

As Introduced

132nd General Assembly

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Representative Blessing

Cosponsors: Representative Seitz, Speaker Rosenberger, Representatives Schuring, Pelanda, McColley, Hill, Conditt, Hambley, Retherford, Brinkman, Koehler, Johnson, T., Green, Stein, Thompson, Roegner, Schaffer, Slaby, Scherer, Wiggam, Huffman, Becker, Riedel, Zeltwanger, Vitale, Hood, Keller, Dean, Butler, Householder, Hughes, Brenner, Dever, DeVitis, Goodman, Kick, Landis, LaTourette, Lipps, Rezabek, Romanchuk, Ryan, Smith, R., Young, Patton, Ginter, Cupp, Carfagna, Cera, Greenspan, Perales, Arndt, Faber, Sprague

A BILL

To amend sections 4928.142, 4928.143, 4928.20, 1
4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 2
4928.644, 4928.645, 4928.65, 4928.66, 4928.662, 3
4928.6610, 4928.6611, and 5727.75 and to enact 4
sections 4928.031, 4928.647, 4928.6620, and 5
4928.6621 of the Revised Code and to amend 6
Section 257.80 of Am. Sub. H.B. 64 of the 132nd 7
General Assembly and to repeal Sections 5, 6, 7, 8
8, 9, 10, and 11 of Sub. S.B. 310 of the 130th 9
General Assembly to revise the provisions 10
governing renewable energy, energy efficiency, 11
and peak demand reduction and to alter funding 12
allocations under the Home Energy Assistance 13
Program. 14

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

Section 1. That sections 4928.142, 4928.143, 4928.20, 15
4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 4928.644, 16
4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, 4928.6611, and 17
5727.75 be amended and sections 4928.031, 4928.647, 4928.6620, 18
and 4928.6621 of the Revised Code be enacted to read as follows: 19

Sec. 4928.031. Except as otherwise provided in divisions 20
(B) (2) (b) and (c) of section 4928.143 of the Revised Code, 21
sections 4928.144 and 4928.239 of the Revised Code, and division 22
(A) (1) (b) of section 4928.37 of the Revised Code, all costs 23
incurred by an electric distribution utility in providing 24
generation service, including all costs of providing electricity 25
from renewable energy resources, shall be bypassable by any 26
consumer that has exercised choice of supplier under section 27
4928.03 of the Revised Code. 28

Sec. 4928.142. (A) For the purpose of complying with 29
section 4928.141 of the Revised Code and subject to division (D) 30
of this section and, as applicable, subject to the rate plan 31
requirement of division (A) of section 4928.141 of the Revised 32
Code, an electric distribution utility may establish a standard 33
service offer price for retail electric generation service that 34
is delivered to the utility under a market-rate offer. 35

(1) The market-rate offer shall be determined through a 36
competitive bidding process that provides for all of the 37
following: 38

(a) Open, fair, and transparent competitive solicitation; 39

(b) Clear product definition; 40

(c) Standardized bid evaluation criteria; 41

(d) Oversight by an independent third party that shall 42
design the solicitation, administer the bidding, and ensure that 43

the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 44
this section are met; 45

(e) Evaluation of the submitted bids prior to the 46
selection of the least-cost bid winner or winners. 47

No generation supplier shall be prohibited from 48
participating in the bidding process. 49

(2) The public utilities commission shall modify rules, or 50
adopt new rules as necessary, concerning the conduct of the 51
competitive bidding process and the qualifications of bidders, 52
which rules shall foster supplier participation in the bidding 53
process and shall be consistent with the requirements of 54
division (A) (1) of this section. 55

(B) Prior to initiating a competitive bidding process for 56
a market-rate offer under division (A) of this section, the 57
electric distribution utility shall file an application with the 58
commission. An electric distribution utility may file its 59
application with the commission prior to the effective date of 60
the commission rules required under division (A) (2) of this 61
section, and, as the commission determines necessary, the 62
utility shall immediately conform its filing to the rules upon 63
their taking effect. 64

An application under this division shall detail the 65
electric distribution utility's proposed compliance with the 66
requirements of division (A) (1) of this section and with 67
commission rules under division (A) (2) of this section and 68
demonstrate that all of the following requirements are met: 69

(1) The electric distribution utility or its transmission 70
service affiliate belongs to at least one regional transmission 71
organization that has been approved by the federal energy 72

regulatory commission; or there otherwise is comparable and 73
nondiscriminatory access to the electric transmission grid. 74

(2) Any such regional transmission organization has a 75
market-monitor function and the ability to take actions to 76
identify and mitigate market power or the electric distribution 77
utility's market conduct; or a similar market monitoring 78
function exists with commensurate ability to identify and 79
monitor market conditions and mitigate conduct associated with 80
the exercise of market power. 81

(3) A published source of information is available 82
publicly or through subscription that identifies pricing 83
information for traded electricity on- and off-peak energy 84
products that are contracts for delivery beginning at least two 85
years from the date of the publication and is updated on a 86
regular basis. 87

The commission shall initiate a proceeding and, within 88
ninety days after the application's filing date, shall determine 89
by order whether the electric distribution utility and its 90
market-rate offer meet all of the foregoing requirements. If the 91
finding is positive, the electric distribution utility may 92
initiate its competitive bidding process. If the finding is 93
negative as to one or more requirements, the commission in the 94
order shall direct the electric distribution utility regarding 95
how any deficiency may be remedied in a timely manner to the 96
commission's satisfaction; otherwise, the electric distribution 97
utility shall withdraw the application. However, if such remedy 98
is made and the subsequent finding is positive and also if the 99
electric distribution utility made a simultaneous filing under 100
this section and section 4928.143 of the Revised Code, the 101
utility shall not initiate its competitive bid until at least 102

one hundred fifty days after the filing date of those 103
applications. 104

(C) Upon the completion of the competitive bidding process 105
authorized by divisions (A) and (B) of this section, including 106
for the purpose of division (D) of this section, the commission 107
shall select the least-cost bid winner or winners of that 108
process, and such selected bid or bids, as prescribed as retail 109
rates by the commission, shall be the electric distribution 110
utility's standard service offer unless the commission, by order 111
issued before the third calendar day following the conclusion of 112
the competitive bidding process for the market rate offer, 113
determines that one or more of the following criteria were not 114
met: 115

(1) Each portion of the bidding process was 116
oversubscribed, such that the amount of supply bid upon was 117
greater than the amount of the load bid out. 118

(2) There were four or more bidders. 119

(3) At least twenty-five per cent of the load is bid upon 120
by one or more persons other than the electric distribution 121
utility. 122

All costs incurred by the electric distribution utility as 123
a result of or related to the competitive bidding process or to 124
procuring generation service to provide the standard service 125
offer, including the costs of energy and capacity and the costs 126
of all other products and services procured as a result of the 127
competitive bidding process, shall be timely recovered through 128
the standard service offer price, and, for that purpose, the 129
commission shall approve a reconciliation mechanism, other 130
recovery mechanism, or a combination of such mechanisms for the 131

utility. 132

(D) The first application filed under this section by an 133
electric distribution utility that, as of July 31, 2008, 134
directly owns, in whole or in part, operating electric 135
generating facilities that had been used and useful in this 136
state shall require that a portion of that utility's standard 137
service offer load for the first five years of the market rate 138
offer be competitively bid under division (A) of this section as 139
follows: ten per cent of the load in year one, not more than 140
twenty per cent in year two, thirty per cent in year three, 141
forty per cent in year four, and fifty per cent in year five. 142
Consistent with those percentages, the commission shall 143
determine the actual percentages for each year of years one 144
through five. The standard service offer price for retail 145
electric generation service under this first application shall 146
be a proportionate blend of the bid price and the generation 147
service price for the remaining standard service offer load, 148
which latter price shall be equal to the electric distribution 149
utility's most recent standard service offer price, adjusted 150
upward or downward as the commission determines reasonable, 151
relative to the jurisdictional portion of any known and 152
measurable changes from the level of any one or more of the 153
following costs as reflected in that most recent standard 154
service offer price: 155

(1) The electric distribution utility's prudently incurred 156
cost of fuel used to produce electricity; 157

(2) Its prudently incurred purchased power costs; 158

(3) Its prudently incurred costs of satisfying the supply 159
and demand portfolio requirements of this state, including, but 160
not limited to, ~~renewable energy resource and energy efficiency~~ 161

requirements;	162
(4) Its costs prudently incurred to comply with	163
environmental laws and regulations, with consideration of the	164
derating of any facility associated with those costs.	165
In making any adjustment to the most recent standard	166
service offer price on the basis of costs described in division	167
(D) of this section, the commission shall include the benefits	168
that may become available to the electric distribution utility	169
as a result of or in connection with the costs included in the	170
adjustment, including, but not limited to, the utility's receipt	171
of emissions credits or its receipt of tax benefits or of other	172
benefits, and, accordingly, the commission may impose such	173
conditions on the adjustment to ensure that any such benefits	174
are properly aligned with the associated cost responsibility.	175
The commission shall also determine how such adjustments will	176
affect the electric distribution utility's return on common	177
equity that may be achieved by those adjustments. The commission	178
shall not apply its consideration of the return on common equity	179
to reduce any adjustments authorized under this division unless	180
the adjustments will cause the electric distribution utility to	181
earn a return on common equity that is significantly in excess	182
of the return on common equity that is earned by publicly traded	183
companies, including utilities, that face comparable business	184
and financial risk, with such adjustments for capital structure	185
as may be appropriate. The burden of proof for demonstrating	186
that significantly excessive earnings will not occur shall be on	187
the electric distribution utility.	188
Additionally, the commission may adjust the electric	189
distribution utility's most recent standard service offer price	190
by such just and reasonable amount that the commission	191

determines necessary to address any emergency that threatens the 192
utility's financial integrity or to ensure that the resulting 193
revenue available to the utility for providing the standard 194
service offer is not so inadequate as to result, directly or 195
indirectly, in a taking of property without compensation 196
pursuant to Section 19 of Article I, Ohio Constitution. The 197
electric distribution utility has the burden of demonstrating 198
that any adjustment to its most recent standard service offer 199
price is proper in accordance with this division. 200

(E) Beginning in the second year of a blended price under 201
division (D) of this section and notwithstanding any other 202
requirement of this section, the commission may alter 203
prospectively the proportions specified in that division to 204
mitigate any effect of an abrupt or significant change in the 205
electric distribution utility's standard service offer price 206
that would otherwise result in general or with respect to any 207
rate group or rate schedule but for such alteration. Any such 208
alteration shall be made not more often than annually, and the 209
commission shall not, by altering those proportions and in any 210
event, including because of the length of time, as authorized 211
under division (C) of this section, taken to approve the market 212
rate offer, cause the duration of the blending period to exceed 213
ten years as counted from the effective date of the approved 214
market rate offer. Additionally, any such alteration shall be 215
limited to an alteration affecting the prospective proportions 216
used during the blending period and shall not affect any 217
blending proportion previously approved and applied by the 218
commission under this division. 219

(F) An electric distribution utility that has received 220
commission approval of its first application under division (C) 221
of this section shall not, nor ever shall be authorized or 222

required by the commission to, file an application under section 223
4928.143 of the Revised Code. 224

Sec. 4928.143. (A) For the purpose of complying with 225
section 4928.141 of the Revised Code, an electric distribution 226
utility may file an application for public utilities commission 227
approval of an electric security plan as prescribed under 228
division (B) of this section. The utility may file that 229
application prior to the effective date of any rules the 230
commission may adopt for the purpose of this section, and, as 231
the commission determines necessary, the utility immediately 232
shall conform its filing to those rules upon their taking 233
effect. 234

(B) Notwithstanding any other provision of Title XLIX of 235
the Revised Code to the contrary except division (D) of this 236
section, divisions (I), (J), and (K) of section 4928.20, ~~and~~ 237
~~division (E) of section 4928.64 of the Revised Code, and section~~ 238
sections 4928.031 and 4928.69 of the Revised Code: 239

(1) An electric security plan shall include provisions 240
relating to the supply and pricing of electric generation 241
service. In addition, if the proposed electric security plan has 242
a term longer than three years, it may include provisions in the 243
plan to permit the commission to test the plan pursuant to 244
division (E) of this section and any transitional conditions 245
that should be adopted by the commission if the commission 246
terminates the plan as authorized under that division. 247

(2) The plan may provide for or include, without 248
limitation, any of the following: 249

(a) Automatic recovery of any of the following costs of 250
the electric distribution utility, provided the cost is 251

prudently incurred: the cost of fuel used to generate the 252
electricity supplied under the offer; the cost of purchased 253
power supplied under the offer, including the cost of energy and 254
capacity, and including purchased power acquired from an 255
affiliate; the cost of emission allowances; and the cost of 256
federally mandated carbon or energy taxes; 257

(b) A reasonable allowance for construction work in 258
progress for any of the electric distribution utility's cost of 259
constructing an electric generating facility or for an 260
environmental expenditure for any electric generating facility 261
of the electric distribution utility, provided the cost is 262
incurred or the expenditure occurs on or after January 1, 2009. 263
Any such allowance shall be subject to the construction work in 264
progress allowance limitations of division (A) of section 265
4909.15 of the Revised Code, except that the commission may 266
authorize such an allowance upon the incurrence of the cost or 267
occurrence of the expenditure. No such allowance for generating 268
facility construction shall be authorized, however, unless the 269
commission first determines in the proceeding that there is need 270
for the facility based on resource planning projections 271
submitted by the electric distribution utility. Further, no such 272
allowance shall be authorized unless the facility's construction 273
was sourced through a competitive bid process, regarding which 274
process the commission may adopt rules. An allowance approved 275
under division (B) (2) (b) of this section shall be established as 276
a nonbypassable surcharge for the life of the facility. 277

(c) The establishment of a nonbypassable surcharge for the 278
life of an electric generating facility that is owned or 279
operated by the electric distribution utility, was sourced 280
through a competitive bid process subject to any such rules as 281
the commission adopts under division (B) (2) (b) of this section, 282

and is newly used and useful on or after January 1, 2009, which 283
surcharge shall cover all costs of the utility specified in the 284
application, excluding costs recovered through a surcharge under 285
division (B) (2) (b) of this section. However, no surcharge shall 286
be authorized unless the commission first determines in the 287
proceeding that there is need for the facility based on resource 288
planning projections submitted by the electric distribution 289
utility. Additionally, if a surcharge is authorized for a 290
facility pursuant to plan approval under division (C) of this 291
section and as a condition of the continuation of the surcharge, 292
the electric distribution utility shall dedicate to Ohio 293
consumers the capacity and energy and the rate associated with 294
the cost of that facility. Before the commission authorizes any 295
surcharge pursuant to this division, it may consider, as 296
applicable, the effects of any decommissioning, deratings, and 297
retirements. 298

(d) Terms, conditions, or charges relating to limitations 299
on customer shopping for retail electric generation service, 300
bypassability, standby, back-up, or supplemental power service, 301
default service, carrying costs, amortization periods, and 302
accounting or deferrals, including future recovery of such 303
deferrals, as would have the effect of stabilizing or providing 304
certainty regarding retail electric service; 305

(e) Automatic increases or decreases in any component of 306
the standard service offer price; 307

(f) Consistent with sections 4928.23 to 4928.2318 of the 308
Revised Code, both of the following: 309

(i) Provisions for the electric distribution utility to 310
securitize any phase-in, inclusive of carrying charges, of the 311
utility's standard service offer price, which phase-in is 312

authorized in accordance with section 4928.144 of the Revised	313
Code;	314
(ii) Provisions for the recovery of the utility's cost of	315
securitization.	316
(g) Provisions relating to transmission, ancillary,	317
congestion, or any related service required for the standard	318
service offer, including provisions for the recovery of any cost	319
of such service that the electric distribution utility incurs on	320
or after that date pursuant to the standard service offer;	321
(h) Provisions regarding the utility's distribution	322
service, including, without limitation and notwithstanding any	323
provision of Title XLIX of the Revised Code to the contrary,	324
provisions regarding single issue ratemaking, a revenue	325
decoupling mechanism or any other incentive ratemaking, and	326
provisions regarding distribution infrastructure and	327
modernization incentives for the electric distribution utility.	328
The latter may include a long-term energy delivery	329
infrastructure modernization plan for that utility or any plan	330
providing for the utility's recovery of costs, including lost	331
revenue, shared savings, and avoided costs, and a just and	332
reasonable rate of return on such infrastructure modernization.	333
As part of its determination as to whether to allow in an	334
electric distribution utility's electric security plan inclusion	335
of any provision described in division (B)(2)(h) of this	336
section, the commission shall examine the reliability of the	337
electric distribution utility's distribution system and ensure	338
that customers' and the electric distribution utility's	339
expectations are aligned and that the electric distribution	340
utility is placing sufficient emphasis on and dedicating	341
sufficient resources to the reliability of its distribution	342

system. 343

(i) Provisions under which the electric distribution 344
utility may implement economic development, job retention, and 345
energy efficiency programs, which provisions may allocate 346
program costs across all classes of customers of the utility and 347
those of electric distribution utilities in the same holding 348
company system. 349

(C) (1) The burden of proof in the proceeding shall be on 350
the electric distribution utility. The commission shall issue an 351
order under this division for an initial application under this 352
section not later than one hundred fifty days after the 353
application's filing date and, for any subsequent application by 354
the utility under this section, not later than two hundred 355
seventy-five days after the application's filing date. Subject 356
to division (D) of this section, the commission by order shall 357
approve or modify and approve an application filed under 358
division (A) of this section if it finds that the electric 359
security plan so approved, including its pricing and all other 360
terms and conditions, including any deferrals and any future 361
recovery of deferrals, is more favorable in the aggregate as 362
compared to the expected results that would otherwise apply 363
under section 4928.142 of the Revised Code. Additionally, if the 364
commission so approves an application that contains a surcharge 365
under division (B) (2) (b) or (c) of this section, the commission 366
shall ensure that the benefits derived for any purpose for which 367
the surcharge is established are reserved and made available to 368
those that bear the surcharge. Otherwise, the commission by 369
order shall disapprove the application. 370

(2) (a) If the commission modifies and approves an 371
application under division (C) (1) of this section, the electric 372

distribution utility may withdraw the application, thereby 373
terminating it, and may file a new standard service offer under 374
this section or a standard service offer under section 4928.142 375
of the Revised Code. 376

(b) If the utility terminates an application pursuant to 377
division (C) (2) (a) of this section or if the commission 378
disapproves an application under division (C) (1) of this 379
section, the commission shall issue such order as is necessary 380
to continue the provisions, terms, and conditions of the 381
utility's most recent standard service offer, along with any 382
expected increases or decreases in fuel costs from those 383
contained in that offer, until a subsequent offer is authorized 384
pursuant to this section or section 4928.142 of the Revised 385
Code, respectively. 386

(D) Regarding the rate plan requirement of division (A) of 387
section 4928.141 of the Revised Code, if an electric 388
distribution utility that has a rate plan that extends beyond 389
December 31, 2008, files an application under this section for 390
the purpose of its compliance with division (A) of section 391
4928.141 of the Revised Code, that rate plan and its terms and 392
conditions are hereby incorporated into its proposed electric 393
security plan and shall continue in effect until the date 394
scheduled under the rate plan for its expiration, and that 395
portion of the electric security plan shall not be subject to 396
commission approval or disapproval under division (C) of this 397
section, and the earnings test provided for in division (F) of 398
this section shall not apply until after the expiration of the 399
rate plan. However, that utility may include in its electric 400
security plan under this section, and the commission may 401
approve, modify and approve, or disapprove subject to division 402
(C) of this section, provisions for the incremental recovery or 403

the deferral of any costs that are not being recovered under the 404
rate plan and that the utility incurs during that continuation 405
period to comply with section 4928.141, ~~division (B) of section~~ 406
~~4928.64~~, or division (A) of section 4928.66 of the Revised Code. 407

(E) If an electric security plan approved under division 408
(C) of this section, except one withdrawn by the utility as 409
authorized under that division, has a term, exclusive of phase- 410
ins or deferrals, that exceeds three years from the effective 411
date of the plan, the commission shall test the plan in the 412
fourth year, and if applicable, every fourth year thereafter, to 413
determine whether the plan, including its then-existing pricing 414
and all other terms and conditions, including any deferrals and 415
any future recovery of deferrals, continues to be more favorable 416
in the aggregate and during the remaining term of the plan as 417
compared to the expected results that would otherwise apply 418
under section 4928.142 of the Revised Code. The commission shall 419
also determine the prospective effect of the electric security 420
plan to determine if that effect is substantially likely to 421
provide the electric distribution utility with a return on 422
common equity that is significantly in excess of the return on 423
common equity that is likely to be earned by publicly traded 424
companies, including utilities, that face comparable business 425
and financial risk, with such adjustments for capital structure 426
as may be appropriate. The burden of proof for demonstrating 427
that significantly excessive earnings will not occur shall be on 428
the electric distribution utility. If the test results are in 429
the negative or the commission finds that continuation of the 430
electric security plan will result in a return on equity that is 431
significantly in excess of the return on common equity that is 432
likely to be earned by publicly traded companies, including 433
utilities, that will face comparable business and financial 434

risk, with such adjustments for capital structure as may be 435
appropriate, during the balance of the plan, the commission may 436
terminate the electric security plan, but not until it shall 437
have provided interested parties with notice and an opportunity 438
to be heard. The commission may impose such conditions on the 439
plan's termination as it considers reasonable and necessary to 440
accommodate the transition from an approved plan to the more 441
advantageous alternative. In the event of an electric security 442
plan's termination pursuant to this division, the commission 443
shall permit the continued deferral and phase-in of any amounts 444
that occurred prior to that termination and the recovery of 445
those amounts as contemplated under that electric security plan. 446

(F) With regard to the provisions that are included in an 447
electric security plan under this section, the commission shall 448
consider, following the end of each annual period of the plan, 449
if any such adjustments resulted in excessive earnings as 450
measured by whether the earned return on common equity of the 451
electric distribution utility is significantly in excess of the 452
return on common equity that was earned during the same period 453
by publicly traded companies, including utilities, that face 454
comparable business and financial risk, with such adjustments 455
for capital structure as may be appropriate. Consideration also 456
shall be given to the capital requirements of future committed 457
investments in this state. The burden of proof for demonstrating 458
that significantly excessive earnings did not occur shall be on 459
the electric distribution utility. If the commission finds that 460
such adjustments, in the aggregate, did result in significantly 461
excessive earnings, it shall require the electric distribution 462
utility to return to consumers the amount of the excess by 463
prospective adjustments; provided that, upon making such 464
prospective adjustments, the electric distribution utility shall 465

have the right to terminate the plan and immediately file an 466
application pursuant to section 4928.142 of the Revised Code. 467
Upon termination of a plan under this division, rates shall be 468
set on the same basis as specified in division (C) (2) (b) of this 469
section, and the commission shall permit the continued deferral 470
and phase-in of any amounts that occurred prior to that 471
termination and the recovery of those amounts as contemplated 472
under that electric security plan. In making its determination 473
of significantly excessive earnings under this division, the 474
commission shall not consider, directly or indirectly, the 475
revenue, expenses, or earnings of any affiliate or parent 476
company. 477

Sec. 4928.20. (A) The legislative authority of a municipal 478
corporation may adopt an ordinance, or the board of township 479
trustees of a township or the board of county commissioners of a 480
county may adopt a resolution, under which, on or after the 481
starting date of competitive retail electric service, it may 482
aggregate in accordance with this section the retail electrical 483
loads located, respectively, within the municipal corporation, 484
township, or unincorporated area of the county and, for that 485
purpose, may enter into service agreements to facilitate for 486
those loads the sale and purchase of electricity. The 487
legislative authority or board also may exercise such authority 488
jointly with any other such legislative authority or board. For 489
customers that are not mercantile customers, an ordinance or 490
resolution under this division shall specify whether the 491
aggregation will occur only with the prior, affirmative consent 492
of each person owning, occupying, controlling, or using an 493
electric load center proposed to be aggregated or will occur 494
automatically for all such persons pursuant to the opt-out 495
requirements of division (D) of this section. The aggregation of 496

mercantile customers shall occur only with the prior, 497
affirmative consent of each such person owning, occupying, 498
controlling, or using an electric load center proposed to be 499
aggregated. Nothing in this division, however, authorizes the 500
aggregation of the retail electric loads of an electric load 501
center, as defined in section 4933.81 of the Revised Code, that 502
is located in the certified territory of a nonprofit electric 503
supplier under sections 4933.81 to 4933.90 of the Revised Code 504
or an electric load center served by transmission or 505
distribution facilities of a municipal electric utility. 506

(B) If an ordinance or resolution adopted under division 507
(A) of this section specifies that aggregation of customers that 508
are not mercantile customers will occur automatically as 509
described in that division, the ordinance or resolution shall 510
direct the board of elections to submit the question of the 511
authority to aggregate to the electors of the respective 512
municipal corporation, township, or unincorporated area of a 513
county at a special election on the day of the next primary or 514
general election in the municipal corporation, township, or 515
county. The legislative authority or board shall certify a copy 516
of the ordinance or resolution to the board of elections not 517
less than ninety days before the day of the special election. No 518
ordinance or resolution adopted under division (A) of this 519
section that provides for an election under this division shall 520
take effect unless approved by a majority of the electors voting 521
upon the ordinance or resolution at the election held pursuant 522
to this division. 523

(C) Upon the applicable requisite authority under 524
divisions (A) and (B) of this section, the legislative authority 525
or board shall develop a plan of operation and governance for 526
the aggregation program so authorized. Before adopting a plan 527

under this division, the legislative authority or board shall 528
hold at least two public hearings on the plan. Before the first 529
hearing, the legislative authority or board shall publish notice 530
of the hearings once a week for two consecutive weeks in a 531
newspaper of general circulation in the jurisdiction or as 532
provided in section 7.16 of the Revised Code. The notice shall 533
summarize the plan and state the date, time, and location of 534
each hearing. 535

(D) No legislative authority or board, pursuant to an 536
ordinance or resolution under divisions (A) and (B) of this 537
section that provides for automatic aggregation of customers 538
that are not mercantile customers as described in division (A) 539
of this section, shall aggregate the electrical load of any 540
electric load center located within its jurisdiction unless it 541
in advance clearly discloses to the person owning, occupying, 542
controlling, or using the load center that the person will be 543
enrolled automatically in the aggregation program and will 544
remain so enrolled unless the person affirmatively elects by a 545
stated procedure not to be so enrolled. The disclosure shall 546
state prominently the rates, charges, and other terms and 547
conditions of enrollment. The stated procedure shall allow any 548
person enrolled in the aggregation program the opportunity to 549
opt out of the program every three years, without paying a 550
switching fee. Any such person that opts out before the 551
commencement of the aggregation program pursuant to the stated 552
procedure shall default to the standard service offer provided 553
under section 4928.14 or division (D) of section 4928.35 of the 554
Revised Code until the person chooses an alternative supplier. 555

(E) (1) With respect to a governmental aggregation for a 556
municipal corporation that is authorized pursuant to divisions 557
(A) to (D) of this section, resolutions may be proposed by 558

initiative or referendum petitions in accordance with sections 559
731.28 to 731.41 of the Revised Code. 560

(2) With respect to a governmental aggregation for a 561
township or the unincorporated area of a county, which 562
aggregation is authorized pursuant to divisions (A) to (D) of 563
this section, resolutions may be proposed by initiative or 564
referendum petitions in accordance with sections 731.28 to 565
731.40 of the Revised Code, except that: 566

(a) The petitions shall be filed, respectively, with the 567
township fiscal officer or the board of county commissioners, 568
who shall perform those duties imposed under those sections upon 569
the city auditor or village clerk. 570

(b) The petitions shall contain the signatures of not less 571
than ten per cent of the total number of electors in, 572
respectively, the township or the unincorporated area of the 573
county who voted for the office of governor at the preceding 574
general election for that office in that area. 575

(F) A governmental aggregator under division (A) of this 576
section is not a public utility engaging in the wholesale 577
purchase and resale of electricity, and provision of the 578
aggregated service is not a wholesale utility transaction. A 579
governmental aggregator shall be subject to supervision and 580
regulation by the public utilities commission only to the extent 581
of any competitive retail electric service it provides and 582
commission authority under this chapter. 583

(G) This section does not apply in the case of a municipal 584
corporation that supplies such aggregated service to electric 585
load centers to which its municipal electric utility also 586
supplies a noncompetitive retail electric service through 587

transmission or distribution facilities the utility singly or 588
jointly owns or operates. 589

(H) A governmental aggregator shall not include in its 590
aggregation the accounts of any of the following: 591

(1) A customer that has opted out of the aggregation; 592

(2) A customer in contract with a certified electric 593
services company; 594

(3) A customer that has a special contract with an 595
electric distribution utility; 596

(4) A customer that is not located within the governmental 597
aggregator's governmental boundaries; 598

(5) Subject to division (C) of section 4928.21 of the 599
Revised Code, a customer who appears on the "do not aggregate" 600
list maintained under that section. 601

(I) Customers that are part of a governmental aggregation 602
under this section shall be responsible only for such portion of 603
a surcharge under section 4928.144 of the Revised Code that is 604
proportionate to the benefits, as determined by the commission, 605
that electric load centers within the jurisdiction of the 606
governmental aggregation as a group receive. The proportionate 607
surcharge so established shall apply to each customer of the 608
governmental aggregation while the customer is part of that 609
aggregation. If a customer ceases being such a customer, the 610
otherwise applicable surcharge shall apply. Nothing in this 611
section shall result in less than full recovery by an electric 612
distribution utility of any surcharge authorized under section 613
4928.144 of the Revised Code. Nothing in this section shall 614
result in less than the full and timely imposition, charging, 615
collection, and adjustment by an electric distribution utility, 616

its assignee, or any collection agent, of the phase-in-recovery 617
charges authorized pursuant to a final financing order issued 618
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 619

(J) On behalf of the customers that are part of a 620
governmental aggregation under this section and by filing 621
written notice with the public utilities commission, the 622
legislative authority that formed or is forming that 623
governmental aggregation may elect not to receive standby 624
service within the meaning of division (B) (2) (d) of section 625
4928.143 of the Revised Code from an electric distribution 626
utility in whose certified territory the governmental 627
aggregation is located and that operates under an approved 628
electric security plan under that section. Upon the filing of 629
that notice, the electric distribution utility shall not charge 630
any such customer to whom competitive retail electric generation 631
service is provided by another supplier under the governmental 632
aggregation for the standby service. Any such consumer that 633
returns to the utility for competitive retail electric service 634
shall pay the market price of power incurred by the utility to 635
serve that consumer plus any additional amount attributable to 636
the utility's cost of ~~compliance with the providing, after the~~ 637
effective date of the amendments to this section by ...B... of 638
the 132nd general assembly, electricity from qualifying 639
renewable energy resource provisions of resources as defined in 640
section 4928.64 of the Revised Code ~~to serve the consumer,~~ 641
unless that customer opts out under section 4928.647 of the 642
Revised Code. Such market price shall include, but not be 643
limited to, capacity and energy charges; all charges associated 644
with the provision of that power supply through the regional 645
transmission organization, including, but not limited to, 646
transmission, ancillary services, congestion, and settlement and 647

administrative charges; and all other costs incurred by the 648
utility that are associated with the procurement, provision, and 649
administration of that power supply, as such costs may be 650
approved by the commission. The period of time during which the 651
market price and qualifying renewable energy resource amount 652
shall be so assessed on the consumer shall be from the time the 653
consumer so returns to the electric distribution utility until 654
the expiration of the electric security plan. However, if that 655
period of time is expected to be more than two years, the 656
commission may reduce the time period to a period of not less 657
than two years. 658

(K) The commission shall adopt rules to encourage and 659
promote large-scale governmental aggregation in this state. For 660
that purpose, the commission shall conduct an immediate review 661
of any rules it has adopted for the purpose of this section that 662
are in effect on the effective date of the amendment of this 663
section by S.B. 221 of the 127th general assembly, July 31, 664
2008. Further, within the context of an electric security plan 665
under section 4928.143 of the Revised Code, the commission shall 666
consider the effect on large-scale governmental aggregation of 667
any nonbypassable generation charges, however collected, that 668
would be established under that plan, except any nonbypassable 669
generation charges that relate to any cost incurred by the 670
electric distribution utility, the deferral of which has been 671
authorized by the commission prior to the effective date of the 672
amendment of this section by S.B. 221 of the 127th general 673
assembly, July 31, 2008. 674

Sec. 4928.61. (A) There is hereby established in the state 675
treasury the advanced energy fund, into which shall be deposited 676
all advanced energy revenues remitted to the director of 677
development under division (B) of this section, for the 678

exclusive purposes of funding the advanced energy program 679
created under section 4928.62 of the Revised Code and paying the 680
program's administrative costs. Interest on the fund shall be 681
credited to the fund. 682

(B) Advanced energy revenues shall include all of the 683
following: 684

(1) Revenues remitted to the director after collection by 685
each electric distribution utility in this state of a temporary 686
rider on retail electric distribution service rates as such 687
rates are determined by the public utilities commission pursuant 688
to this chapter. The rider shall be a uniform amount statewide, 689
determined by the director of development, after consultation 690
with the public benefits advisory board created by section 691
4928.58 of the Revised Code. The amount shall be determined by 692
dividing an aggregate revenue target for a given year as 693
determined by the director, after consultation with the advisory 694
board, by the number of customers of electric distribution 695
utilities in this state in the prior year. Such aggregate 696
revenue target shall not exceed more than fifteen million 697
dollars in any year through 2005 and shall not exceed more than 698
five million dollars in any year after 2005. The rider shall be 699
imposed beginning on the effective date of the amendment of this 700
section by Sub. H.B. 251 of the 126th general assembly, January 701
4, 2007, and shall terminate at the end of ten years following 702
the starting date of competitive retail electric service or 703
until the advanced energy fund, including interest, reaches one 704
hundred million dollars, whichever is first. 705

(2) Revenues from payments, repayments, and collections 706
under the advanced energy program and from program income; 707

(3) Revenues remitted to the director after collection by 708

a municipal electric utility or electric cooperative in this 709
state upon the utility's or cooperative's decision to 710
participate in the advanced energy fund; 711

~~(4) Revenues from renewable energy compliance payments as 712
provided under division (C) (2) of section 4928.64 of the Revised 713
Code; 714~~

~~(5) Revenue from forfeitures under division ~~(C)~~ (B) of 715
section 4928.66 of the Revised Code; 716~~

~~(6) (5) Funds transferred pursuant to division (B) of 717
Section 512.10 of S.B. 315 of the 129th general assembly; 718~~

~~(7) (6) Interest earnings on the advanced energy fund. 719~~

(C) (1) Each electric distribution utility in this state 720
shall remit to the director on a quarterly basis the revenues 721
described in divisions (B) (1) and (2) of this section. Such 722
remittances shall occur within thirty days after the end of each 723
calendar quarter. 724

(2) Each participating electric cooperative and 725
participating municipal electric utility shall remit to the 726
director on a quarterly basis the revenues described in division 727
(B) (3) of this section. Such remittances shall occur within 728
thirty days after the end of each calendar quarter. For the 729
purpose of division (B) (3) of this section, the participation of 730
an electric cooperative or municipal electric utility in the 731
energy efficiency revolving loan program as it existed 732
immediately prior to the effective date of the amendment of this 733
section by Sub. H.B. 251 of the 126th general assembly, January 734
4, 2007, does not constitute a decision to participate in the 735
advanced energy fund under this section as so amended. 736

(3) All remittances under divisions (C) (1) and (2) of this 737

section shall continue only until the end of ten years following 738
the starting date of competitive retail electric service or 739
until the advanced energy fund, including interest, reaches one 740
hundred million dollars, whichever is first. 741

(D) Any moneys collected in rates for non-low-income 742
customer energy efficiency programs, as of October 5, 1999, and 743
not contributed to the energy efficiency revolving loan fund 744
authorized under this section prior to the effective date of its 745
amendment by Sub. H.B. 251 of the 126th general assembly, 746
January 4, 2007, shall be used to continue to fund cost- 747
effective, residential energy efficiency programs, be 748
contributed into the universal service fund as a supplement to 749
that required under section 4928.53 of the Revised Code, or be 750
returned to ratepayers in the form of a rate reduction at the 751
option of the affected electric distribution utility. 752

Sec. 4928.62. (A) There is hereby created the advanced 753
energy program, which shall be administered by the director of 754
development. Under the program, the director may authorize the 755
use of moneys in the advanced energy fund for financial, 756
technical, and related assistance for advanced energy projects 757
in this state or for economic development assistance, in 758
furtherance of the purposes set forth in section 4928.63 of the 759
Revised Code. 760

(1) To the extent feasible given approved applications for 761
assistance, the assistance shall be distributed among the 762
certified territories of electric distribution utilities and 763
participating electric cooperatives, and among the service areas 764
of participating municipal electric utilities, in amounts 765
proportionate to the remittances of each utility and cooperative 766
under divisions (B) (1) and (3) of section 4928.61 of the Revised 767

Code. 768

(2) The funds described in division (B) ~~(6)~~ (5) of section 769
4928.61 of the Revised Code shall not be subject to the 770
territorial requirements of division (A)(1) of this section. 771

(3) The director shall not authorize financial assistance 772
for an advanced energy project under the program unless the 773
director first determines that the project will create new jobs 774
or preserve existing jobs in this state or use innovative 775
technologies or materials. 776

(B) In carrying out sections 4928.61 to 4928.63 of the 777
Revised Code, the director may do all of the following to 778
further the public interest in advanced energy projects and 779
economic development: 780

(1) Award grants, contracts, loans, loan participation 781
agreements, linked deposits, and energy production incentives; 782

(2) Acquire in the name of the director any property of 783
any kind or character in accordance with this section, by 784
purchase, purchase at foreclosure, or exchange, on such terms 785
and in such manner as the director considers proper; 786

(3) Make and enter into all contracts and agreements 787
necessary or incidental to the performance of the director's 788
duties and the exercise of the director's powers under sections 789
4928.61 to 4928.63 of the Revised Code; 790

(4) Employ or enter into contracts with financial 791
consultants, marketing consultants, consulting engineers, 792
architects, managers, construction experts, attorneys, technical 793
monitors, energy evaluators, or other employees or agents as the 794
director considers necessary, and fix their compensation; 795

(5) Adopt rules prescribing the application procedures for financial assistance under the advanced energy program; the fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives; criteria pertaining to the eligibility of participating lending institutions; and any other matters necessary for the implementation of the program;

(6) Do all things necessary and appropriate for the operation of the program.

(C) The department of development may hold ownership to any unclaimed energy efficiency and renewable energy emission allowances provided for in Chapter 3745-14 of the Administrative Code or otherwise, that result from advanced energy projects that receive funding from the advanced energy fund, and it may use the allowances to further the public interest in advanced energy projects or for economic development.

(D) Financial statements, financial data, and trade secrets submitted to or received by the director from an applicant or recipient of financial assistance under sections 4928.61 to 4928.63 of the Revised Code, or any information taken from those statements, data, or trade secrets for any purpose, are not public records for the purpose of section 149.43 of the Revised Code.

(E) Nothing in the amendments of sections 4928.61, 4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th general assembly shall affect any pending or effected assistance, pending or effected purchases or exchanges of property made, or pending or effected contracts or agreements

entered into pursuant to division (A) or (B) of this section as 826
the section existed prior to the effective date of those 827
amendments, January 4, 2007, or shall affect the exemption 828
provided under division (C) of this section as the section 829
existed prior to that effective date. 830

(F) Any assistance a school district receives for an 831
advanced energy project, including a geothermal heating, 832
ventilating, and air conditioning system, shall be in addition 833
to any assistance provided under Chapter 3318. of the Revised 834
Code and shall not be included as part of the district or state 835
portion of the basic project cost under that chapter. 836

Sec. 4928.64. (A) (1) As used in this section and sections 837
4928.645, 4928.647, 4928.65, and 4928.6620 of the Revised Code, 838
"qualifying renewable energy resource" means a renewable energy 839
resource, as defined in section 4928.01 of the Revised Code that 840
has a placed-in-service date on or after January 1, 1998, or 841
with respect to any run-of-the-river hydroelectric facility, an 842
in-service date on or after January 1, 1980; a renewable energy 843
resource created on or after January 1, 1998, by the 844
modification or retrofit of any facility placed in service prior 845
to January 1, 1998; or a mercantile customer-sited renewable 846
energy resource, whether new or existing, that the mercantile 847
customer commits for integration into the electric distribution 848
utility's demand-response, energy efficiency, or peak demand 849
reduction programs as provided under division (A) (2) (c) of 850
section 4928.66 of the Revised Code, including, but not limited 851
to, any of the following: 852

(a) A resource that has the effect of improving the 853
relationship between real and reactive power; 854

(b) A resource that makes efficient use of waste heat or 855

other thermal capabilities owned or controlled by a mercantile customer; 856
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(c) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics; 858
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(d) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource. 861
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(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such a qualifying renewable energy resource. 863
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(B) Except as provided in division (D) of this section: 866

(1) By 2027 ~~and thereafter~~, an electric distribution utility ~~shall~~ may provide from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company ~~shall~~ may provide a portion of its electricity supply for retail consumers in this state from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion ~~shall~~ may equal twelve and one-half per cent of the ~~total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state~~ baseline as defined in section 4928.643 of the 867
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~~Revised Code. However, nothing in this section precludes a utility or company from providing a greater percentage.~~ 885
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(2) The portion ~~required~~ permitted under division (B) (1) 887
of this section ~~shall~~ may be generated ~~from renewable energy resources, including one-half per cent from solar energy resources,~~ 888
~~in accordance with the following benchmarks, which~~ 889
are expressed as percentages of the baseline as defined in 890
section 4928.643 of the Revised Code: 891
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By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	895
2010	0.50%	0.010%	896
2011	1%	0.030%	897
2012	1.5%	0.060%	898
2013	2%	0.090%	899
2014	2.5%	0.12%	900
2015	2.5%	0.12%	901
2016	2.5%	0.12%	902
2017	3.5%	0.15%	903
2018	4.5%	0.18%	904
2019	5.5%	0.22%	905
2020	6.5%	0.26%	906
2021	7.5%	0.3%	907
2022	8.5%	0.34%	908
2023	9.5%	0.38%	909
2024	10.5%	0.42%	910
2025	11.5%	0.46%	911
2026 and each calendar year thereafter	12.5%	0.5%.	912 913

~~(3)~~ (C) The qualifying renewable energy resources 914

implemented by the utility or company ~~shall~~may be met either: 915

~~(a) (1) Through facilities located in this state; or~~ 916

~~(b) (2) With resources that can be shown to be deliverable~~ 917
into this state. 918

~~(C) (1) The commission annually shall review an electric~~ 919
~~distribution utility's or electric services company's compliance~~ 920
~~with the most recent applicable benchmark under division (B) (2)~~ 921
~~of this section and, in the course of that review, shall~~ 922
~~identify any undercompliance or noncompliance of the utility or~~ 923
~~company that it determines is weather related, related to~~ 924
~~equipment or resource shortages for qualifying renewable energy~~ 925
~~resources as applicable, or is otherwise outside the utility's~~ 926
~~or company's control.~~ 927

~~(2) Subject to the cost cap provisions of division (C) (3)~~ 928
~~of this section, if the commission determines, after notice and~~ 929
~~opportunity for hearing, and based upon its findings in that~~ 930
~~review regarding avoidable undercompliance or noncompliance, but~~ 931
~~subject to division (C) (4) of this section, that the utility or~~ 932
~~company has failed to comply with any such benchmark, the~~ 933
~~commission shall impose a renewable energy compliance payment on~~ 934
~~the utility or company.~~ 935

~~(a) The compliance payment pertaining to the solar energy~~ 936
~~resource benchmarks under division (B) (2) of this section shall~~ 937
~~be an amount per megawatt hour of undercompliance or~~ 938
~~noncompliance in the period under review, as follows:~~ 939

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 940

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 941

~~(iii) Two hundred dollars for 2019 and 2020;~~ 942

~~(iv) Similarly reduced every two years thereafter through 2026 by fifty dollars, to a minimum of fifty dollars.~~ 943
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~~(b) The compliance payment pertaining to the renewable energy resource benchmarks under division (B) (2) of this section shall equal the number of additional renewable energy credits that the electric distribution utility or electric services company would have needed to comply with the applicable benchmark in the period under review times an amount that shall begin at forty five dollars and shall be adjusted annually by the commission to reflect any change in the consumer price index as defined in section 101.27 of the Revised Code, but shall not be less than forty five dollars.~~ 945
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~~(c) The compliance payment shall not be passed through by the electric distribution utility or electric services company to consumers. The compliance payment shall be remitted to the commission, for deposit to the credit of the advanced energy fund created under section 4928.61 of the Revised Code. Payment of the compliance payment shall be subject to such collection and enforcement procedures as apply to the collection of a forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code.~~ 955
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~~(3) An (D) Neither an electric distribution utility or nor an electric services company need not comply with a benchmark under division (B) (2) of this section to the extent that may provide a portion of its electricity from qualifying renewable energy resources if its reasonably expected cost of that compliance providing that portion from those resources exceeds its reasonably expected cost of otherwise producing or acquiring the requisite same amount of electricity by three per cent or more. The cost of compliance providing the portion from~~ 964
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qualifying renewable energy resources shall be calculated as 973
though any exemption from taxes and assessments had not been 974
granted under section 5727.75 of the Revised Code. As long as 975
the cost of providing the portion from qualifying renewable 976
energy resources does not exceed the cost cap set forth in this 977
division, then the portion may exceed any of the benchmarks set 978
forth in division (B) (2) of this section. 979

~~(4) (a) (E) (1)~~ An electric distribution utility or electric 980
services company may request the commission to make a force 981
majeure determination pursuant to this division regarding all or 982
part of the utility's or company's ~~compliance with~~ provision of 983
electricity from qualifying renewable energy resources at the 984
level of any minimum benchmark of the benchmarks under division 985
(B) (2) of this section ~~during the period of review occurring~~ 986
~~pursuant to division (C) (2) of this section.~~ The commission may 987
~~require~~ encourage the electric distribution utility or electric 988
services company to make solicitations for renewable energy 989
resource credits as part of its default service before the 990
utility's or company's request of force majeure under this 991
division can be made. 992

~~(b) (2)~~ Within ninety days after the filing of a request 993
by an electric distribution utility or electric services company 994
under division ~~(C) (4) (a) (E) (1)~~ of this section, the commission 995
shall determine if qualifying renewable energy resources are 996
reasonably available in the marketplace in sufficient quantities 997
for the utility or company to ~~comply with the subject minimum~~ 998
provide electricity from qualifying renewable energy resources 999
at the level of the benchmark during the review period at issue. 1000
In making this determination, the commission shall consider 1001
whether the electric distribution utility or electric services 1002
company has made a good faith effort to acquire sufficient 1003

qualifying renewable energy or, as applicable, solar energy 1004
resources ~~to so comply~~, including, but not limited to, by 1005
banking or seeking renewable energy resource credits or by 1006
seeking the resources through long-term contracts. Additionally, 1007
the commission shall consider the availability of qualifying 1008
renewable energy or solar energy resources in this state and 1009
other jurisdictions in the PJM interconnection regional 1010
transmission organization, L.L.C., or its successor and the 1011
midcontinent independent system operator or its successor. 1012

~~(e)~~ (3) If, pursuant to division ~~(C) (4) (b)~~ (E) (2) of this 1013
section, the commission determines that qualifying renewable 1014
energy or solar energy resources are not reasonably available to 1015
permit the electric distribution utility or electric services 1016
company to ~~comply, during the period of review, with the subject-~~ 1017
~~minimum provide electricity from qualifying renewable energy~~ 1018
~~resources at the level of the benchmark prescribed under~~ 1019
~~division (B) (2) of this section at issue~~, the commission shall 1020
modify that ~~compliance obligation of the utility or company-~~ 1021
~~benchmark~~ as it determines appropriate to accommodate the 1022
finding. ~~Commission modification shall not automatically reduce-~~ 1023
~~the obligation for the electric distribution utility's or~~ 1024
~~electric services company's compliance in subsequent years. If-~~ 1025
~~it modifies the electric distribution utility or electric-~~ 1026
~~services company obligation under division (C) (4) (c) of this-~~ 1027
~~section, the commission may require the utility or company, if-~~ 1028
~~sufficient renewable energy resource credits exist in the-~~ 1029
~~marketplace, to acquire additional renewable energy resource-~~ 1030
~~credits in subsequent years equivalent to the utility's or~~ 1031
~~company's modified obligation under division (C) (4) (c) of this-~~ 1032
~~section.~~ 1033

~~(5)~~ (F) The commission shall establish a process to 1034

provide for at least an annual review of the renewable energy 1035
resource market in this state and in the service territories of 1036
the regional transmission organizations that manage transmission 1037
systems located in this state. ~~The commission shall use the~~ 1038
~~results of this study to identify any needed changes to the~~ 1039
~~amount of the renewable energy compliance payment specified~~ 1040
~~under divisions (C) (2) (a) and (b) of this section. Specifically,~~ 1041
~~the commission may increase the amount to ensure that payment of~~ 1042
~~compliance payments is not used to achieve compliance with this~~ 1043
~~section in lieu of actually acquiring or realizing energy~~ 1044
~~derived from qualifying renewable energy resources. However, if~~ 1045
~~the commission finds that the amount of the compliance payment~~ 1046
~~should be otherwise changed, the commission shall present this~~ 1047
~~finding to the general assembly for legislative enactment.~~ 1048

~~(D) The commission annually shall submit to the general~~ 1049
~~assembly in accordance with section 101.68 of the Revised Code a~~ 1050
~~report describing all of the following:~~ 1051

~~(1) The compliance of electric distribution utilities and~~ 1052
~~electric services companies with division (B) of this section;~~ 1053

~~(2) The average annual cost of renewable energy credits~~ 1054
~~purchased by utilities and companies for the year covered in the~~ 1055
~~report;~~ 1056

~~(3) Any strategy for utility and company compliance or for~~ 1057
~~encouraging the use of qualifying renewable energy resources in~~ 1058
~~supplying this state's electricity needs in a manner that~~ 1059
~~considers available technology, costs, job creation, and~~ 1060
~~economic impacts.~~ 1061

~~The commission shall begin providing the information~~ 1062
~~described in division (D) (2) of this section in each report~~ 1063

~~submitted after September 10, 2012. The commission shall allow
and consider public comments on the report prior to its
submission to the general assembly. Nothing in the report shall
be binding on any person, including any utility or company for
the purpose of its compliance with any benchmark under division
(B) of this section, or the enforcement of that provision under
division (C) of this section.~~ 1064
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~~(E) All costs incurred by an electric distribution utility
in complying with the requirements of this section shall be
bypassable by any consumer that has exercised choice of supplier
under section 4928.03 of the Revised Code.~~ 1071
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Sec. 4928.641. (A) If an electric distribution utility has 1075
executed a contract before ~~April 1, 2014,~~ the effective date of 1076
the amendments to this section by ...B... of the 132nd general 1077
assembly to procure renewable energy resources for compliance 1078
with section 4928.64 of the Revised Code as that section existed 1079
prior to that date and there are ongoing costs associated with 1080
that contract that are being recovered from customers through a 1081
bypassable charge as of ~~the effective that date of S.B. 310 of~~ 1082
~~the 130th general assembly,~~ that cost recovery shall continue on 1083
a bypassable basis until the prudently incurred costs associated 1084
with that contract are fully recovered. 1085

(B) Division (A) of this section applies only to costs 1086
associated with the original term of a contract described in 1087
that division and entered into before ~~April 1, 2014~~ the 1088
effective date of the amendments to this section by ...B... of 1089
the 132nd general assembly. This section does not permit 1090
recovery of costs associated with an extension of such a 1091
contract. This section does not permit recovery of costs 1092
associated with an amendment of such a contract if that 1093

amendment was made on or after ~~April 1, 2014~~ the effective date 1094
of the amendments to this section by ...B... of the 132nd 1095
general assembly. 1096

Sec. 4928.643. (A) ~~Except~~ As used in sections 4928.64 and 1097
4928.6620 of the Revised Code, and except as provided in 1098
division (B) of this section and section 4928.644 of the Revised 1099
Code, ~~the baseline for an electric distribution utility's or an~~ 1100
~~electric services company's compliance with the qualified~~ 1101
~~renewable energy resource requirements of section 4928.64 of the~~ 1102
~~Revised Code shall be~~ "baseline" means the average of total 1103
kilowatt hours sold by ~~the~~ an electric distribution utility or 1104
electric services company in the preceding three calendar years 1105
to the following: 1106

(1) In the case of an electric distribution utility, any 1107
and all retail electric consumers whose electric load centers 1108
are served by that utility and are located within the utility's 1109
certified territory, excluding customers of the utility who have 1110
opted out under section 4928.647 of the Revised Code; 1111

(2) In the case of an electric services company, any and 1112
all retail electric consumers who are served by the company and 1113
are located within this state, excluding customers of the 1114
company who have opted out under section 4928.647 of the Revised 1115
Code. 1116

(B) ~~Beginning with compliance year 2014, a~~ A utility or 1117
company may choose for its baseline ~~for compliance with the~~ 1118
~~qualified renewable energy resource requirements of section~~ 1119
~~4928.64 of the Revised Code to be~~ the total kilowatt hours sold 1120
to the applicable consumers, as described in division (A) (1) or 1121
(2) of this section, in the applicable compliance year. 1122

(C) A utility or company that uses the baseline permitted 1123
under division (B) of this section may use the baseline 1124
described in division (A) of this section in any subsequent 1125
compliance year. A utility or company that makes this switch 1126
shall use the baseline described in division (A) of this section 1127
for at least three consecutive compliance years before again 1128
using the baseline permitted under division (B) of this section. 1129

Sec. 4928.644. The public utilities commission may reduce 1130
either baseline ~~described~~ defined in section 4928.643 of the 1131
Revised Code to adjust for new economic growth in the electric 1132
distribution utility's certified territory or in the electric 1133
services company's service area in this state. 1134

Sec. 4928.645. (A) An electric distribution utility or 1135
electric services company may use, for the purpose of ~~complying~~ 1136
~~with the requirements under divisions (B) (1) and (2) of section~~ 1137
~~4928.64 of the Revised Code~~ providing electricity from 1138
qualifying renewable energy resources, renewable energy credits 1139
any time in the five calendar years following the date of their 1140
purchase or acquisition from any entity, including, but not 1141
limited to, the following: 1142

(1) A mercantile customer; 1143

(2) An owner or operator of a hydroelectric generating 1144
facility that is located at a dam on a river, or on any water 1145
discharged to a river, that is within or bordering this state or 1146
within or bordering an adjoining state, or that produces power 1147
that can be shown to be deliverable into this state; 1148

(3) A seller of compressed natural gas that has been 1149
produced from biologically derived methane gas, provided that 1150
the seller may only provide renewable energy credits for metered 1151

amounts of gas. 1152

(B) (1) The public utilities commission shall adopt rules 1153
specifying that one unit of credit shall equal one megawatt hour 1154
of electricity derived from qualifying renewable energy 1155
resources, except that, for a generating facility of seventy- 1156
five megawatts or greater that is situated within this state and 1157
has committed by December 31, 2009, to modify or retrofit its 1158
generating unit or units to enable the facility to generate 1159
principally from biomass energy by June 30, 2013, each megawatt 1160
hour of electricity generated principally from that biomass 1161
energy shall equal, in units of credit, the product obtained by 1162
multiplying the actual percentage of biomass feedstock heat 1163
input used to generate such megawatt hour by the quotient 1164
obtained by dividing ~~the then existing unit dollar amount used~~ 1165
~~to determine a renewable energy compliance payment as provided~~ 1166
~~under division (C) (2) (b) of section 4928.64 of the Revised Code~~ 1167
forty-five by the then existing market value of one renewable 1168
energy credit, but such megawatt hour shall not equal less than 1169
one unit of credit. ~~Renewable~~ Qualifying renewable energy 1170
resources do not have to be converted to electricity in order to 1171
be eligible to receive renewable energy credits. The rules shall 1172
specify that, for purposes of converting the quantity of energy 1173
derived from biologically derived methane gas to an electricity 1174
equivalent, one megawatt hour equals 3,412,142 British thermal 1175
units. 1176

(2) The rules also shall provide for this state a system 1177
of registering renewable energy credits by specifying which of 1178
any generally available registries shall be used for that 1179
purpose and not by creating a registry. That selected system of 1180
registering renewable energy credits shall allow a hydroelectric 1181
generating facility to be eligible for obtaining renewable 1182

energy credits and shall allow customer-sited projects or 1183
actions the broadest opportunities to be eligible for obtaining 1184
renewable energy credits. 1185

Sec. 4928.647. (A) Beginning January 1, 2019, and in 1186
accordance with rules adopted by the public utilities commission 1187
under division (C) of this section, any customer of an electric 1188
distribution utility and any customer of an electric services 1189
company may opt out of paying any rider, charge, or other cost 1190
recovery mechanism designed to recover the costs of the 1191
utility's or company's, as applicable, provision of electricity 1192
from qualifying renewable energy resources. 1193

(B) Division (A) of this section does not apply to cost 1194
recovery under section 4928.641 of the Revised Code. 1195

(C) Not later than January 1, 2019, the commission shall 1196
adopt rules governing division (A) of this section. 1197

Sec. 4928.65. (A) Not later than January 1, ~~2015~~ 2018, the 1198
public utilities commission shall adopt rules governing the 1199
disclosure of the costs to customers of all of the following: 1200

(1) If applicable, the renewable energy resource 1201
requirements of section 4928.64 of the Revised Code as that 1202
section existed prior to the effective date of the amendments to 1203
this section by ...B... of the 132nd general assembly, including 1204
costs recovered under section 4928.641 of the Revised Code; 1205

(2) The energy efficiency savings⁷ and peak demand 1206
reduction requirements provisions of sections 4928.64 and 1207
section 4928.66 of the Revised Code; 1208

(3) Electricity provided after the effective date of the 1209
amendments to this section by ...B... of the 132nd general 1210
assembly from qualifying renewable energy resources. ~~The~~ 1211

(B) The rules shall include both of the following 1212
requirements: 1213

(1) That every electric distribution utility list, on all 1214
customer bills sent by the utility, including utility 1215
consolidated bills that include both electric distribution 1216
utility and electric services company charges, the individual 1217
customer cost of both of the following for the applicable 1218
billing period: 1219

(a) Electricity provided by the utility after the 1220
effective date of the amendments to this section by ...B... of 1221
the 132nd general assembly from qualifying renewable energy 1222
resources; 1223

(b) The utility's compliance with all of the following 1224
for the applicable billing period: 1225

~~(a) The~~ (i) If applicable, the renewable energy resource 1226
requirements under section 4928.64 of the Revised Code as that 1227
section existed prior to the effective date of the amendments to 1228
this section by ...B... of the 132nd general assembly, including 1229
costs recovered under section 4928.641 of the Revised Code and 1230
subject to division ~~(B)~~ (C) of this section; 1231

~~(b)~~ (ii) The energy efficiency savings ~~requirements~~ 1232
provisions under section 4928.66 of the Revised Code; 1233

~~(c)~~ (iii) The peak demand reduction ~~requirements~~ 1234
provisions under section 4928.66 of the Revised Code. 1235

(2) That every electric services company list, on all 1236
customer bills sent by the company, the individual customer 1237
cost, ~~subject to division (B) of this section,~~ of both of the 1238
following for the applicable billing period: 1239

(a) Electricity provided by the company after the 1240
effective date of the amendments to this section by ...B... of 1241
the 132nd general assembly from qualifying renewable energy 1242
resources; 1243

(b) If applicable, the company's compliance with the 1244
renewable energy resource requirements under section 4928.64 of 1245
the Revised Code ~~for the applicable billing period as that~~ 1246
section existed prior to the effective date of the amendments to 1247
this section by ...B... of the 132nd general assembly, subject 1248
to division (C) of this section. 1249

~~(B)~~ (C) (1) For purposes of division ~~(A)~~ (B) (1) ~~(a)~~ (b) (i) of 1250
this section, ~~the any~~ cost of compliance with the renewable 1251
energy resource requirements, including costs recovered under 1252
section 4928.641 of the Revised Code, shall be calculated by 1253
multiplying the individual customer's monthly usage by the 1254
combined weighted average of renewable-energy-credit costs, 1255
including solar-renewable-energy-credit costs, paid by all 1256
electric distribution utilities, as listed in the commission's 1257
most recently available alternative energy portfolio standard 1258
report. 1259

(2) For purposes of division ~~(A)~~ (B) (2) (b) of this section, 1260
~~the any~~ cost of compliance with the renewable energy resource 1261
requirements shall be calculated by multiplying the individual 1262
customer's monthly usage by the combined weighted average of 1263
renewable-energy-credit costs, including solar-renewable-energy- 1264
credit costs, paid by all electric services companies, as listed 1265
in the commission's most recently available alternative energy 1266
portfolio standard report. 1267

~~(C)~~ (D) The costs required to be listed under division ~~(A)~~ 1268
(B) (1) of this section shall be listed on each customer's 1269

monthly bill as ~~three-four~~ distinct line items. The ~~cost-costs~~ 1270
required to be listed under division ~~(A)(B)~~ (2) of this section 1271
shall be listed on each customer's monthly bill as ~~a two~~ 1272
distinct line ~~item~~ items. 1273

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 1274
distribution utility shall implement energy efficiency programs 1275
that achieve energy savings equivalent to at least three-tenths 1276
of one per cent of the total, annual average, and normalized 1277
kilowatt-hour sales of the electric distribution utility during 1278
the preceding three calendar years to customers in this state. 1279
An energy efficiency program may include a combined heat and 1280
power system placed into service or retrofitted on or after the 1281
effective date of the amendment of this section by S.B. 315 of 1282
the 129th general assembly, September 10, 2012, or a waste 1283
energy recovery system placed into service or retrofitted on or 1284
after September 10, 2012, except that a waste energy recovery 1285
system described in division (A) (38) (b) of section 4928.01 of 1286
the Revised Code may be included only if it was placed into 1287
service between January 1, 2002, and December 31, 2004. For a 1288
waste energy recovery or combined heat and power system, the 1289
savings shall be as estimated by the public utilities 1290
commission. The savings requirement, using such a three-year 1291
average, shall increase to an additional five-tenths of one per 1292
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1293
of one per cent in 2012, nine-tenths of one per cent in 2013, 1294
and one per cent in 2014. In 2015 and 2016, an electric 1295
distribution utility shall achieve energy savings equal to the 1296
result of subtracting the cumulative energy savings achieved 1297
since 2009 from the product of multiplying the baseline for 1298
energy savings, described in division (A) (2) (a) of this section, 1299
by four and two-tenths of one per cent. If the result is zero or 1300

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, 1332
noncompliance with the provisions of division (A) (1) (a) of this 1333
section shall be subject to forfeitures under division (B) of 1334
this section only for the requirements for years 2016, 2019, 1335
2022, 2025, and 2027. Subject to section 4928.6620 of the 1336
Revised Code, noncompliance with the provisions of division (A) 1337
(1) (b) of this section shall be subject to forfeitures under 1338
division (B) of this section only for the requirements for years 1339
2016, 2019, and 2020. The sole penalty for an electric 1340
distribution utility's failure to comply with any provision of 1341
divisions (A) (1) (a) and (b) of this section shall be the 1342
assessment of forfeitures in accordance with division (B) of 1343
this section. 1344

(2) For the purposes of divisions (A) (1) (a) and (b) of 1345
this section: 1346

(a) The baseline for energy savings under division (A) (1) 1347
(a) of this section shall be the average of the total kilowatt 1348
hours the electric distribution utility sold in the preceding 1349
three calendar years. The baseline for a peak demand reduction 1350
under division (A) (1) (b) of this section shall be the average 1351
peak demand on the utility in the preceding three calendar 1352
years, except that the commission may reduce either baseline to 1353
adjust for new economic growth in the utility's certified 1354
territory. Neither baseline shall include the load and usage of 1355
any of the following customers: 1356

(i) Beginning January 1, 2017, a customer for which a 1357
reasonable arrangement has been approved under section 4905.31 1358
of the Revised Code; 1359

(ii) A customer that has opted out of the utility's 1360
portfolio plan under section 4928.6611 of the Revised Code; 1361

(iii) A customer that has opted out of the utility's 1362
portfolio plan under Section 8 of S.B. 310 of the 130th general 1363
assembly as that section existed prior to the effective date of 1364
the amendments to this section by ...B... of the 132nd general 1365
assembly. 1366

(b) The commission may amend the benchmarks set forth in 1367
division (A)(1)(a) or (b) of this section if, after application 1368
by the electric distribution utility, the commission determines 1369
that the amendment is necessary because the utility cannot 1370
reasonably achieve the benchmarks due to regulatory, economic, 1371
or technological reasons beyond its reasonable control. 1372

(c) Compliance with divisions (A)(1)(a) and (b) of this 1373
section shall be measured by including the effects of all 1374
demand-response programs for mercantile customers of the subject 1375
electric distribution utility, all waste energy recovery systems 1376
and all combined heat and power systems, and all such mercantile 1377
customer-sited energy efficiency, including waste energy 1378
recovery and combined heat and power, and peak demand reduction 1379
programs, adjusted upward by the appropriate loss factors. Any 1380
mechanism designed to recover the cost of energy efficiency, 1381
including waste energy recovery and combined heat and power, and 1382
peak demand reduction programs under divisions (A)(1)(a) and (b) 1383
of this section may exempt mercantile customers that commit 1384
their demand-response or other customer-sited capabilities, 1385
whether existing or new, for integration into the electric 1386
distribution utility's demand-response, energy efficiency, 1387
including waste energy recovery and combined heat and power, or 1388
peak demand reduction programs, if the commission determines 1389
that that exemption reasonably encourages such customers to 1390
commit those capabilities to those programs. If a mercantile 1391
customer makes such existing or new demand-response, energy 1392

efficiency, including waste energy recovery and combined heat 1393
and power, or peak demand reduction capability available to an 1394
electric distribution utility pursuant to division (A) (2) (c) of 1395
this section, the electric utility's baseline under division (A) 1396
(2) (a) of this section shall be adjusted to exclude the effects 1397
of all such demand-response, energy efficiency, including waste 1398
energy recovery and combined heat and power, or peak demand 1399
reduction programs that may have existed during the period used 1400
to establish the baseline. The baseline also shall be normalized 1401
for changes in numbers of customers, sales, weather, peak 1402
demand, and other appropriate factors so that the compliance 1403
measurement is not unduly influenced by factors outside the 1404
control of the electric distribution utility. 1405

(d) (i) Programs implemented by a utility may include the 1406
following: 1407

(I) Demand-response programs; 1408

(II) Smart grid investment programs, provided that such 1409
programs are demonstrated to be cost-beneficial; 1410

(III) Customer-sited programs, including waste energy 1411
recovery and combined heat and power systems; 1412

(IV) Transmission and distribution infrastructure 1413
improvements that reduce line losses; 1414

(V) Energy intensity reductions resulting from heat rate 1415
improvements at electric generating plants. As used in this 1416
division, "energy intensity" has the same meaning as in section 1417
4928.6610 of the Revised Code. 1418

(VI) Energy efficiency savings and peak demand reduction 1419
that are achieved, in whole or in part, as a result of funding 1420
provided from the universal service fund established by section 1421

4928.51 of the Revised Code to benefit low-income customers 1422
through programs that include, but are not limited to, energy 1423
audits, the installation of energy efficiency insulation, 1424
appliances, and windows, and other weatherization measures. 1425

(ii) No energy efficiency or peak demand reduction 1426
achieved under divisions (A) (2) (d) (i) (IV) ~~and~~, (V), and (VI) of 1427
this section shall qualify for shared savings. 1428

(iii) Division (A) (2) (c) of this section shall be applied 1429
to include facilitating efforts by a mercantile customer or 1430
group of those customers to offer customer-sited demand- 1431
response, energy efficiency, including waste energy recovery and 1432
combined heat and power, or peak demand reduction capabilities 1433
to the electric distribution utility as part of a reasonable 1434
arrangement submitted to the commission pursuant to section 1435
4905.31 of the Revised Code. 1436

(e) No programs or improvements described in division (A) 1437
(2) (d) of this section shall conflict with any statewide 1438
building code adopted by the board of building standards. 1439

~~(B) In accordance with rules it shall adopt, the public- 1440
utilities commission shall produce and docket at the commission- 1441
an annual report containing the results of its verification of- 1442
the annual levels of energy efficiency and of peak demand- 1443
reductions achieved by each electric distribution utility- 1444
pursuant to division (A) of this section. A copy of the report- 1445
shall be provided to the consumers' counsel. 1446~~

~~(C) If the commission determines, after notice and 1447
opportunity for hearing and based upon its report the 1448
information reported under division ~~(B)~~ (A) of this section 1449
4928.6620 of the Revised Code and any other information that is 1450~~

public, that an electric distribution utility has failed to 1451
comply with an energy efficiency ~~or peak demand reduction~~ 1452
requirement ~~of~~ under division (A) (1) (a) of this section for 1453
years 2016, 2019, 2022, 2025, or 2027 or a peak demand reduction 1454
requirement under division (A) (1) (b) of this section for years 1455
2016, 2019, or 2020, the commission shall assess a forfeiture on 1456
the utility as provided under sections 4905.55 to 4905.60 and 1457
4905.64 of the Revised Code, either in the amount, per day per 1458
undercompliance or noncompliance, relative to the period of the 1459
report submitted under division (A) of section 4928.6620 of the 1460
Revised Code, equal to that prescribed for noncompliances under 1461
section 4905.54 of the Revised Code, or in an amount equal to 1462
the then existing market value of one renewable energy credit 1463
per megawatt hour of undercompliance or noncompliance. Revenue 1464
from any forfeiture assessed under this division shall be 1465
deposited to the credit of the advanced energy fund created 1466
under section 4928.61 of the Revised Code. 1467

~~(D)~~ (C) The commission may establish rules regarding the 1468
content of an application by an electric distribution utility 1469
for commission approval of a revenue decoupling mechanism under 1470
this division. Such an application shall not be considered an 1471
application to increase rates and may be included as part of a 1472
proposal to establish, continue, or expand energy efficiency or 1473
conservation programs. The commission by order may approve an 1474
application under this division if it determines both that the 1475
revenue decoupling mechanism provides for the recovery of 1476
revenue that otherwise may be forgone by the utility as a result 1477
of or in connection with the implementation by the electric 1478
distribution utility of any energy efficiency or energy 1479
conservation programs and reasonably aligns the interests of the 1480
utility and of its customers in favor of those programs. 1481

~~(E)~~—(D) The commission additionally shall adopt rules that 1482
require an electric distribution utility to provide a customer 1483
upon request with two years' consumption data in an accessible 1484
form. 1485

Sec. 4928.662. For the purpose of measuring and 1486
determining compliance with the energy efficiency and peak 1487
demand reduction requirements under section 4928.66 of the 1488
Revised Code, the public utilities commission shall count and 1489
recognize compliance as follows: 1490

(A) Energy efficiency savings and peak demand reduction 1491
achieved through actions taken by customers or through electric 1492
distribution utility programs that comply with federal standards 1493
for either or both energy efficiency and peak demand reduction 1494
requirements, including resources associated with such savings 1495
or reduction that are recognized as capacity resources by the 1496
regional transmission organization operating in Ohio in 1497
compliance with section 4928.12 of the Revised Code, shall count 1498
toward compliance with the energy efficiency and peak demand 1499
reduction requirements. 1500

(B) Energy efficiency savings and peak demand reduction 1501
achieved on and after the effective date of S.B. 310 of the 1502
130th general assembly, September 12, 2014, shall be measured on 1503
the higher of an as found or deemed basis, except that, solely 1504
at the option of the electric distribution utility, such savings 1505
and reduction achieved since 2006 may also be measured using 1506
this method. For new construction, the energy efficiency savings 1507
and peak demand reduction shall be counted based on 2008 federal 1508
standards, provided that when new construction replaces an 1509
existing facility, the difference in energy consumed, energy 1510
intensity, and peak demand between the new and replaced facility 1511

shall be counted toward meeting the energy efficiency and peak demand reduction requirements. 1512
1513

(C) The commission shall count both the energy efficiency savings and peak demand reduction on an annualized basis. 1514
1515

(D) The commission shall count both the energy efficiency savings and peak demand reduction on a gross savings basis. 1516
1517

(E) The commission shall count energy efficiency savings and peak demand reductions associated with transmission and distribution infrastructure improvements that reduce line losses and with energy intensity reductions resulting from heat rate improvements at electric generating plants. No energy efficiency or peak demand reduction achieved under division (E) of this section shall qualify for shared savings. 1518
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(F) Energy efficiency savings and peak demand reduction amounts approved by the commission shall continue to be counted toward achieving the energy efficiency and peak demand reduction requirements as long as the requirements remain in effect. 1525
1526
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~~(G) Any energy efficiency savings or peak demand reduction amount achieved in excess of the requirements may, at the discretion of the electric distribution utility, be banked and applied toward achieving the energy efficiency or peak demand reduction requirements in future years.~~ The commission shall recognize and count energy efficiency savings and peak demand reductions that occur as a consequence of consumer reductions in water usage or reductions and improvements in wastewater treatment. 1529
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(H) The commission shall recognize and count, on a British-thermal-unit-equivalent basis, nonelectric energy efficiency savings or nonelectric peak demand reductions that 1538
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1540

occur as a consequence of a portfolio plan, as defined in 1541
section 4928.6610 of the Revised Code. 1542

(I) The commission shall recognize and count, as energy 1543
efficiency savings and peak demand reduction, the savings and 1544
reduction associated with heat rate improvements, other 1545
efficiency improvements, or other energy intensity improvements, 1546
if such savings and reduction are both of the following: 1547

(1) Proposed by an electric distribution utility in its 1548
sole discretion; 1549

(2) Achieved since 2006 from an electric generating plant 1550
that is either: 1551

(a) Owned by the electric distribution utility; or 1552

(b) Owned and operated by an affiliate of the electric 1553
distribution utility provided that the generating plant was 1554
previously owned, in whole or in part, by an electric 1555
distribution utility located in this state. 1556

No energy efficiency savings or peak demand reduction 1557
achieved under division (I) of this section shall qualify for 1558
shared savings. 1559

(J) The commission shall count energy efficiency savings 1560
associated with any plan, policy, behavior, or practice that 1561
reduces either of the following: 1562

(1) The total energy intensity of a facility, pipeline, 1563
building, plant, or equipment, regardless of the type of energy 1564
intensity reduction; 1565

(2) The energy intensity of any water supply function or 1566
water treatment function. 1567

<u>(K) As used in this section:</u>	1568
<u>(1) "Energy intensity" has the same meaning as in section 4928.6610 of the Revised Code.</u>	1569 1570
<u>(2) "Water supply function" means the functions associated with the following:</u>	1571 1572
<u>(a) Raw water collection, purification, treatment, and storage;</u>	1573 1574
<u>(b) Establishing or maintaining pressure to balance water supply and demand;</u>	1575 1576
<u>(c) Water delivery and transfer.</u>	1577
<u>(3) "Water treatment function" means any of the preliminary, secondary, tertiary, and advanced activities, whether physical, biological, or chemical, associated with the removal of contaminants from, or conditioning of, wastewater prior to its return to the environment or recycled use.</u>	1578 1579 1580 1581 1582
Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 of the Revised Code:	1583 1584
<u>(A) "Customer" means any either of the following:</u>	1585
<u>(1) A mercantile customer of an electric distribution utility;</u>	1586 1587
<u>(2) Any customer of an electric distribution utility to which either of the following applies:</u>	1588 1589
(1) <u>(a) The customer receives service above the primary voltage level as determined by the utility's tariff classification.</u>	1590 1591 1592
(2) <u>(b) The customer is a commercial or industrial customer to which both of the following apply:</u>	1593 1594

~~(a)-(i)~~ The customer receives electricity through a meter 1595
of an end user or through more than one meter at a single 1596
location in a quantity that exceeds forty-five million kilowatt 1597
hours of electricity for the preceding calendar year. 1598

~~(b)-(ii)~~ The customer has made a written request for 1599
registration as a self-assessing purchaser pursuant to section 1600
5727.81 of the Revised Code. 1601

(B) "Energy intensity" means the amount of energy, ~~from~~ 1602
electricity, used or consumed per unit of production to produce 1603
a certain level of output or activity, measured by the quantity 1604
of energy needed to perform a particular activity, expressed as 1605
energy per unit of output, energy per unit of gross total floor 1606
space, or an activity measure of service. 1607

(C) "Portfolio plan" means the comprehensive energy 1608
efficiency and peak-demand reduction program portfolio plan 1609
required under rules adopted by the public utilities commission 1610
and codified in Chapter 4901:1-39 of the Administrative Code or 1611
hereafter recodified or amended. 1612

Sec. 4928.6611. Beginning January 1, 2017, a customer of 1613
an electric distribution utility may opt out of the opportunity 1614
and ability to obtain direct benefits from the utility's 1615
portfolio plan, regardless of whether the portfolio plan has 1616
been amended or continued under Section 4 of ...B... of the 1617
132nd general assembly. Such an opt out shall extend to all of 1618
the customer's accounts, irrespective of the size or service 1619
voltage level that are associated with the activities performed 1620
by the customer and that are located on or adjacent to the 1621
customer's premises. 1622

Sec. 4928.6620. (A) Beginning in 2018, every electric 1623

distribution utility and electric services company shall submit 1624
an annual report for the prior calendar year to the public 1625
utilities commission not later than the first day of July of 1626
each year. The report shall detail the amount of electricity 1627
that the utility or company provided from qualifying renewable 1628
energy resources during that calendar year and, in the case of a 1629
utility, the utility's status of compliance with the provisions 1630
of section 4928.66 of the Revised Code. The commission shall 1631
modify its rules in accordance with this reporting requirement, 1632
including the filing date. 1633

If an electric distribution utility reports the amount of 1634
electricity that it provided from qualifying renewable energy 1635
resources as a portion of the electricity supply required for 1636
its standard service offer under section 4928.141 of the Revised 1637
Code, or if an electric services company reports the amount of 1638
electricity that it provided from qualifying renewable energy 1639
resources as a portion of its electricity supply for retail 1640
consumers in this state, those portions shall be reported as 1641
percentages of the baseline as defined in section 4928.643 of 1642
the Revised Code. 1643

(B) Beginning in 2018, the commission shall submit a 1644
report to the general assembly and the Ohio consumers' counsel 1645
not later than the first day of August of each year and in 1646
accordance with section 101.68 of the Revised Code. The report 1647
shall detail all of the following: 1648

(1) The compliance of electric distribution utilities with 1649
section 4928.66 of the Revised Code, based on the information 1650
reported under division (A) of this section and any other 1651
information that is public; 1652

(2) The amount of electricity provided by electric 1653

distribution utilities and electric services companies from 1654
qualifying renewable energy resources during the year covered in 1655
the report, based on the information reported under division (A) 1656
of this section and any other information that is public; 1657

(3) The average annual cost of renewable energy credits 1658
purchased by utilities and companies for the year covered in the 1659
report; 1660

(4) Any strategy for encouraging the use of qualifying 1661
renewable energy resources in supplying this state's electricity 1662
needs in a manner that considers available technology, costs, 1663
job creation, and economic impacts. 1664

(C) Not later than the first day of September of each 1665
year, the commission chairperson shall provide testimony on the 1666
report required in that year under division (B) of this section 1667
to the standing committees of both houses of the general 1668
assembly that deal with public utility matters. 1669

Sec. 4928.6621. (A) Any energy efficiency savings or peak 1670
demand reduction amount achieved in excess of the requirements 1671
under section 4928.66 of the Revised Code may, at the discretion 1672
of the electric distribution utility, be banked and applied 1673
toward achieving the energy efficiency or peak demand reduction 1674
requirements in future years. 1675

(B) An electric distribution utility shall be deemed in 1676
compliance with the energy efficiency and peak demand reduction 1677
savings requirements and shall be eligible for incentives 1678
approved by the public utilities commission in any year in which 1679
the utility's actual cumulative energy efficiency and peak 1680
demand reduction savings meet or exceed the cumulative mandates 1681
under division (A) (1) of section 4928.66 of the Revised Code. 1682

Sec. 5727.75. (A) For purposes of this section:	1683
(1) "Qualified energy project" means an energy project certified by the director of development services pursuant to this section.	1684 1685 1686
(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.	1687 1688 1689
(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.	1690 1691 1692
(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.	1693 1694 1695 1696 1697
(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.	1698 1699 1700
(B) (1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through 2021 if all of the following conditions are satisfied:	1701 1702 1703 1704
(a) On or before December 31, 2020, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision	1705 1706 1707 1708 1709 1710 1711

of this state for the construction or initial operation of an 1712
energy project. 1713

(b) Construction or installation of the energy facility 1714
begins on or after January 1, 2009, and before January 1, 2021. 1715
For the purposes of this division, construction begins on the 1716
earlier of the date of application for a certificate or other 1717
approval or permit described in division (B) (1) (a) of this 1718
section, or the date the contract for the construction or 1719
installation of the energy facility is entered into. 1720

(c) For a qualified energy project with a nameplate 1721
capacity of five megawatts or greater, a board of county 1722
commissioners of a county in which property of the project is 1723
located has adopted a resolution under division (E) (1) (b) or (c) 1724
of this section to approve the application submitted under 1725
division (E) of this section to exempt the property located in 1726
that county from taxation. A board's adoption of a resolution 1727
rejecting an application or its failure to adopt a resolution 1728
approving the application does not affect the tax-exempt status 1729
of the qualified energy project's property that is located in 1730
another county. 1731

(2) If tangible personal property of a qualified energy 1732
project using renewable energy resources was exempt from 1733
taxation under this section beginning in any of tax years 2011 1734
through 2021, and the certification under division (E) (2) of 1735
this section has not been revoked, the tangible personal 1736
property of the qualified energy project is exempt from taxation 1737
for tax year 2022 and all ensuing tax years if the property was 1738
placed into service before January 1, 2022, as certified in the 1739
construction progress report required under division (F) (2) of 1740
this section. Tangible personal property that has not been 1741

placed into service before that date is taxable property subject 1742
to taxation. An energy project for which certification has been 1743
revoked is ineligible for further exemption under this section. 1744
Revocation does not affect the tax-exempt status of the 1745
project's tangible personal property for the tax year in which 1746
revocation occurs or any prior tax year. 1747

(C) Tangible personal property of a qualified energy 1748
project using clean coal technology, advanced nuclear 1749
technology, or cogeneration technology is exempt from taxation 1750
for the first tax year that the property would be listed for 1751
taxation and all subsequent years if all of the following 1752
circumstances are met: 1753

(1) The property was placed into service before January 1, 1754
2021. Tangible personal property that has not been placed into 1755
service before that date is taxable property subject to 1756
taxation. 1757

(2) For such a qualified energy project with a nameplate 1758
capacity of five megawatts or greater, a board of county 1759
commissioners of a county in which property of the qualified 1760
energy project is located has adopted a resolution under 1761
division (E) (1) (b) or (c) of this section to approve the 1762
application submitted under division (E) of this section to 1763
exempt the property located in that county from taxation. A 1764
board's adoption of a resolution rejecting the application or 1765
its failure to adopt a resolution approving the application does 1766
not affect the tax-exempt status of the qualified energy 1767
project's property that is located in another county. 1768

(3) The certification for the qualified energy project 1769
issued under division (E) (2) of this section has not been 1770
revoked. An energy project for which certification has been 1771

revoked is ineligible for exemption under this section. 1772
Revocation does not affect the tax-exempt status of the 1773
project's tangible personal property for the tax year in which 1774
revocation occurs or any prior tax year. 1775

(D) Except as otherwise provided in this section, real 1776
property of a qualified energy project is exempt from taxation 1777
for any tax year for which the tangible personal property of the 1778
qualified energy project is exempted under this section. 1779

(E) (1) (a) A person may apply to the director of 1780
development services for certification of an energy project as a 1781
qualified energy project on or before the following dates: 1782

(i) December 31, 2020, for an energy project using 1783
renewable energy resources; 1784

(ii) December 31, 2017, for an energy project using clean 1785
coal technology, advanced nuclear technology, or cogeneration 1786
technology. 1787

(b) The director shall forward a copy of each application 1788
for certification of an energy project with a nameplate capacity 1789
of five megawatts or greater to the board of county 1790
commissioners of each county in which the project is located and 1791
to each taxing unit with territory located in each of the 1792
affected counties. Any board that receives from the director a 1793
copy of an application submitted under this division shall adopt 1794
a resolution approving or rejecting the application unless it 1795
has adopted a resolution under division (E) (1) (c) of this 1796
section. A resolution adopted under division (E) (1) (b) or (c) of 1797
this section may require an annual service payment to be made in 1798
addition to the service payment required under division (G) of 1799
this section. The sum of the service payment required in the 1800

resolution and the service payment required under division (G) 1801
of this section shall not exceed nine thousand dollars per 1802
megawatt of nameplate capacity located in the county. The 1803
resolution shall specify the time and manner in which the 1804
payments required by the resolution shall be paid to the county 1805
treasurer. The county treasurer shall deposit the payment to the 1806
credit of the county's general fund to be used for any purpose 1807
for which money credited to that fund may be used. 1808

The board shall send copies of the resolution by certified 1809
mail to the owner of the facility and the director within thirty 1810
days after receipt of the application, or a longer period of 1811
time if authorized by the director. 1812

(c) A board of county commissioners may adopt a resolution 1813
declaring the county to be an alternative energy zone and 1814
declaring all applications submitted to the director of 1815
development services under this division after the adoption of 1816
the resolution, and prior to its repeal, to be approved by the 1817
board. 1818

All tangible personal property and real property of an 1819
energy project with a nameplate capacity of five megawatts or 1820
greater is taxable if it is located in a county in which the 1821
board of county commissioners adopted a resolution rejecting the 1822
application submitted under this division or failed to adopt a 1823
resolution approving the application under division (E) (1) (b) or 1824
(c) of this section. 1825

(2) The director shall certify an energy project if all of 1826
the following circumstances exist: 1827

(a) The application was timely submitted. 1828

(b) For an energy project with a nameplate capacity of 1829

five megawatts or greater, a board of county commissioners of at 1830
least one county in which the project is located has adopted a 1831
resolution approving the application under division (E) (1) (b) or 1832
(c) of this section. 1833

(c) No portion of the project's facility was used to 1834
supply electricity before December 31, 2009. 1835

(3) The director shall deny a certification application if 1836
the director determines the person has failed to comply with any 1837
requirement under this section. The director may revoke a 1838
certification if the director determines the person, or 1839
subsequent owner or lessee pursuant to a sale and leaseback 1840
transaction of the qualified energy project, has failed to 1841
comply with any requirement under this section. Upon 1842
certification or revocation, the director shall notify the 1843
person, owner, or lessee, the tax commissioner, and the county 1844
auditor of a county in which the project is located of the 1845
certification or revocation. Notice shall be provided in a 1846
manner convenient to the director. 1847

(F) The owner or a lessee pursuant to a sale and leaseback 1848
transaction of a qualified energy project shall do each of the 1849
following: 1850

(1) Comply with all applicable regulations; 1851

(2) File with the director of development services a 1852
certified construction progress report before the first day of 1853
March of each year during the energy facility's construction or 1854
installation indicating the percentage of the project completed, 1855
and the project's nameplate capacity, as of the preceding 1856
thirty-first day of December. Unless otherwise instructed by the 1857
director of development services, the owner or lessee of an 1858

energy project shall file a report with the director on or 1859
before the first day of March each year after completion of the 1860
energy facility's construction or installation indicating the 1861
project's nameplate capacity as of the preceding thirty-first 1862
day of December. Not later than sixty days after June 17, 2010, 1863
the owner or lessee of an energy project, the construction of 1864
which was completed before June 17, 2010, shall file a 1865
certificate indicating the project's nameplate capacity. 1866

(3) File with the director of development services, in a 1867
manner prescribed by the director, a report of the total number 1868
of full-time equivalent employees, and the total number of full- 1869
time equivalent employees domiciled in Ohio, who are employed in 1870
the construction or installation of the energy facility; 1871

(4) For energy projects with a nameplate capacity of five 1872
megawatts or greater, repair all roads, bridges, and culverts 1873
affected by construction as reasonably required to restore them 1874
to their preconstruction condition, as determined by the county 1875
engineer in consultation with the local jurisdiction responsible 1876
for the roads, bridges, and culverts. In the event that the 1877
county engineer deems any road, bridge, or culvert to be 1878
inadequate to support the construction or decommissioning of the 1879
energy facility, the road, bridge, or culvert shall be rebuilt 1880
or reinforced to the specifications established by the county 1881
engineer prior to the construction or decommissioning of the 1882
facility. The owner or lessee of the facility shall post a bond 1883
in an amount established by the county engineer and to be held 1884
by the board of county commissioners to ensure funding for 1885
repairs of roads, bridges, and culverts affected during the 1886
construction. The bond shall be released by the board not later 1887
than one year after the date the repairs are completed. The 1888
energy facility owner or lessee pursuant to a sale and leaseback 1889

transaction shall post a bond, as may be required by the Ohio 1890
power siting board in the certificate authorizing commencement 1891
of construction issued pursuant to section 4906.10 of the 1892
Revised Code, to ensure funding for repairs to roads, bridges, 1893
and culverts resulting from decommissioning of the facility. The 1894
energy facility owner or lessee and the county engineer may 1895
enter into an agreement regarding specific transportation plans, 1896
reinforcements, modifications, use and repair of roads, 1897
financial security to be provided, and any other relevant issue. 1898

(5) Provide or facilitate training for fire and emergency 1899
responders for response to emergency situations related to the 1900
energy project and, for energy projects with a nameplate 1901
capacity of five megawatts or greater, at the person's expense, 1902
equip the fire and emergency responders with proper equipment as 1903
reasonably required to enable them to respond to such emergency 1904
situations; 1905

(6) Maintain a ratio of Ohio-domiciled full-time 1906
equivalent employees employed in the construction or 1907
installation of the energy project to total full-time equivalent 1908
employees employed in the construction or installation of the 1909
energy project of not less than eighty per cent in the case of a 1910
solar energy project, and not less than fifty per cent in the 1911
case of any other energy project. In the case of an energy 1912
project for which certification from the power siting board is 1913
required under section 4906.20 of the Revised Code, the number 1914
of full-time equivalent employees employed in the construction 1915
or installation of the energy project equals the number actually 1916
employed or the number projected to be employed in the 1917
certificate application, if such projection is required under 1918
regulations adopted pursuant to section 4906.03 of the Revised 1919
Code, whichever is greater. For all other energy projects, the 1920

number of full-time equivalent employees employed in the 1921
construction or installation of the energy project equals the 1922
number actually employed or the number projected to be employed 1923
by the director of development services, whichever is greater. 1924
To estimate the number of employees to be employed in the 1925
construction or installation of an energy project, the director 1926
shall use a generally accepted job-estimating model in use for 1927
renewable energy projects, including but not limited to the job 1928
and economic development impact model. The director may adjust 1929
an estimate produced by a model to account for variables not 1930
accounted for by the model. 1931

(7) For energy projects with a nameplate capacity in 1932
excess of two megawatts, establish a relationship with a member 1933
of the university system of Ohio as defined in section 3345.011 1934
of the Revised Code or with a person offering an apprenticeship 1935
program registered with the employment and training 1936
administration within the United States department of labor or 1937
with the apprenticeship council created by section 4139.02 of 1938
the Revised Code, to educate and train individuals for careers 1939
in the wind or solar energy industry. The relationship may 1940
include endowments, cooperative programs, internships, 1941
apprenticeships, research and development projects, and 1942
curriculum development. 1943

(8) Offer to sell power or renewable energy credits from 1944
the energy project to electric distribution utilities or 1945
electric service companies ~~subject to renewable energy resource~~ 1946
~~requirements under section 4928.64 of the Revised Code~~ that have 1947
issued requests for proposal for such power or renewable energy 1948
credits. If no electric distribution utility or electric service 1949
company issues a request for proposal on or before December 31, 1950
2010, or accepts an offer for power or renewable energy credits 1951

within forty-five days after the offer is submitted, power or 1952
renewable energy credits from the energy project may be sold to 1953
other persons. Division (F) (8) of this section does not apply 1954
if: 1955

(a) The owner or lessee is a rural electric company or a 1956
municipal power agency as defined in section 3734.058 of the 1957
Revised Code. 1958

(b) The owner or lessee is a person that, before 1959
completion of the energy project, contracted for the sale of 1960
power or renewable energy credits with a rural electric company 1961
or a municipal power agency. 1962

(c) The owner or lessee contracts for the sale of power or 1963
renewable energy credits from the energy project before June 17, 1964
2010. 1965

(9) Make annual service payments as required by division 1966
(G) of this section and as may be required in a resolution 1967
adopted by a board of county commissioners under division (E) of 1968
this section. 1969

(G) The owner or a lessee pursuant to a sale and leaseback 1970
transaction of a qualified energy project shall make annual 1971
service payments in lieu of taxes to the county treasurer on or 1972
before the final dates for payments of taxes on public utility 1973
personal property on the real and public utility personal 1974
property tax list for each tax year for which property of the 1975
energy project is exempt from taxation under this section. The 1976
county treasurer shall allocate the payment on the basis of the 1977
project's physical location. Upon receipt of a payment, or if 1978
timely payment has not been received, the county treasurer shall 1979
certify such receipt or non-receipt to the director of 1980

development services and tax commissioner in a form determined 1981
by the director and commissioner, respectively. Each payment 1982
shall be in the following amount: 1983

(1) In the case of a solar energy project, seven thousand 1984
dollars per megawatt of nameplate capacity located in the county 1985
as of December 31, 2010, for tax year 2011, as of December 31, 1986
2011, for tax year 2012, as of December 31, 2012, for tax year 1987
2013, as of December 31, 2013, for tax year 2014, as of December 1988
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1989
year 2016, and as of December 31, 2016, for tax year 2017 and 1990
each tax year thereafter; 1991

(2) In the case of any other energy project using 1992
renewable energy resources, the following: 1993

(a) If the project maintains during the construction or 1994
installation of the energy facility a ratio of Ohio-domiciled 1995
full-time equivalent employees to total full-time equivalent 1996
employees of not less than seventy-five per cent, six thousand 1997
dollars per megawatt of nameplate capacity located in the county 1998
as of the thirty-first day of December of the preceding tax 1999
year; 2000

(b) If the project maintains during the construction or 2001
installation of the energy facility a ratio of Ohio-domiciled 2002
full-time equivalent employees to total full-time equivalent 2003
employees of less than seventy-five per cent but not less than 2004
sixty per cent, seven thousand dollars per megawatt of nameplate 2005
capacity located in the county as of the thirty-first day of 2006
December of the preceding tax year; 2007

(c) If the project maintains during the construction or 2008
installation of the energy facility a ratio of Ohio-domiciled 2009

full-time equivalent employees to total full-time equivalent 2010
employees of less than sixty per cent but not less than fifty 2011
per cent, eight thousand dollars per megawatt of nameplate 2012
capacity located in the county as of the thirty-first day of 2013
December of the preceding tax year. 2014

(3) In the case of an energy project using clean coal 2015
technology, advanced nuclear technology, or cogeneration 2016
technology, the following: 2017

(a) If the project maintains during the construction or 2018
installation of the energy facility a ratio of Ohio-domiciled 2019
full-time equivalent employees to total full-time equivalent 2020
employees of not less than seventy-five per cent, six thousand 2021
dollars per megawatt of nameplate capacity located in the county 2022
as of the thirty-first day of December of the preceding tax 2023
year; 2024

(b) If the project maintains during the construction or 2025
installation of the energy facility a ratio of Ohio-domiciled 2026
full-time equivalent employees to total full-time equivalent 2027
employees of less than seventy-five per cent but not less than 2028
sixty per cent, seven thousand dollars per megawatt of nameplate 2029
capacity located in the county as of the thirty-first day of 2030
December of the preceding tax year; 2031

(c) If the project maintains during the construction or 2032
installation of the energy facility a ratio of Ohio-domiciled 2033
full-time equivalent employees to total full-time equivalent 2034
employees of less than sixty per cent but not less than fifty 2035
per cent, eight thousand dollars per megawatt of nameplate 2036
capacity located in the county as of the thirty-first day of 2037
December of the preceding tax year. 2038

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

Section 2. That existing sections 4928.142, 4928.143, 4928.20, 4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 4928.644, 4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, 4928.6611, and 5727.75 of the Revised Code are hereby repealed.

Section 3. That Sections 5, 6, 7, 8, 9, 10, and 11 of Sub. S.B. 310 of the 130th General Assembly are hereby repealed.

Section 4. (A) As used in this section, "portfolio plan" has the same meaning as in section 4928.6610 of the Revised Code.

(B) (1) If an electric distribution utility has a portfolio plan that is in effect on the effective date of this section, the utility may file an application with the Public Utilities Commission not later than thirty days after the effective date of this section to amend the plan. The Commission shall review the application in accordance with its rules as if the application were for a new portfolio plan. The Commission shall review and approve, or modify and approve, the application not later than sixty days after the date the application is filed. If the Commission fails to review and approve, or modify and approve, the application within those sixty days, the plan shall be deemed approved as amended in the application and shall take effect on the sixty-first day after the application was filed.

(2) A portfolio plan that is amended under division (B) (1) of this section shall accord with Chapter 4928. of the Revised Code as amended by this act.

(C) If an electric distribution utility has a portfolio

plan that is in effect on the effective date of this section and 2068
the utility does not apply to amend the plan within the thirty 2069
days required by division (B) (1) of this section, the utility 2070
shall continue to implement the portfolio plan with no 2071
amendments to the plan, for the duration that the Commission 2072
originally approved, regardless of whether the portfolio plan 2073
accords with Chapter 4928. of the Revised Code as amended by 2074
this act. 2075

Section 5. (A) In 2017, the Public Utilities Commission 2076
shall review an electric distribution utility's or electric 2077
services company's compliance with the benchmarks for 2016 under 2078
division (B) (2) of section 4928.64 of the Revised Code as that 2079
division existed prior to the effective date of this section, 2080
and in the course of that review, shall identify any 2081
undercompliance or noncompliance of the utility or company that 2082
it determines is weather-related, related to equipment or 2083
resource shortages for qualifying renewable energy resources as 2084
applicable, or is otherwise outside the utility's or company's 2085
control. 2086

(B) Subject to the cost cap provisions of division (C) (3) 2087
of section 4928.64 of the Revised Code as that division existed 2088
prior to the effective date of this section, if the Commission 2089
determines, after notice and opportunity for hearing, and based 2090
upon its findings in the review under division (A) of this 2091
section regarding avoidable undercompliance or noncompliance, 2092
but subject to the force-majeure provisions of division (C) (4) 2093
(a) of section 4928.64 of the Revised Code as that division 2094
existed prior to the effective date of this section, that the 2095
utility or company has failed to comply with the benchmarks for 2096
2016, the commission shall impose a renewable energy compliance 2097
payment on the utility or company. 2098

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

(2) The compliance payment pertaining to the renewable energy resource benchmark for 2016 shall be assessed in accordance with division (C) (2) (b) of section 4928.64 of the Revised Code as that division existed prior to the effective date of this section.

(C) Division (C) (2) (c) of section 4928.64 of the Revised Code as that division existed prior to the effective date of this section applies to compliance payments imposed under this section.

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

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

Sec. 257.80. HEAP WEATHERIZATION

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

The Director of Development Services shall, in good faith,

take all necessary steps, including, but not limited to, 2128
applying for any waivers that are needed from the United States 2129
Department of Health and Human Services and any other applicable 2130
federal agencies to secure and execute this allocation. 2131

Section 8. That existing Section 257.80 of Am. Sub. H.B. 2132
64 of the 131st General Assembly is hereby repealed. 2133

Section 9. Sections 7 and 8 of this act take effect June 2134
30, 2017. 2135