

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**H. B. No. 245**

**Representative Smith, T.  
Cosponsors: Representatives Lang, Cross**

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**A BILL**

To amend section 5727.75 of the Revised Code to  
remove the current deadlines by which an owner  
or lessee of a qualified energy project must  
apply for a property tax exemption. 1  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5727.75 of the Revised Code be  
amended to read as follows: 5  
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**Sec. 5727.75.** (A) For purposes of this section: 7

(1) "Qualified energy project" means an energy project  
certified by the director of development services pursuant to  
this section. 8  
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(2) "Energy project" means a project to provide electric  
power through the construction, installation, and use of an  
energy facility. 11  
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(3) "Alternative energy zone" means a county declared as  
such by the board of county commissioners under division (E)(1)  
(b) or (c) of this section. 14  
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(4) "Full-time equivalent employee" means the total number 17

of employee-hours for which compensation was paid to individuals 18  
employed at a qualified energy project for services performed at 19  
the project during the calendar year divided by two thousand 20  
eighty hours. 21

(5) "Solar energy project" means an energy project 22  
composed of an energy facility using solar panels to generate 23  
electricity. 24

(6) "Internet identifier of record" has the same meaning 25  
as in section 9.312 of the Revised Code. 26

(B) (1) Tangible personal property of a qualified energy 27  
project using renewable energy resources is exempt from taxation 28  
~~for tax years 2011 through 2021~~ if all of the following 29  
conditions are satisfied: 30

(a) ~~On or before December 31, 2020, the~~ The owner or a 31  
lessee pursuant to a sale and leaseback transaction of the 32  
project submits an application to the power siting board for a 33  
certificate under section 4906.20 of the Revised Code, or if 34  
that section does not apply, submits an application for any 35  
approval, consent, permit, or certificate or satisfies any 36  
condition required by a public agency or political subdivision 37  
of this state for the construction or initial operation of an 38  
energy project. 39

(b) Construction or installation of the energy facility 40  
begins on or after January 1, 2009, ~~and before January 1, 2021~~. 41  
For the purposes of this division, construction begins on the 42  
earlier of the date of application for a certificate or other 43  
approval or permit described in division (B) (1) (a) of this 44  
section, or the date the contract for the construction or 45  
installation of the energy facility is entered into. 46

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

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

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation

for the first tax year that the property would be listed for 78  
taxation and all subsequent years if all of the following 79  
circumstances are met: 80

~~(1) The property was placed into service before January 1, 81  
2021. Tangible personal property that has not been placed into 82  
service before that date is taxable property subject to 83  
taxation. 84~~

~~(2) For such a qualified energy project with a nameplate 85  
capacity of five megawatts or greater, a board of county 86  
commissioners of a county in which property of the qualified 87  
energy project is located has adopted a resolution under 88  
division (E) (1) (b) or (c) of this section to approve the 89  
application submitted under division (E) of this section to 90  
exempt the property located in that county from taxation. A 91  
board's adoption of a resolution rejecting the application or 92  
its failure to adopt a resolution approving the application does 93  
not affect the tax-exempt status of the qualified energy 94  
project's property that is located in another county. 95~~

~~(3) (2) The certification for the qualified energy project 96  
issued under division (E) (2) of this section has not been 97  
revoked. An energy project for which certification has been 98  
revoked is ineligible for exemption under this section. 99  
Revocation does not affect the tax-exempt status of the 100  
project's tangible personal property for the tax year in which 101  
revocation occurs or any prior tax year. 102~~

(D) Except as otherwise provided in this section, real 103  
property of a qualified energy project is exempt from taxation 104  
for any tax year for which the tangible personal property of the 105  
qualified energy project is exempted under this section. 106

(E) (1) (a) A person may apply to the director of 107  
development services for certification of an energy project as a 108  
qualified energy project ~~on or before the following dates:~~ 109

~~(i) December 31, 2020, for an energy project using 110  
renewable energy resources;~~ 111

~~(ii) December 31, 2017, for an energy project using clean 112  
coal technology, advanced nuclear technology, or cogeneration 113  
technology. 114~~

(b) The director shall forward a copy of each application 115  
for certification of an energy project with a nameplate capacity 116  
of five megawatts or greater to the board of county 117  
commissioners of each county in which the project is located and 118  
to each taxing unit with territory located in each of the 119  
affected counties. Any board that receives from the director a 120  
copy of an application submitted under this division shall adopt 121  
a resolution approving or rejecting the application unless it 122  
has adopted a resolution under division (E) (1) (c) of this 123  
section. A resolution adopted under division (E) (1) (b) or (c) of 124  
this section may require an annual service payment to be made in 125  
addition to the service payment required under division (G) of 126  
this section. The sum of the service payment required in the 127  
resolution and the service payment required under division (G) 128  
of this section shall not exceed nine thousand dollars per 129  
megawatt of nameplate capacity located in the county. The 130  
resolution shall specify the time and manner in which the 131  
payments required by the resolution shall be paid to the county 132  
treasurer. The county treasurer shall deposit the payment to the 133  
credit of the county's general fund to be used for any purpose 134  
for which money credited to that fund may be used. 135

The board shall send copies of the resolution to the owner 136

of the facility and the director by certified mail or, if the 137  
board has record of an internet identifier of record associated 138  
with the owner or director, by ordinary mail and by that 139  
internet identifier of record. The board shall send such notice 140  
within thirty days after receipt of the application, or a longer 141  
period of time if authorized by the director. 142

(c) A board of county commissioners may adopt a resolution 143  
declaring the county to be an alternative energy zone and 144  
declaring all applications submitted to the director of 145  
development services under this division after the adoption of 146  
the resolution, and prior to its repeal, to be approved by the 147  
board. 148

All tangible personal property and real property of an 149  
energy project with a nameplate capacity of five megawatts or 150  
greater is taxable if it is located in a county in which the 151  
board of county commissioners adopted a resolution rejecting the 152  
application submitted under this division or failed to adopt a 153  
resolution approving the application under division (E) (1) (b) or 154  
(c) of this section. 155

(2) The director shall certify an energy project if all of 156  
the following circumstances exist: 157

(a) The application was timely submitted. 158

(b) For an energy project with a nameplate capacity of 159  
five megawatts or greater, a board of county commissioners of at 160  
least one county in which the project is located has adopted a 161  
resolution approving the application under division (E) (1) (b) or 162  
(c) of this section. 163

(c) No portion of the project's facility was used to 164  
supply electricity before December 31, 2009. 165

(3) The director shall deny a certification application if 166  
the director determines the person has failed to comply with any 167  
requirement under this section. The director may revoke a 168  
certification if the director determines the person, or 169  
subsequent owner or lessee pursuant to a sale and leaseback 170  
transaction of the qualified energy project, has failed to 171  
comply with any requirement under this section. Upon 172  
certification or revocation, the director shall notify the 173  
person, owner, or lessee, the tax commissioner, and the county 174  
auditor of a county in which the project is located of the 175  
certification or revocation. Notice shall be provided in a 176  
manner convenient to the director. 177

(F) The owner or a lessee pursuant to a sale and leaseback 178  
transaction of a qualified energy project shall do each of the 179  
following: 180

(1) Comply with all applicable regulations; 181

(2) File with the director of development services a 182  
certified construction progress report before the first day of 183  
March of each year during the energy facility's construction or 184  
installation indicating the percentage of the project completed, 185  
and the project's nameplate capacity, as of the preceding 186  
thirty-first day of December. Unless otherwise instructed by the 187  
director of development services, the owner or lessee of an 188  
energy project shall file a report with the director on or 189  
before the first day of March each year after completion of the 190  
energy facility's construction or installation indicating the 191  
project's nameplate capacity as of the preceding thirty-first 192  
day of December. Not later than sixty days after June 17, 2010, 193  
the owner or lessee of an energy project, the construction of 194  
which was completed before June 17, 2010, shall file a 195

certificate indicating the project's nameplate capacity.	196
(3) File with the director of development services, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;	197 198 199 200 201
(4) For energy projects with a nameplate capacity of five megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans,	202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226



reinforcements, modifications, use and repair of roads,	227
financial security to be provided, and any other relevant issue.	228
(5) Provide or facilitate training for fire and emergency	229
responders for response to emergency situations related to the	230
energy project and, for energy projects with a nameplate	231
capacity of five megawatts or greater, at the person's expense,	232
equip the fire and emergency responders with proper equipment as	233
reasonably required to enable them to respond to such emergency	234
situations;	235
(6) Maintain a ratio of Ohio-domiciled full-time	236
equivalent employees employed in the construction or	237
installation of the energy project to total full-time equivalent	238
employees employed in the construction or installation of the	239
energy project of not less than eighty per cent in the case of a	240
solar energy project, and not less than fifty per cent in the	241
case of any other energy project. In the case of an energy	242
project for which certification from the power siting board is	243
required under section 4906.20 of the Revised Code, the number	244
of full-time equivalent employees employed in the construction	245
or installation of the energy project equals the number actually	246
employed or the number projected to be employed in the	247
certificate application, if such projection is required under	248
regulations adopted pursuant to section 4906.03 of the Revised	249
Code, whichever is greater. For all other energy projects, the	250
number of full-time equivalent employees employed in the	251
construction or installation of the energy project equals the	252
number actually employed or the number projected to be employed	253
by the director of development services, whichever is greater.	254
To estimate the number of employees to be employed in the	255
construction or installation of an energy project, the director	256
shall use a generally accepted job-estimating model in use for	257

renewable energy projects, including but not limited to the job 258  
and economic development impact model. The director may adjust 259  
an estimate produced by a model to account for variables not 260  
accounted for by the model. 261

(7) For energy projects with a nameplate capacity in 262  
excess of two megawatts, establish a relationship with a member 263  
of the university system of Ohio as defined in section 3345.011 264  
of the Revised Code or with a person offering an apprenticeship 265  
program registered with the employment and training 266  
administration within the United States department of labor or 267  
with the apprenticeship council created by section 4139.02 of 268  
the Revised Code, to educate and train individuals for careers 269  
in the wind or solar energy industry. The relationship may 270  
include endowments, cooperative programs, internships, 271  
apprenticeships, research and development projects, and 272  
curriculum development. 273

(8) Offer to sell power or renewable energy credits from 274  
the energy project to electric distribution utilities or 275  
electric service companies subject to renewable energy resource 276  
requirements under section 4928.64 of the Revised Code that have 277  
issued requests for proposal for such power or renewable energy 278  
credits. If no electric distribution utility or electric service 279  
company issues a request for proposal on or before December 31, 280  
2010, or accepts an offer for power or renewable energy credits 281  
within forty-five days after the offer is submitted, power or 282  
renewable energy credits from the energy project may be sold to 283  
other persons. Division (F) (8) of this section does not apply 284  
if: 285

(a) The owner or lessee is a rural electric company or a 286  
municipal power agency as defined in section 3734.058 of the 287

Revised Code.	288
(b) The owner or lessee is a person that, before	289
completion of the energy project, contracted for the sale of	290
power or renewable energy credits with a rural electric company	291
or a municipal power agency.	292
(c) The owner or lessee contracts for the sale of power or	293
renewable energy credits from the energy project before June 17,	294
2010.	295
(9) Make annual service payments as required by division	296
(G) of this section and as may be required in a resolution	297
adopted by a board of county commissioners under division (E) of	298
this section.	299
(G) The owner or a lessee pursuant to a sale and leaseback	300
transaction of a qualified energy project shall make annual	301
service payments in lieu of taxes to the county treasurer on or	302
before the final dates for payments of taxes on public utility	303
personal property on the real and public utility personal	304
property tax list for each tax year for which property of the	305
energy project is exempt from taxation under this section. The	306
county treasurer shall allocate the payment on the basis of the	307
project's physical location. Upon receipt of a payment, or if	308
timely payment has not been received, the county treasurer shall	309
certify such receipt or non-receipt to the director of	310
development services and tax commissioner in a form determined	311
by the director and commissioner, respectively. Each payment	312
shall be in the following amount:	313
(1) In the case of a solar energy project, seven thousand	314
dollars per megawatt of nameplate capacity located in the county	315
as of <u>the thirty-first day of December 31, 2010, for tax year</u>	316

~~2011, as of December 31, 2011, for tax year 2012, as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, as of December 31, 2014, for tax year 2015, as of December 31, 2015, for tax year 2016, and as of December 31, 2016, for tax year 2017 and each tax year thereafter~~ of the preceding tax year;

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

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

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

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

(3) In the case of an energy project using clean coal 346  
technology, advanced nuclear technology, or cogeneration 347  
technology, the following: 348

(a) If the project maintains during the construction or 349  
installation of the energy facility a ratio of Ohio-domiciled 350  
full-time equivalent employees to total full-time equivalent 351  
employees of not less than seventy-five per cent, six thousand 352  
dollars per megawatt of nameplate capacity located in the county 353  
as of the thirty-first day of December of the preceding tax 354  
year; 355

(b) If the project maintains during the construction or 356  
installation of the energy facility a ratio of Ohio-domiciled 357  
full-time equivalent employees to total full-time equivalent 358  
employees of less than seventy-five per cent but not less than 359  
sixty per cent, seven thousand dollars per megawatt of nameplate 360  
capacity located in the county as of the thirty-first day of 361  
December of the preceding tax year; 362

(c) If the project maintains during the construction or 363  
installation of the energy facility a ratio of Ohio-domiciled 364  
full-time equivalent employees to total full-time equivalent 365  
employees of less than sixty per cent but not less than fifty 366  
per cent, eight thousand dollars per megawatt of nameplate 367  
capacity located in the county as of the thirty-first day of 368  
December of the preceding tax year. 369

(H) The director of development services in consultation 370  
with the tax commissioner shall adopt rules pursuant to Chapter 371  
119. of the Revised Code to implement and enforce this section. 372

**Section 2.** That existing section 5727.75 of the Revised 373  
Code is hereby repealed. 374

<b>Section 3.</b> The amendment by this act of section 5727.75 of	375
the Revised Code applies to tax years beginning on or after	376
January 1, 2019.	377