that has a portfolio plan that is implemented under 1406
division (A) (1) of this section for either of the following time 1407
periods: 1408

(a) The plan's original duration; 1409

(b) The plan's original duration and then, until December 1410
31, 2016, if the plan is extended under division (D) of this 1411
section. 1412

(2) Beginning January 1, 2017, the provisions of section 1413
4928.66 of the Revised Code as amended by ~~this act~~ Sub. S.B. 310 1414

of the 130th General Assembly shall apply to the electric 1415
distribution utility through the date that is the day before the 1416
provisions of that section, as amended by H.B. 554 of the 131st 1417
General Assembly, take effect. 1418

(3) The provisions of section 4928.66 of the Revised Code, 1419
as amended by H.B. 554 of the 131st General Assembly, shall 1420
apply to the electric distribution utility beginning on the 1421
effective date of the amendments to that section by that act. 1422

Section 4. That existing Section 6 of Sub. S.B. 310 of the 1423
130th General Assembly is hereby repealed. 1424

Section 5. (A) In 2017, the Public Utilities Commission 1425
shall review an electric distribution utility's or electric 1426
services company's compliance with the benchmarks for 2016 under 1427
division (B) (2) of section 4928.64 of the Revised Code as that 1428
division existed prior to the effective date of this section, 1429
and in the course of that review, shall identify any 1430
undercompliance or noncompliance of the utility or company that 1431
it determines is weather-related, related to equipment or 1432
resource shortages for qualifying renewable energy resources as 1433
applicable, or is otherwise outside the utility's or company's 1434
control. 1435

(B) Subject to the cost cap provisions of division (C) (3) 1436
of section 4928.64 of the Revised Code, if the commission 1437
determines, after notice and opportunity for hearing, and based 1438
upon its findings in the review under division (A) of this 1439
section regarding avoidable undercompliance or noncompliance, 1440
but subject to the force-majeure provisions of division (C) (4) 1441
(a) of section 4928.64 of the Revised Code, that the utility or 1442
company has failed to comply with the benchmarks for 2016, the 1443
commission shall impose a renewable energy compliance payment on 1444

the utility or company. 1445

(1) The compliance payment pertaining to the solar energy 1446
resource benchmark for 2016 shall be three hundred dollars per 1447
megawatt hour of undercompliance or noncompliance in the period 1448
under review. 1449

(2) The compliance payment pertaining to the renewable 1450
energy resource benchmark for 2016 shall be assessed in 1451
accordance with division (C) (2) (b) of section 4928.64 of the 1452
Revised Code. 1453

(C) Division (C) (2) (c) of section 4928.64 of the Revised 1454
Code applies to compliance payments imposed under this section. 1455

Section 6. The amendments to division (A) of section 1456
4928.6610 of the Revised Code by this act shall take effect 1457
January 1, 2019. 1458

Section 7. That Section 257.80 of Am. Sub. H.B. 64 of the 1459
131st General Assembly be amended to read as follows: 1460

Sec. 257.80. HEAP WEATHERIZATION 1461

~~Up to twenty five~~ Twenty-five per cent of the federal 1462
funds deposited to the credit of the Home Energy Assistance 1463
Block Grant Fund (Fund 3K90) ~~may~~ shall be expended from 1464
appropriation item 195614, HEAP Weatherization, to provide home 1465
weatherization services in the state as determined by the 1466
Director of Development Services. ~~Any transfers or increases in~~ 1467
~~appropriation for the foregoing appropriation items 195614, HEAP~~ 1468
~~Weatherization, or 195611, Home Energy Assistance Block Grant,~~ 1469
~~shall be subject to approval by the Controlling Board.~~ 1470

The Director of Development Services shall, in good faith, 1471
take all necessary steps, including, but not limited to, 1472

<u>applying for any waivers that are needed from the United States</u>	1473
<u>Department of Health and Human Services and any other applicable</u>	1474
<u>federal agencies to secure and execute this allocation.</u>	1475
Section 8. That existing Section 257.80 of Am. Sub. H.B.	1476
64 of the 131st General Assembly is hereby repealed.	1477
Section 9. Sections 7 and 8 of this act take effect June	1478
30, 2017.	1479