

**As Reported by the House Public Utilities Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 554**

**Representative Amstutz**

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**A BILL**

To amend sections 4928.143, 4928.64, 4928.643, 1  
4928.645, 4928.65, 4928.66, 4928.6610, and 2  
5727.75 and to enact sections 4928.664 and 3  
4928.6620 of the Revised Code and to amend 4  
Section 6 of Sub. S.B. 310 of the 130th General 5  
Assembly to revise the requirements for 6  
renewable energy, energy efficiency, and peak 7  
demand reduction. 8

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

**Section 1.** That sections 4928.143, 4928.64, 4928.643, 9  
4928.645, 4928.65, 4928.66, 4928.6610, and 5727.75 be amended 10  
and sections 4928.664 and 4928.6620 of the Revised Code be 11  
enacted to read as follows: 12

**Sec. 4928.143.** (A) For the purpose of complying with 13  
section 4928.141 of the Revised Code, an electric distribution 14  
utility may file an application for public utilities commission 15  
approval of an electric security plan as prescribed under 16  
division (B) of this section. The utility may file that 17  
application prior to the effective date of any rules the 18  
commission may adopt for the purpose of this section, and, as 19

the commission determines necessary, the utility immediately 20  
shall conform its filing to those rules upon their taking 21  
effect. 22

(B) Notwithstanding any other provision of Title XLIX of 23  
the Revised Code to the contrary except division (D) of this 24  
section, divisions (I), (J), and (K) of section 4928.20, 25  
division ~~(E)~~ (G) of section 4928.64, and section 4928.69 of the 26  
Revised Code: 27

(1) An electric security plan shall include provisions 28  
relating to the supply and pricing of electric generation 29  
service. In addition, if the proposed electric security plan has 30  
a term longer than three years, it may include provisions in the 31  
plan to permit the commission to test the plan pursuant to 32  
division (E) of this section and any transitional conditions 33  
that should be adopted by the commission if the commission 34  
terminates the plan as authorized under that division. 35

(2) The plan may provide for or include, without 36  
limitation, any of the following: 37

(a) Automatic recovery of any of the following costs of 38  
the electric distribution utility, provided the cost is 39  
prudently incurred: the cost of fuel used to generate the 40  
electricity supplied under the offer; the cost of purchased 41  
power supplied under the offer, including the cost of energy and 42  
capacity, and including purchased power acquired from an 43  
affiliate; the cost of emission allowances; and the cost of 44  
federally mandated carbon or energy taxes; 45

(b) A reasonable allowance for construction work in 46  
progress for any of the electric distribution utility's cost of 47  
constructing an electric generating facility or for an 48

environmental expenditure for any electric generating facility 49  
of the electric distribution utility, provided the cost is 50  
incurred or the expenditure occurs on or after January 1, 2009. 51  
Any such allowance shall be subject to the construction work in 52  
progress allowance limitations of division (A) of section 53  
4909.15 of the Revised Code, except that the commission may 54  
authorize such an allowance upon the incurrence of the cost or 55  
occurrence of the expenditure. No such allowance for generating 56  
facility construction shall be authorized, however, unless the 57  
commission first determines in the proceeding that there is need 58  
for the facility based on resource planning projections 59  
submitted by the electric distribution utility. Further, no such 60  
allowance shall be authorized unless the facility's construction 61  
was sourced through a competitive bid process, regarding which 62  
process the commission may adopt rules. An allowance approved 63  
under division (B) (2) (b) of this section shall be established as 64  
a nonbypassable surcharge for the life of the facility. 65

(c) The establishment of a nonbypassable surcharge for the 66  
life of an electric generating facility that is owned or 67  
operated by the electric distribution utility, was sourced 68  
through a competitive bid process subject to any such rules as 69  
the commission adopts under division (B) (2) (b) of this section, 70  
and is newly used and useful on or after January 1, 2009, which 71  
surcharge shall cover all costs of the utility specified in the 72  
application, excluding costs recovered through a surcharge under 73  
division (B) (2) (b) of this section. However, no surcharge shall 74  
be authorized unless the commission first determines in the 75  
proceeding that there is need for the facility based on resource 76  
planning projections submitted by the electric distribution 77  
utility. Additionally, if a surcharge is authorized for a 78  
facility pursuant to plan approval under division (C) of this 79

section and as a condition of the continuation of the surcharge, 80  
the electric distribution utility shall dedicate to Ohio 81  
consumers the capacity and energy and the rate associated with 82  
the cost of that facility. Before the commission authorizes any 83  
surcharge pursuant to this division, it may consider, as 84  
applicable, the effects of any decommissioning, deratings, and 85  
retirements. 86

(d) Terms, conditions, or charges relating to limitations 87  
on customer shopping for retail electric generation service, 88  
bypassability, standby, back-up, or supplemental power service, 89  
default service, carrying costs, amortization periods, and 90  
accounting or deferrals, including future recovery of such 91  
deferrals, as would have the effect of stabilizing or providing 92  
certainty regarding retail electric service; 93

(e) Automatic increases or decreases in any component of 94  
the standard service offer price; 95

(f) Consistent with sections 4928.23 to 4928.2318 of the 96  
Revised Code, both of the following: 97

(i) Provisions for the electric distribution utility to 98  
securitize any phase-in, inclusive of carrying charges, of the 99  
utility's standard service offer price, which phase-in is 100  
authorized in accordance with section 4928.144 of the Revised 101  
Code; 102

(ii) Provisions for the recovery of the utility's cost of 103  
securitization. 104

(g) Provisions relating to transmission, ancillary, 105  
congestion, or any related service required for the standard 106  
service offer, including provisions for the recovery of any cost 107  
of such service that the electric distribution utility incurs on 108

|  |     |
|--|-----|
| or after that date pursuant to the standard service offer;       | 109 |
| (h) Provisions regarding the utility's distribution              | 110 |
| service, including, without limitation and notwithstanding any   | 111 |
| provision of Title XLIX of the Revised Code to the contrary,     | 112 |
| provisions regarding single issue ratemaking, a revenue          | 113 |
| decoupling mechanism or any other incentive ratemaking, and      | 114 |
| provisions regarding distribution infrastructure and             | 115 |
| modernization incentives for the electric distribution utility.  | 116 |
| The latter may include a long-term energy delivery               | 117 |
| infrastructure modernization plan for that utility or any plan   | 118 |
| providing for the utility's recovery of costs, including lost    | 119 |
| revenue, shared savings, and avoided costs, and a just and       | 120 |
| reasonable rate of return on such infrastructure modernization.  | 121 |
| As part of its determination as to whether to allow in an        | 122 |
| electric distribution utility's electric security plan inclusion | 123 |
| of any provision described in division (B) (2) (h) of this       | 124 |
| section, the commission shall examine the reliability of the     | 125 |
| electric distribution utility's distribution system and ensure   | 126 |
| that customers' and the electric distribution utility's          | 127 |
| expectations are aligned and that the electric distribution      | 128 |
| utility is placing sufficient emphasis on and dedicating         | 129 |
| sufficient resources to the reliability of its distribution      | 130 |
| system.  | 131 |
| (i) Provisions under which the electric distribution             | 132 |
| utility may implement economic development, job retention, and   | 133 |
| energy efficiency programs, which provisions may allocate        | 134 |
| program costs across all classes of customers of the utility and | 135 |
| those of electric distribution utilities in the same holding     | 136 |
| company system.  | 137 |
| (C) (1) The burden of proof in the proceeding shall be on        | 138 |

the electric distribution utility. The commission shall issue an 139  
order under this division for an initial application under this 140  
section not later than one hundred fifty days after the 141  
application's filing date and, for any subsequent application by 142  
the utility under this section, not later than two hundred 143  
seventy-five days after the application's filing date. Subject 144  
to division (D) of this section, the commission by order shall 145  
approve or modify and approve an application filed under 146  
division (A) of this section if it finds that the electric 147  
security plan so approved, including its pricing and all other 148  
terms and conditions, including any deferrals and any future 149  
recovery of deferrals, is more favorable in the aggregate as 150  
compared to the expected results that would otherwise apply 151  
under section 4928.142 of the Revised Code. Additionally, if the 152  
commission so approves an application that contains a surcharge 153  
under division (B) (2) (b) or (c) of this section, the commission 154  
shall ensure that the benefits derived for any purpose for which 155  
the surcharge is established are reserved and made available to 156  
those that bear the surcharge. Otherwise, the commission by 157  
order shall disapprove the application. 158

(2) (a) If the commission modifies and approves an 159  
application under division (C) (1) of this section, the electric 160  
distribution utility may withdraw the application, thereby 161  
terminating it, and may file a new standard service offer under 162  
this section or a standard service offer under section 4928.142 163  
of the Revised Code. 164

(b) If the utility terminates an application pursuant to 165  
division (C) (2) (a) of this section or if the commission 166  
disapproves an application under division (C) (1) of this 167  
section, the commission shall issue such order as is necessary 168  
to continue the provisions, terms, and conditions of the 169

utility's most recent standard service offer, along with any 170  
expected increases or decreases in fuel costs from those 171  
contained in that offer, until a subsequent offer is authorized 172  
pursuant to this section or section 4928.142 of the Revised 173  
Code, respectively. 174

(D) Regarding the rate plan requirement of division (A) of 175  
section 4928.141 of the Revised Code, if an electric 176  
distribution utility that has a rate plan that extends beyond 177  
December 31, 2008, files an application under this section for 178  
the purpose of its compliance with division (A) of section 179  
4928.141 of the Revised Code, that rate plan and its terms and 180  
conditions are hereby incorporated into its proposed electric 181  
security plan and shall continue in effect until the date 182  
scheduled under the rate plan for its expiration, and that 183  
portion of the electric security plan shall not be subject to 184  
commission approval or disapproval under division (C) of this 185  
section, and the earnings test provided for in division (F) of 186  
this section shall not apply until after the expiration of the 187  
rate plan. However, that utility may include in its electric 188  
security plan under this section, and the commission may 189  
approve, modify and approve, or disapprove subject to division 190  
(C) of this section, provisions for the incremental recovery or 191  
the deferral of any costs that are not being recovered under the 192  
rate plan and that the utility incurs during that continuation 193  
period to comply with section 4928.141, division (B) of section 194  
4928.64, or division (A) of section 4928.66 of the Revised Code. 195

(E) If an electric security plan approved under division 196  
(C) of this section, except one withdrawn by the utility as 197  
authorized under that division, has a term, exclusive of phase- 198  
ins or deferrals, that exceeds three years from the effective 199  
date of the plan, the commission shall test the plan in the 200

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



that occurred prior to that termination and the recovery of 233  
those amounts as contemplated under that electric security plan. 234

(F) With regard to the provisions that are included in an 235  
electric security plan under this section, the commission shall 236  
consider, following the end of each annual period of the plan, 237  
if any such adjustments resulted in excessive earnings as 238  
measured by whether the earned return on common equity of the 239  
electric distribution utility is significantly in excess of the 240  
return on common equity that was earned during the same period 241  
by publicly traded companies, including utilities, that face 242  
comparable business and financial risk, with such adjustments 243  
for capital structure as may be appropriate. Consideration also 244  
shall be given to the capital requirements of future committed 245  
investments in this state. The burden of proof for demonstrating 246  
that significantly excessive earnings did not occur shall be on 247  
the electric distribution utility. If the commission finds that 248  
such adjustments, in the aggregate, did result in significantly 249  
excessive earnings, it shall require the electric distribution 250  
utility to return to consumers the amount of the excess by 251  
prospective adjustments; provided that, upon making such 252  
prospective adjustments, the electric distribution utility shall 253  
have the right to terminate the plan and immediately file an 254  
application pursuant to section 4928.142 of the Revised Code. 255  
Upon termination of a plan under this division, rates shall be 256  
set on the same basis as specified in division (C)(2)(b) of this 257  
section, and the commission shall permit the continued deferral 258  
and phase-in of any amounts that occurred prior to that 259  
termination and the recovery of those amounts as contemplated 260  
under that electric security plan. In making its determination 261  
of significantly excessive earnings under this division, the 262  
commission shall not consider, directly or indirectly, the 263

revenue, expenses, or earnings of any affiliate or parent 264  
company. 265

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 266  
renewable energy resource" means a renewable energy resource, as 267  
defined in section 4928.01 of the Revised Code that has a 268  
placed-in-service date on or after January 1, 1998, or with 269  
respect to any run-of-the-river hydroelectric facility, an in- 270  
service date on or after January 1, 1980; a renewable energy 271  
resource created on or after January 1, 1998, by the 272  
modification or retrofit of any facility placed in service prior 273  
to January 1, 1998; or a mercantile customer-sited renewable 274  
energy resource, whether new or existing, that the mercantile 275  
customer commits for integration into the electric distribution 276  
utility's demand-response, energy efficiency, or peak demand 277  
reduction programs as provided under division (A) (2) (c) of 278  
section 4928.66 of the Revised Code, including, but not limited 279  
to, any of the following: 280

(a) A resource that has the effect of improving the 281  
relationship between real and reactive power; 282

(b) A resource that makes efficient use of waste heat or 283  
other thermal capabilities owned or controlled by a mercantile 284  
customer; 285

(c) Storage technology that allows a mercantile customer 286  
more flexibility to modify its demand or load and usage 287  
characteristics; 288

(d) Electric generation equipment owned or controlled by a 289  
mercantile customer that uses a renewable energy resource. 290

(2) For the purpose of this section and as it considers 291  
appropriate, the public utilities commission may classify any 292

new technology as such a qualifying renewable energy resource. 293

(B) (1) By 2027 and thereafter, an electric distribution 294  
utility shall provide from qualifying renewable energy 295  
resources, including, at its discretion, qualifying renewable 296  
energy resources obtained pursuant to an electricity supply 297  
contract, a portion of the electricity supply required for its 298  
standard service offer under section 4928.141 of the Revised 299  
Code, and an electric services company shall provide a portion 300  
of its electricity supply for retail consumers in this state 301  
from qualifying renewable energy resources, including, at its 302  
discretion, qualifying renewable energy resources obtained 303  
pursuant to an electricity supply contract. That portion shall 304  
equal twelve and one-half per cent of the total number of 305  
kilowatt hours of electricity sold by the subject utility or 306  
company to any and all retail electric consumers whose electric 307  
load centers are served by that utility and are located within 308  
the utility's certified territory or, in the case of an electric 309  
services company, are served by the company and are located 310  
within this state. However, nothing in this section precludes a 311  
utility or company from providing a greater percentage. 312

(2) The portion required under division (B) (1) of this 313  
section shall be generated from renewable energy resources, 314  
including one-half per cent from solar energy resources, in 315  
accordance with the following benchmarks, subject to section 316  
4928.6620 of the Revised Code: 317

| By end of year | Renewable energy<br>resources | Solar energy<br>resources |     |
|----------------|-------------------------------|---------------------------|-----|
| 2009           | 0.25%                         | 0.004%                    | 320 |
| 2010           | 0.50%                         | 0.010%                    | 321 |
| 2011           | 1%                            | 0.030%                    | 322 |

|   |       |        |            |
|---|-------|--------|------------|
| 2012                                      | 1.5%  | 0.060% | 323        |
| 2013                                      | 2%    | 0.090% | 324        |
| 2014                                      | 2.5%  | 0.12%  | 325        |
| 2015                                      | 2.5%  | 0.12%  | 326        |
| 2016                                      | 2.5%  | 0.12%  | 327        |
| 2017                                      | 3.5%  | 0.15%  | 328        |
| 2018                                      | 4.5%  | 0.18%  | 329        |
| 2019                                      | 5.5%  | 0.22%  | 330        |
| 2020                                      | 6.5%  | 0.26%  | 331        |
| 2021                                      | 7.5%  | 0.3%   | 332        |
| 2022                                      | 8.5%  | 0.34%  | 333        |
| 2023                                      | 9.5%  | 0.38%  | 334        |
| 2024                                      | 10.5% | 0.42%  | 335        |
| 2025                                      | 11.5% | 0.46%  | 336        |
| 2026 and each calendar<br>year thereafter | 12.5% | 0.5%.  | 337<br>338 |

(3) The qualifying renewable energy resources implemented 339  
by the utility or company shall be met either: 340

(a) Through facilities located in this state; or 341

(b) With resources that can be shown to be deliverable 342  
into this state. 343

(C) Beginning in 2021: 344

(1) ~~The~~ Based on the information reported under section 345  
4928.6620 of the Revised Code and any other information that is 346  
public, the commission annually shall review an electric 347  
distribution utility's or electric services company's compliance 348  
with the ~~most recent applicable~~ benchmark under division (B) (2) 349  
of this section for the previous year and, in the course of that 350  
review, shall identify any undercompliance or noncompliance of 351

the utility or company that it determines is weather-related, 352  
related to equipment or resource shortages for qualifying 353  
renewable energy resources as applicable, or is otherwise 354  
outside the utility's or company's control. 355

(2) Subject to the cost cap provisions of division (C) (3) 356  
of this section, if the commission determines, after notice and 357  
opportunity for hearing, and based upon its findings in ~~that the~~ 358  
review under division (C) (1) of this section regarding avoidable 359  
undercompliance or noncompliance, but subject to division (C) (4) 360  
of this section, that the utility or company has failed to 361  
comply with ~~any such the benchmark for the previous year,~~ the 362  
commission shall impose a renewable energy compliance payment on 363  
the utility or company. 364

(a) The compliance payment pertaining to the solar energy 365  
resource benchmarks under division (B) (2) of this section shall 366  
be an amount per megawatt hour of undercompliance or 367  
noncompliance in the period under review, as follows: 368

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 369

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 370

~~(iii) Two hundred dollars for 2019 and 2020;~~ 371

~~(iv) (ii) One hundred fifty dollars for 2021 and 2022;~~ 372

(iii) Similarly reduced every two years thereafter through 373  
2026 by fifty dollars, to a minimum of fifty dollars. 374

(b) The compliance payment pertaining to the renewable 375  
energy resource benchmarks under division (B) (2) of this section 376  
shall equal the number of additional renewable energy credits 377  
that the electric distribution utility or electric services 378  
company would have needed to comply with the applicable 379

benchmark in the period under review times an amount that shall 380  
begin at forty-five dollars and shall be adjusted annually by 381  
the commission to reflect any change in the consumer price index 382  
as defined in section 101.27 of the Revised Code, but shall not 383  
be less than forty-five dollars. 384

(c) The compliance payment shall not be passed through by 385  
the electric distribution utility or electric services company 386  
to consumers. The compliance payment shall be remitted to the 387  
commission, for deposit to the credit of the advanced energy 388  
fund created under section 4928.61 of the Revised Code. Payment 389  
of the compliance payment shall be subject to such collection 390  
and enforcement procedures as apply to the collection of a 391  
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 392  
Revised Code. 393

(3) An electric distribution utility or an electric 394  
services company need not comply with a benchmark under division 395  
(B) (2) of this section to the extent that its reasonably 396  
expected cost of that compliance exceeds its reasonably expected 397  
cost of otherwise producing or acquiring the requisite 398  
electricity by three per cent or more. The cost of compliance 399  
shall be calculated as though any exemption from taxes and 400  
assessments had not been granted under section 5727.75 of the 401  
Revised Code. 402

(4) (a) An electric distribution utility or electric 403  
services company may request the commission to make a force 404  
majeure determination pursuant to this division regarding all or 405  
part of the utility's or company's compliance with any minimum 406  
benchmark under division (B) (2) of this section during the 407  
period of review occurring pursuant to division (C) (2) of this 408  
section. The commission may require the electric distribution 409

utility or electric services company to make solicitations for 410  
renewable energy resource credits as part of its default service 411  
before the utility's or company's request of force majeure under 412  
this division can be made. 413

(b) Within ninety days after the filing of a request by an 414  
electric distribution utility or electric services company under 415  
division (C) (4) (a) of this section, the commission shall 416  
determine if qualifying renewable energy resources are 417  
reasonably available in the marketplace in sufficient quantities 418  
for the utility or company to comply with the subject minimum 419  
benchmark during the review period. In making this 420  
determination, the commission shall consider whether the 421  
electric distribution utility or electric services company has 422  
made a good faith effort to acquire sufficient qualifying 423  
renewable energy or, as applicable, solar energy resources to so 424  
comply, including, but not limited to, by banking or seeking 425  
renewable energy resource credits or by seeking the resources 426  
through long-term contracts. Additionally, the commission shall 427  
consider the availability of qualifying renewable energy or 428  
solar energy resources in this state and other jurisdictions in 429  
the PJM interconnection regional transmission organization, 430  
L.L.C., or its successor and the midcontinent independent system 431  
operator or its successor. 432

(c) If, pursuant to division (C) (4) (b) of this section, 433  
the commission determines that qualifying renewable energy or 434  
solar energy resources are not reasonably available to permit 435  
the electric distribution utility or electric services company 436  
to comply, during the period of review, with the subject minimum 437  
benchmark prescribed under division (B) (2) of this section, the 438  
commission shall modify that compliance obligation of the 439  
utility or company as it determines appropriate to accommodate 440

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

~~(5)~~ (D) The sole penalty for an electric distribution 452  
utility's or electric services company's failure to comply with 453  
any provision of division (B) (2) of this section shall be the 454  
imposition of compliance payments in accordance with division 455  
(C) of this section. 456

(E) The commission shall establish a process to provide 457  
for at least an annual review of the renewable energy resource 458  
market in this state and in the service territories of the 459  
regional transmission organizations that manage transmission 460  
systems located in this state. The commission shall use the 461  
results of this study to identify any needed changes to the 462  
amount of the renewable energy compliance payment specified 463  
under divisions (C) (2) (a) and (b) of this section. Specifically, 464  
the commission may increase the amount to ensure that payment of 465  
compliance payments is not used to achieve compliance with this 466  
section in lieu of actually acquiring or realizing energy 467  
derived from qualifying renewable energy resources. However, if 468  
the commission finds that the amount of the compliance payment 469  
should be otherwise changed, the commission shall present this 470  
finding to the general assembly for legislative enactment. 471



~~(D)~~ (F) The commission annually shall submit to the 472  
general assembly in accordance with section 101.68 of the 473  
Revised Code a report describing all of the following: 474

(1) The compliance of electric distribution utilities and 475  
electric services companies with division (B) of this section; 476

(2) The average annual cost of renewable energy credits 477  
purchased by utilities and companies for the year covered in the 478  
report; 479

(3) Any strategy for utility and company compliance or for 480  
encouraging the use of qualifying renewable energy resources in 481  
supplying this state's electricity needs in a manner that 482  
considers available technology, costs, job creation, and 483  
economic impacts. 484

~~The commission shall begin providing the information~~ 485  
~~described in division (D) (2) of this section in each report~~ 486  
~~submitted after September 10, 2012.~~ The commission shall allow 487  
and consider public comments on the report prior to its 488  
submission to the general assembly. Nothing in the report shall 489  
be binding on any person, including any utility or company for 490  
the purpose of its compliance with any benchmark under division 491  
(B) of this section, or the enforcement of that provision under 492  
division (C) of this section. 493

~~(E)~~ (G) All costs incurred by an electric distribution 494  
utility in complying with the ~~requirements~~ provisions of this 495  
section shall be bypassable by any consumer that has exercised 496  
choice of supplier under section 4928.03 of the Revised Code. 497

**Sec. 4928.643.** (A) Except as provided in division (B) of 498  
this section and section 4928.644 of the Revised Code, the 499  
baseline for an electric distribution utility's or an electric 500

services company's compliance with the qualified renewable 501  
energy resource ~~requirements~~provisions of section 4928.64 of 502  
the Revised Code shall be the average of total kilowatt hours 503  
sold by the utility or company in the preceding three calendar 504  
years to the following: 505

(1) In the case of an electric distribution utility, any 506  
and all retail electric consumers whose electric load centers 507  
are served by that utility and are located within the utility's 508  
certified territory; 509

(2) In the case of an electric services company, any and 510  
all retail electric consumers who are served by the company and 511  
are located within this state. 512

(B) Beginning with compliance year 2014, a utility or 513  
company may choose for its baseline for compliance with the 514  
qualified renewable energy resource ~~requirements~~provisions of 515  
section 4928.64 of the Revised Code to be the total kilowatt 516  
hours sold to the applicable consumers, as described in division 517  
(A) (1) or (2) of this section, in the applicable compliance 518  
year. 519

(C) A utility or company that uses the baseline permitted 520  
under division (B) of this section may use the baseline 521  
described in division (A) of this section in any subsequent 522  
compliance year. A utility or company that makes this switch 523  
shall use the baseline described in division (A) of this section 524  
for at least three consecutive compliance years before again 525  
using the baseline permitted under division (B) of this section. 526

**Sec. 4928.645.** (A) An electric distribution utility or 527  
electric services company may use, for the purpose of complying 528  
with the ~~requirements~~provisions under divisions (B) (1) and (2) 529

of section 4928.64 of the Revised Code, renewable energy credits 530  
any time in the five calendar years following the date of their 531  
purchase or acquisition from any entity, including, but not 532  
limited to, the following: 533

(1) A mercantile customer; 534

(2) An owner or operator of a hydroelectric generating 535  
facility that is located at a dam on a river, or on any water 536  
discharged to a river, that is within or bordering this state or 537  
within or bordering an adjoining state, or that produces power 538  
that can be shown to be deliverable into this state; 539

(3) A seller of compressed natural gas that has been 540  
produced from biologically derived methane gas, provided that 541  
the seller may only provide renewable energy credits for metered 542  
amounts of gas. 543

(B) (1) The public utilities commission shall adopt rules 544  
specifying that one unit of credit shall equal one megawatt hour 545  
of electricity derived from renewable energy resources, except 546  
that, for a generating facility of seventy-five megawatts or 547  
greater that is situated within this state and has committed by 548  
December 31, 2009, to modify or retrofit its generating unit or 549  
units to enable the facility to generate principally from 550  
biomass energy by June 30, 2013, each megawatt hour of 551  
electricity generated principally from that biomass energy shall 552  
equal, in units of credit, the product obtained by multiplying 553  
the actual percentage of biomass feedstock heat input used to 554  
generate such megawatt hour by the quotient obtained by dividing 555  
the then existing unit dollar amount used to determine a 556  
renewable energy compliance payment as provided under division 557  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 558  
existing market value of one renewable energy credit, but such 559

megawatt hour shall not equal less than one unit of credit. 560  
Renewable energy resources do not have to be converted to 561  
electricity in order to be eligible to receive renewable energy 562  
credits. The rules shall specify that, for purposes of 563  
converting the quantity of energy derived from biologically 564  
derived methane gas to an electricity equivalent, one megawatt 565  
hour equals 3,412,142 British thermal units. 566

(2) The rules also shall provide for this state a system 567  
of registering renewable energy credits by specifying which of 568  
any generally available registries shall be used for that 569  
purpose and not by creating a registry. That selected system of 570  
registering renewable energy credits shall allow a hydroelectric 571  
generating facility to be eligible for obtaining renewable 572  
energy credits and shall allow customer-sited projects or 573  
actions the broadest opportunities to be eligible for obtaining 574  
renewable energy credits. 575

**Sec. 4928.65.** (A) Not later than January 1, 2015, the 576  
public utilities commission shall adopt rules governing the 577  
disclosure of the costs to customers of the renewable energy 578  
resource, energy efficiency savings, and peak demand reduction 579  
~~requirements~~provisions of sections 4928.64 and 4928.66 of the 580  
Revised Code. The rules shall include both of the following 581  
requirements: 582

(1) That every electric distribution utility list, on all 583  
customer bills sent by the utility, including utility 584  
consolidated bills that include both electric distribution 585  
utility and electric services company charges, the individual 586  
customer cost of the utility's compliance with all of the 587  
following for the applicable billing period: 588

(a) The renewable energy resource ~~requirements~~provisions 589

under section 4928.64 of the Revised Code, subject to division 590  
(B) of this section; 591

(b) The energy efficiency savings ~~requirements~~ provisions 592  
under section 4928.66 of the Revised Code; 593

(c) The peak demand reduction ~~requirements~~ provisions 594  
under section 4928.66 of the Revised Code. 595

(2) That every electric services company list, on all 596  
customer bills sent by the company, the individual customer 597  
cost, subject to division (B) of this section, of the company's 598  
compliance with the renewable energy resource ~~requirements~~ 599  
provisions under section 4928.64 of the Revised Code for the 600  
applicable billing period. 601

(B) (1) For purposes of division (A) (1) (a) of this section, 602  
the cost of compliance with the renewable energy resource 603  
~~requirements~~ provisions shall be calculated by multiplying the 604  
individual customer's monthly usage by the combined weighted 605  
average of renewable-energy-credit costs, including solar- 606  
renewable-energy-credit costs, paid by all electric distribution 607  
utilities, as listed in the commission's most recently available 608  
alternative energy portfolio standard report. 609

(2) For purposes of division (A) (2) of this section, the 610  
cost of compliance with the renewable energy resource 611  
~~requirements~~ provisions shall be calculated by multiplying the 612  
individual customer's monthly usage by the combined weighted 613  
average of renewable-energy-credit costs, including solar- 614  
renewable-energy-credit costs, paid by all electric services 615  
companies, as listed in the commission's most recently available 616  
alternative energy portfolio standard report. 617

(C) The costs required to be listed under division (A) (1) 618

of this section shall be listed on each customer's monthly bill 619  
as three distinct line items. The cost required to be listed 620  
under division (A) (2) of this section shall be listed on each 621  
customer's monthly bill as a distinct line item. 622

**Sec. 4928.66.** (A) (1) (a) Beginning in 2009, an electric 623  
distribution utility shall implement energy efficiency programs 624  
that achieve energy savings equivalent to at least three-tenths 625  
of one per cent of the total, annual average, and normalized 626  
kilowatt-hour sales of the electric distribution utility during 627  
the preceding three calendar years to customers in this state. 628  
An energy efficiency program may include a combined heat and 629  
power system placed into service or retrofitted on or after the 630  
effective date of the amendment of this section by S.B. 315 of 631  
the 129th general assembly, September 10, 2012, or a waste 632  
energy recovery system placed into service or retrofitted on or 633  
after September 10, 2012, except that a waste energy recovery 634  
system described in division (A) (38) (b) of section 4928.01 of 635  
the Revised Code may be included only if it was placed into 636  
service between January 1, 2002, and December 31, 2004. For a 637  
waste energy recovery or combined heat and power system, the 638  
savings shall be as estimated by the public utilities 639  
commission. The savings requirement, using such a three-year 640  
average, shall increase to an additional five-tenths of one per 641  
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 642  
of one per cent in 2012, nine-tenths of one per cent in 2013, 643  
and one per cent in 2014. In 2015 and 2016, an electric 644  
distribution utility shall achieve energy savings equal to the 645  
result of subtracting the cumulative energy savings achieved 646  
since 2009 from the product of multiplying the baseline for 647  
energy savings, described in division (A) (2) (a) of this section, 648  
by four and two-tenths of one per cent. If the result is zero or 649

less for the year for which the calculation is being made, the utility shall not be required to achieve additional energy savings for that year, but may achieve additional energy savings for that year. Thereafter, the annual savings requirements shall be, for years 2017, 2018, 2019, ~~and 2020~~, 2021, 2022, 2023, 2024, and 2025, one per cent of the baseline, and two per cent ~~each year thereafter~~ for years 2026 and 2027, achieving cumulative energy savings in excess of ~~twenty-two~~ seventeen per cent by the end of 2027. For purposes of a waste energy recovery or combined heat and power system, an electric distribution utility shall not apply more than the total annual percentage of the electric distribution utility's industrial-customer load, relative to the electric distribution utility's total load, to the annual energy savings requirement.

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

(c) Subject to section 4928.6620 of the Revised Code, 681  
noncompliance with the provisions of divisions (A) (1) (a) and (b) 682  
of this section shall be subject to forfeitures under division 683  
(C) of this section only for the requirements for years 2016, 684  
2020, 2021, 2022, 2023, 2024, 2025, 2026, and 2027, as 685  
applicable. The sole penalty for an electric distribution 686  
utility's failure to comply with any provision of divisions (A) 687  
(1) (a) and (b) of this section shall be the assessment of 688  
forfeitures in accordance with division (C) of this section. 689

(2) For the purposes of divisions (A) (1) (a) and (b) of 690  
this section: 691

(a) The baseline for energy savings under division (A) (1) 692  
(a) of this section shall be the average of the total kilowatt 693  
hours the electric distribution utility sold in the preceding 694  
three calendar years. The baseline for a peak demand reduction 695  
under division (A) (1) (b) of this section shall be the average 696  
peak demand on the utility in the preceding three calendar 697  
years, except that the commission may reduce either baseline to 698  
adjust for new economic growth in the utility's certified 699  
territory. Neither baseline shall include the load and usage of 700  
any of the following customers: 701

(i) Beginning January 1, 2017, a customer for which a 702  
reasonable arrangement has been approved under section 4905.31 703  
of the Revised Code; 704

(ii) A customer that has opted out of the utility's 705  
portfolio plan under section 4928.6611 of the Revised Code; 706

(iii) A customer that has opted out of the utility's 707  
portfolio plan under Section 8 of S.B. 310 of the 130th general 708  
assembly. 709



(b) The commission may amend the benchmarks set forth in 710  
division (A) (1) (a) or (b) of this section if, after application 711  
by the electric distribution utility, the commission determines 712  
that the amendment is necessary because the utility cannot 713  
reasonably achieve the benchmarks due to regulatory, economic, 714  
or technological reasons beyond its reasonable control. 715

(c) Compliance with divisions (A) (1) (a) and (b) of this 716  
section shall be measured by including the effects of all 717  
demand-response programs for mercantile customers of the subject 718  
electric distribution utility, all waste energy recovery systems 719  
and all combined heat and power systems, and all such mercantile 720  
customer-sited energy efficiency, including waste energy 721  
recovery and combined heat and power, and peak demand reduction 722  
programs, adjusted upward by the appropriate loss factors. Any 723  
mechanism designed to recover the cost of energy efficiency, 724  
including waste energy recovery and combined heat and power, and 725  
peak demand reduction programs under divisions (A) (1) (a) and (b) 726  
of this section may exempt mercantile customers that commit 727  
their demand-response or other customer-sited capabilities, 728  
whether existing or new, for integration into the electric 729  
distribution utility's demand-response, energy efficiency, 730  
including waste energy recovery and combined heat and power, or 731  
peak demand reduction programs, if the commission determines 732  
that that exemption reasonably encourages such customers to 733  
commit those capabilities to those programs. If a mercantile 734  
customer makes such existing or new demand-response, energy 735  
efficiency, including waste energy recovery and combined heat 736  
and power, or peak demand reduction capability available to an 737  
electric distribution utility pursuant to division (A) (2) (c) of 738  
this section, the electric utility's baseline under division (A) 739  
(2) (a) of this section shall be adjusted to exclude the effects 740

of all such demand-response, energy efficiency, including waste 741  
energy recovery and combined heat and power, or peak demand 742  
reduction programs that may have existed during the period used 743  
to establish the baseline. The baseline also shall be normalized 744  
for changes in numbers of customers, sales, weather, peak 745  
demand, and other appropriate factors so that the compliance 746  
measurement is not unduly influenced by factors outside the 747  
control of the electric distribution utility. 748

(d) (i) Programs implemented by a utility may include the 749  
following: 750

(I) Demand-response programs; 751

(II) Smart grid investment programs, provided that such 752  
programs are demonstrated to be cost-beneficial; 753

(III) Customer-sited programs, including waste energy 754  
recovery and combined heat and power systems; 755

(IV) Transmission and distribution infrastructure 756  
improvements that reduce line losses; 757

(V) Energy efficiency savings and peak demand reduction 758  
that are achieved, in whole or in part, as a result of funding 759  
provided from the universal service fund established by section 760  
4928.51 of the Revised Code to benefit low-income customers 761  
through programs that include, but are not limited to, energy 762  
audits, the installation of energy efficiency insulation, 763  
appliances, and windows, and other weatherization measures. 764

(ii) No energy efficiency or peak demand reduction 765  
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 766  
section shall qualify for shared savings. 767

(iii) Division (A) (2) (c) of this section shall be applied 768

to include facilitating efforts by a mercantile customer or 769  
group of those customers to offer customer-sited demand- 770  
response, energy efficiency, including waste energy recovery and 771  
combined heat and power, or peak demand reduction capabilities 772  
to the electric distribution utility as part of a reasonable 773  
arrangement submitted to the commission pursuant to section 774  
4905.31 of the Revised Code. 775

(e) No programs or improvements described in division (A) 776  
(2) (d) of this section shall conflict with any statewide 777  
building code adopted by the board of building standards. 778

(B) In accordance with rules it shall adopt, the public 779  
utilities commission shall produce and docket at the commission 780  
an annual report, based on the information reported under 781  
section 4928.6620 of the Revised Code and any other information 782  
that is public, containing the results of its verification of 783  
the annual levels of energy efficiency and of peak demand 784  
reductions achieved by each electric distribution utility 785  
pursuant to division (A) of this section. A copy of the report 786  
shall be provided to the consumers' counsel. 787

(C) If the commission determines, after notice and 788  
opportunity for hearing and based upon its report under division 789  
(B) of this section, that an electric distribution utility has 790  
failed to comply with an energy efficiency or peak demand 791  
reduction requirement ~~of~~ for years 2016, 2020, 2021, 2022, 2023, 792  
2024, 2025, 2026, or 2027, as applicable, under division (A) of 793  
this section, the commission shall assess a forfeiture on the 794  
utility as provided under sections 4905.55 to 4905.60 and 795  
4905.64 of the Revised Code, either in the amount, per day per 796  
undercompliance or noncompliance, relative to the period of the 797  
report, equal to that prescribed for noncompliances under 798

section 4905.54 of the Revised Code, or in an amount equal to 799  
the then existing market value of one renewable energy credit 800  
per megawatt hour of undercompliance or noncompliance. Revenue 801  
from any forfeiture assessed under this division shall be 802  
deposited to the credit of the advanced energy fund created 803  
under section 4928.61 of the Revised Code. 804

(D) The commission may establish rules regarding the 805  
content of an application by an electric distribution utility 806  
for commission approval of a revenue decoupling mechanism under 807  
this division. Such an application shall not be considered an 808  
application to increase rates and may be included as part of a 809  
proposal to establish, continue, or expand energy efficiency or 810  
conservation programs. The commission by order may approve an 811  
application under this division if it determines both that the 812  
revenue decoupling mechanism provides for the recovery of 813  
revenue that otherwise may be forgone by the utility as a result 814  
of or in connection with the implementation by the electric 815  
distribution utility of any energy efficiency or energy 816  
conservation programs and reasonably aligns the interests of the 817  
utility and of its customers in favor of those programs. 818

(E) The commission additionally shall adopt rules that 819  
require an electric distribution utility to provide a customer 820  
upon request with two years' consumption data in an accessible 821  
form. 822

Sec. 4928.664. (A) If, under division (G) of section 823  
4928.662 of the Revised Code, an electric distribution utility 824  
applies banked energy efficiency savings or banked peak demand 825  
reductions to achieve compliance with a benchmark under section 826  
4928.66 of the Revised Code, the utility shall, in accordance 827  
with applicable procedures and rules of the public utilities 828

commission, receive shared savings associated with the banked 829  
savings or banked reductions for the year in which they are 830  
applied toward the benchmark, provided that both of the 831  
following apply: 832

(1) The utility did not previously receive shared savings 833  
on those banked energy efficiency savings or banked peak demand 834  
reductions. 835

(2) The utility is using only as much banked energy 836  
efficiency savings or banked peak demand reductions as are 837  
necessary to meet, and not exceed, the benchmark. 838

(B) Division (A) of this section shall not be construed to 839  
affect commission procedures or rules governing shared savings 840  
associated with nonbanked energy efficiency savings and 841  
nonbanked peak demand reductions. 842

**Sec. 4928.6610.** As used in sections 4928.6611 to 4928.6616 843  
of the Revised Code: 844

(A) "Customer" means ~~any~~ either of the following: 845

(1) A mercantile customer of an electric distribution 846  
utility; 847

(2) Any customer of an electric distribution utility to 848  
which either of the following applies: 849

~~(1)~~ (a) The customer receives service above the primary 850  
voltage level as determined by the utility's tariff 851  
classification. 852

~~(2)~~ (b) The customer is a commercial or industrial 853  
customer to which both of the following apply: 854

~~(a)~~ (i) The customer receives electricity through a meter 855

of an end user or through more than one meter at a single 856  
location in a quantity that exceeds forty-five million kilowatt 857  
hours of electricity for the preceding calendar year. 858

~~(b)~~ (ii) The customer has made a written request for 859  
registration as a self-assessing purchaser pursuant to section 860  
5727.81 of the Revised Code. 861

(B) "Energy intensity" means the amount of energy, from 862  
electricity, used or consumed per unit of production. 863

(C) "Portfolio plan" means the comprehensive energy 864  
efficiency and peak-demand reduction program portfolio plan 865  
required under rules adopted by the public utilities commission 866  
and codified in Chapter 4901:1-39 of the Administrative Code or 867  
hereafter recodified or amended. 868

Sec. 4928.6620. Every electric distribution utility and 869  
electric services company shall submit an annual report for the 870  
prior calendar year to the public utilities commission not later 871  
than the first day of July of each year. The report shall detail 872  
the utility's or company's status of compliance with the 873  
provisions of sections 4928.64 and 4928.66 of the Revised Code, 874  
as applicable. The commission shall modify its rules in 875  
accordance with the reporting requirement, including the filing 876  
date, set forth in this section. 877

**Sec. 5727.75.** (A) For purposes of this section: 878

(1) "Qualified energy project" means an energy project 879  
certified by the director of development services pursuant to 880  
this section. 881

(2) "Energy project" means a project to provide electric 882  
power through the construction, installation, and use of an 883  
energy facility. 884

(3) "Alternative energy zone" means a county declared as 885  
such by the board of county commissioners under division (E) (1) 886  
(b) or (c) of this section. 887

(4) "Full-time equivalent employee" means the total number 888  
of employee-hours for which compensation was paid to individuals 889  
employed at a qualified energy project for services performed at 890  
the project during the calendar year divided by two thousand 891  
eighty hours. 892

(5) "Solar energy project" means an energy project 893  
composed of an energy facility using solar panels to generate 894  
electricity. 895

(B) (1) Tangible personal property of a qualified energy 896  
project using renewable energy resources is exempt from taxation 897  
for tax years 2011 through 2021 if all of the following 898  
conditions are satisfied: 899

(a) On or before December 31, 2020, the owner or a lessee 900  
pursuant to a sale and leaseback transaction of the project 901  
submits an application to the power siting board for a 902  
certificate under section 4906.20 of the Revised Code, or if 903  
that section does not apply, submits an application for any 904  
approval, consent, permit, or certificate or satisfies any 905  
condition required by a public agency or political subdivision 906  
of this state for the construction or initial operation of an 907  
energy project. 908

(b) Construction or installation of the energy facility 909  
begins on or after January 1, 2009, and before January 1, 2021. 910  
For the purposes of this division, construction begins on the 911  
earlier of the date of application for a certificate or other 912  
approval or permit described in division (B) (1) (a) of this 913

section, or the date the contract for the construction or 914  
installation of the energy facility is entered into. 915

(c) For a qualified energy project with a nameplate 916  
capacity of five megawatts or greater, a board of county 917  
commissioners of a county in which property of the project is 918  
located has adopted a resolution under division (E) (1) (b) or (c) 919  
of this section to approve the application submitted under 920  
division (E) of this section to exempt the property located in 921  
that county from taxation. A board's adoption of a resolution 922  
rejecting an application or its failure to adopt a resolution 923  
approving the application does not affect the tax-exempt status 924  
of the qualified energy project's property that is located in 925  
another county. 926

(2) If tangible personal property of a qualified energy 927  
project using renewable energy resources was exempt from 928  
taxation under this section beginning in any of tax years 2011 929  
through 2021, and the certification under division (E) (2) of 930  
this section has not been revoked, the tangible personal 931  
property of the qualified energy project is exempt from taxation 932  
for tax year 2022 and all ensuing tax years if the property was 933  
placed into service before January 1, 2022, as certified in the 934  
construction progress report required under division (F) (2) of 935  
this section. Tangible personal property that has not been 936  
placed into service before that date is taxable property subject 937  
to taxation. An energy project for which certification has been 938  
revoked is ineligible for further exemption under this section. 939  
Revocation does not affect the tax-exempt status of the 940  
project's tangible personal property for the tax year in which 941  
revocation occurs or any prior tax year. 942

(C) Tangible personal property of a qualified energy 943



project using clean coal technology, advanced nuclear 944  
technology, or cogeneration technology is exempt from taxation 945  
for the first tax year that the property would be listed for 946  
taxation and all subsequent years if all of the following 947  
circumstances are met: 948

(1) The property was placed into service before January 1, 949  
2021. Tangible personal property that has not been placed into 950  
service before that date is taxable property subject to 951  
taxation. 952

(2) For such a qualified energy project with a nameplate 953  
capacity of five megawatts or greater, a board of county 954  
commissioners of a county in which property of the qualified 955  
energy project is located has adopted a resolution under 956  
division (E) (1) (b) or (c) of this section to approve the 957  
application submitted under division (E) of this section to 958  
exempt the property located in that county from taxation. A 959  
board's adoption of a resolution rejecting the application or 960  
its failure to adopt a resolution approving the application does 961  
not affect the tax-exempt status of the qualified energy 962  
project's property that is located in another county. 963

(3) The certification for the qualified energy project 964  
issued under division (E) (2) of this section has not been 965  
revoked. An energy project for which certification has been 966  
revoked is ineligible for exemption under this section. 967  
Revocation does not affect the tax-exempt status of the 968  
project's tangible personal property for the tax year in which 969  
revocation occurs or any prior tax year. 970

(D) Except as otherwise provided in this section, real 971  
property of a qualified energy project is exempt from taxation 972  
for any tax year for which the tangible personal property of the 973

qualified energy project is exempted under this section. 974

(E) (1) (a) A person may apply to the director of 975  
development services for certification of an energy project as a 976  
qualified energy project on or before the following dates: 977

(i) December 31, 2020, for an energy project using 978  
renewable energy resources; 979

(ii) December 31, 2017, for an energy project using clean 980  
coal technology, advanced nuclear technology, or cogeneration 981  
technology. 982

(b) The director shall forward a copy of each application 983  
for certification of an energy project with a nameplate capacity 984  
of five megawatts or greater to the board of county 985  
commissioners of each county in which the project is located and 986  
to each taxing unit with territory located in each of the 987  
affected counties. Any board that receives from the director a 988  
copy of an application submitted under this division shall adopt 989  
a resolution approving or rejecting the application unless it 990  
has adopted a resolution under division (E) (1) (c) of this 991  
section. A resolution adopted under division (E) (1) (b) or (c) of 992  
this section may require an annual service payment to be made in 993  
addition to the service payment required under division (G) of 994  
this section. The sum of the service payment required in the 995  
resolution and the service payment required under division (G) 996  
of this section shall not exceed nine thousand dollars per 997  
megawatt of nameplate capacity located in the county. The 998  
resolution shall specify the time and manner in which the 999  
payments required by the resolution shall be paid to the county 1000  
treasurer. The county treasurer shall deposit the payment to the 1001  
credit of the county's general fund to be used for any purpose 1002  
for which money credited to that fund may be used. 1003

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

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

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

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

(a) The application was timely submitted.

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

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

(3) The director shall deny a certification application if the director determines the person has failed to comply with any

requirement under this section. The director may revoke a 1033  
certification if the director determines the person, or 1034  
subsequent owner or lessee pursuant to a sale and leaseback 1035  
transaction of the qualified energy project, has failed to 1036  
comply with any requirement under this section. Upon 1037  
certification or revocation, the director shall notify the 1038  
person, owner, or lessee, the tax commissioner, and the county 1039  
auditor of a county in which the project is located of the 1040  
certification or revocation. Notice shall be provided in a 1041  
manner convenient to the director. 1042

(F) The owner or a lessee pursuant to a sale and leaseback 1043  
transaction of a qualified energy project shall do each of the 1044  
following: 1045

(1) Comply with all applicable regulations; 1046

(2) File with the director of development services a 1047  
certified construction progress report before the first day of 1048  
March of each year during the energy facility's construction or 1049  
installation indicating the percentage of the project completed, 1050  
and the project's nameplate capacity, as of the preceding 1051  
thirty-first day of December. Unless otherwise instructed by the 1052  
director of development services, the owner or lessee of an 1053  
energy project shall file a report with the director on or 1054  
before the first day of March each year after completion of the 1055  
energy facility's construction or installation indicating the 1056  
project's nameplate capacity as of the preceding thirty-first 1057  
day of December. Not later than sixty days after June 17, 2010, 1058  
the owner or lessee of an energy project, the construction of 1059  
which was completed before June 17, 2010, shall file a 1060  
certificate indicating the project's nameplate capacity. 1061

(3) File with the director of development services, in a 1062

manner prescribed by the director, a report of the total number 1063  
of full-time equivalent employees, and the total number of full- 1064  
time equivalent employees domiciled in Ohio, who are employed in 1065  
the construction or installation of the energy facility; 1066

(4) For energy projects with a nameplate capacity of five 1067  
megawatts or greater, repair all roads, bridges, and culverts 1068  
affected by construction as reasonably required to restore them 1069  
to their preconstruction condition, as determined by the county 1070  
engineer in consultation with the local jurisdiction responsible 1071  
for the roads, bridges, and culverts. In the event that the 1072  
county engineer deems any road, bridge, or culvert to be 1073  
inadequate to support the construction or decommissioning of the 1074  
energy facility, the road, bridge, or culvert shall be rebuilt 1075  
or reinforced to the specifications established by the county 1076  
engineer prior to the construction or decommissioning of the 1077  
facility. The owner or lessee of the facility shall post a bond 1078  
in an amount established by the county engineer and to be held 1079  
by the board of county commissioners to ensure funding for 1080  
repairs of roads, bridges, and culverts affected during the 1081  
construction. The bond shall be released by the board not later 1082  
than one year after the date the repairs are completed. The 1083  
energy facility owner or lessee pursuant to a sale and leaseback 1084  
transaction shall post a bond, as may be required by the Ohio 1085  
power siting board in the certificate authorizing commencement 1086  
of construction issued pursuant to section 4906.10 of the 1087  
Revised Code, to ensure funding for repairs to roads, bridges, 1088  
and culverts resulting from decommissioning of the facility. The 1089  
energy facility owner or lessee and the county engineer may 1090  
enter into an agreement regarding specific transportation plans, 1091  
reinforcements, modifications, use and repair of roads, 1092  
financial security to be provided, and any other relevant issue. 1093

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

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development services, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust

an estimate produced by a model to account for variables not 1125  
accounted for by the model. 1126

(7) For energy projects with a nameplate capacity in 1127  
excess of two megawatts, establish a relationship with a member 1128  
of the university system of Ohio as defined in section 3345.011 1129  
of the Revised Code or with a person offering an apprenticeship 1130  
program registered with the employment and training 1131  
administration within the United States department of labor or 1132  
with the apprenticeship council created by section 4139.02 of 1133  
the Revised Code, to educate and train individuals for careers 1134  
in the wind or solar energy industry. The relationship may 1135  
include endowments, cooperative programs, internships, 1136  
apprenticeships, research and development projects, and 1137  
curriculum development. 1138

(8) Offer to sell power or renewable energy credits from 1139  
the energy project to electric distribution utilities or 1140  
electric service companies subject to renewable energy resource 1141  
~~requirements~~ provisions under section 4928.64 of the Revised 1142  
Code that have issued requests for proposal for such power or 1143  
renewable energy credits. If no electric distribution utility or 1144  
electric service company issues a request for proposal on or 1145  
before December 31, 2010, or accepts an offer for power or 1146  
renewable energy credits within forty-five days after the offer 1147  
is submitted, power or renewable energy credits from the energy 1148  
project may be sold to other persons. Division (F) (8) of this 1149  
section does not apply if: 1150

(a) The owner or lessee is a rural electric company or a 1151  
municipal power agency as defined in section 3734.058 of the 1152  
Revised Code. 1153

(b) The owner or lessee is a person that, before 1154

completion of the energy project, contracted for the sale of 1155  
power or renewable energy credits with a rural electric company 1156  
or a municipal power agency. 1157

(c) The owner or lessee contracts for the sale of power or 1158  
renewable energy credits from the energy project before June 17, 1159  
2010. 1160

(9) Make annual service payments as required by division 1161  
(G) of this section and as may be required in a resolution 1162  
adopted by a board of county commissioners under division (E) of 1163  
this section. 1164

(G) The owner or a lessee pursuant to a sale and leaseback 1165  
transaction of a qualified energy project shall make annual 1166  
service payments in lieu of taxes to the county treasurer on or 1167  
before the final dates for payments of taxes on public utility 1168  
personal property on the real and public utility personal 1169  
property tax list for each tax year for which property of the 1170  
energy project is exempt from taxation under this section. The 1171  
county treasurer shall allocate the payment on the basis of the 1172  
project's physical location. Upon receipt of a payment, or if 1173  
timely payment has not been received, the county treasurer shall 1174  
certify such receipt or non-receipt to the director of 1175  
development services and tax commissioner in a form determined 1176  
by the director and commissioner, respectively. Each payment 1177  
shall be in the following amount: 1178

(1) In the case of a solar energy project, seven thousand 1179  
dollars per megawatt of nameplate capacity located in the county 1180  
as of December 31, 2010, for tax year 2011, as of December 31, 1181  
2011, for tax year 2012, as of December 31, 2012, for tax year 1182  
2013, as of December 31, 2013, for tax year 2014, as of December 1183  
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1184



year 2016, and as of December 31, 2016, for tax year 2017 and 1185  
each tax year thereafter; 1186

(2) In the case of any other energy project using 1187  
renewable energy resources, the following: 1188

(a) If the project maintains during the construction or 1189  
installation of the energy facility a ratio of Ohio-domiciled 1190  
full-time equivalent employees to total full-time equivalent 1191  
employees of not less than seventy-five per cent, six thousand 1192  
dollars per megawatt of nameplate capacity located in the county 1193  
as of the thirty-first day of December of the preceding tax 1194  
year; 1195

(b) If the project maintains during the construction or 1196  
installation of the energy facility a ratio of Ohio-domiciled 1197  
full-time equivalent employees to total full-time equivalent 1198  
employees of less than seventy-five per cent but not less than 1199  
sixty per cent, seven thousand dollars per megawatt of nameplate 1200  
capacity located in the county as of the thirty-first day of 1201  
December of the preceding tax year; 1202

(c) If the project maintains during the construction or 1203  
installation of the energy facility a ratio of Ohio-domiciled 1204  
full-time equivalent employees to total full-time equivalent 1205  
employees of less than sixty per cent but not less than fifty 1206  
per cent, eight thousand dollars per megawatt of nameplate 1207  
capacity located in the county as of the thirty-first day of 1208  
December of the preceding tax year. 1209

(3) In the case of an energy project using clean coal 1210  
technology, advanced nuclear technology, or cogeneration 1211  
technology, the following: 1212

(a) If the project maintains during the construction or 1213

installation of the energy facility a ratio of Ohio-domiciled 1214  
full-time equivalent employees to total full-time equivalent 1215  
employees of not less than seventy-five per cent, six thousand 1216  
dollars per megawatt of nameplate capacity located in the county 1217  
as of the thirty-first day of December of the preceding tax 1218  
year; 1219

(b) If the project maintains during the construction or 1220  
installation of the energy facility a ratio of Ohio-domiciled 1221  
full-time equivalent employees to total full-time equivalent 1222  
employees of less than seventy-five per cent but not less than 1223  
sixty per cent, seven thousand dollars per megawatt of nameplate 1224  
capacity located in the county as of the thirty-first day of 1225  
December of the preceding tax year; 1226

(c) If the project maintains during the construction or 1227  
installation of the energy facility a ratio of Ohio-domiciled 1228  
full-time equivalent employees to total full-time equivalent 1229  
employees of less than sixty per cent but not less than fifty 1230  
per cent, eight thousand dollars per megawatt of nameplate 1231  
capacity located in the county as of the thirty-first day of 1232  
December of the preceding tax year. 1233

(H) The director of development services in consultation 1234  
with the tax commissioner shall adopt rules pursuant to Chapter 1235  
119. of the Revised Code to implement and enforce this section. 1236

**Section 2.** That existing sections 4928.143, 4928.64, 1237  
4928.643, 4928.645, 4928.65, 4928.66, 4928.6610, and 5727.75 of 1238  
the Revised Code are hereby repealed. 1239

**Section 3.** That Section 6 of Sub. S.B. 310 of the 130th 1240  
General Assembly be amended to read as follows: 1241

**Sec. 6.** (A) If an electric distribution utility has a 1242

portfolio plan that is in effect on the effective date of this 1243  
section, the utility shall do either of the following, at its 1244  
sole discretion: 1245

(1) Continue to implement the portfolio plan with no 1246  
amendments to the plan, for the duration that the Public 1247  
Utilities Commission originally approved, subject to divisions 1248  
(D) and (E) of this section; 1249

(2) Seek an amendment of the portfolio plan under division 1250  
(B) of this section. 1251

(B) (1) An electric distribution utility that seeks to 1252  
amend its portfolio plan under division (A) (2) of this section 1253  
shall file an application with the Commission to amend the plan 1254  
not later than thirty days after ~~the effective date of this~~ 1255  
~~section~~ September 12, 2014. The Commission shall review the 1256  
application in accordance with its rules as if the application 1257  
were for a new portfolio plan. The Commission shall review and 1258  
approve, or modify and approve, the application not later than 1259  
sixty days after the date that the application is filed. Any 1260  
portfolio plan amended under this division shall take effect on 1261  
January 1, 2015, and expire on December 31, 2016. If the 1262  
Commission fails to review and approve, or modify and approve, 1263  
the application on or before January 1, 2015, the plan shall be 1264  
deemed approved as amended in the application and shall take 1265  
effect on January 1, 2015, and expire on December 31, 2016. 1266

(2) Section 4928.66 of the Revised Code, as amended by 1267  
~~this act~~ Sub. S.B. 310 of the 130th General Assembly, shall 1268  
apply to an electric distribution utility that applies to amend 1269  
its portfolio plan under division (B) of this section. 1270

(C) If an electric distribution utility fails to file an 1271

application to amend its portfolio plan under division (B) of 1272  
this section within the required thirty-day period, the electric 1273  
distribution utility shall proceed in accordance with division 1274  
(A) (1) of this section. 1275

(D) If an electric distribution utility implements its 1276  
portfolio plan under division (A) (1) of this section for the 1277  
plan's original duration and if the plan expires before December 1278  
31, 2016, the Commission shall automatically extend the plan 1279  
through December 31, 2016, with no amendments to the plan. 1280

(E) (1) The provisions of section 4928.66 of the Revised 1281  
Code, as it existed prior to ~~the effective date of this section~~ 1282  
September 12, 2014, shall apply to an electric distribution 1283  
utility that has a portfolio plan that is implemented under 1284  
division (A) (1) of this section for either of the following time 1285  
periods: 1286

(a) The plan's original duration; 1287

(b) The plan's original duration and then, until December 1288  
31, 2016, if the plan is extended under division (D) of this 1289  
section. 1290

(2) Beginning January 1, 2017, the provisions of section 1291  
4928.66 of the Revised Code as amended by ~~this act~~ Sub. S.B. 310 1292  
of the 130th General Assembly shall apply to the electric 1293  
distribution utility through the date that is the day before the 1294  
provisions of that section, as amended by H.B. 554 of the 131st 1295  
General Assembly, take effect. 1296

(3) The provisions of section 4928.66 of the Revised Code, 1297  
as amended by H.B. 554 of the 131st General Assembly, shall 1298  
apply to the electric distribution utility beginning on the 1299  
effective date of the amendments to that section by that act. 1300

**Section 4.** That existing Section 6 of Sub. S.B. 310 of the 1301  
130th General Assembly is hereby repealed. 1302

**Section 5.** (A) In 2017, the Public Utilities Commission 1303  
shall review an electric distribution utility's or electric 1304  
services company's compliance with the benchmarks for 2016 under 1305  
division (B) (2) of section 4928.64 of the Revised Code as that 1306  
division existed prior to the effective date of this section, 1307  
and in the course of that review, shall identify any 1308  
undercompliance or noncompliance of the utility or company that 1309  
it determines is weather-related, related to equipment or 1310  
resource shortages for qualifying renewable energy resources as 1311  
applicable, or is otherwise outside the utility's or company's 1312  
control. 1313

(B) Subject to the cost cap provisions of division (C) (3) 1314  
of section 4928.64 of the Revised Code, if the commission 1315  
determines, after notice and opportunity for hearing, and based 1316  
upon its findings in the review under division (A) of this 1317  
section regarding avoidable undercompliance or noncompliance, 1318  
but subject to the force-majeure provisions of division (C) (4) 1319  
(a) of section 4928.64 of the Revised Code, that the utility or 1320  
company has failed to comply with the benchmarks for 2016, the 1321  
commission shall impose a renewable energy compliance payment on 1322  
the utility or company. 1323

(1) The compliance payment pertaining to the solar energy 1324  
resource benchmark for 2016 shall be three hundred dollars per 1325  
megawatt hour of undercompliance or noncompliance in the period 1326  
under review. 1327

(2) The compliance payment pertaining to the renewable 1328  
energy resource benchmark for 2016 shall be assessed in 1329  
accordance with division (C) (2) (b) of section 4928.64 of the 1330

|   |      |
|---|------|
| Revised Code.   | 1331 |
| (C) Division (C) (2) (c) of section 4928.64 of the Revised      | 1332 |
| Code applies to compliance payments imposed under this section. | 1333 |
| <b>Section 6.</b> The amendments to section 4928.6610 of the    | 1334 |
| Revised Code by this act shall take effect January 1, 2019.     | 1335 |