

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 128**

**Representatives Hoops, Stein**

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**A BILL**

To amend sections 4928.143, 4928.64, and 4928.645; 1  
to enact section 4906.105; and to repeal 2  
sections 3706.40, 3706.41, 3706.43, 3706.431, 3  
3706.45, 3706.46, 3706.49, 3706.53, 3706.55, 4  
3706.59, 3706.61, 3706.63, 3706.65, 4928.471, 5  
4928.642, and 5727.231 of the Revised Code to 6  
make changes regarding electric utility service 7  
law, to repeal certain provisions of H.B. 6 of 8  
the 133rd General Assembly, and to provide 9  
refunds to retail electric customers in the 10  
state. 11

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

**Section 1.** That sections 4928.143, 4928.64, and 4928.645 12  
be amended and section 4906.105 of the Revised Code be enacted 13  
to read as follows: 14

**Sec. 4906.105.** The power siting board shall submit a 15  
report to the general assembly, not later than December 1, 2021, 16  
on whether the current requirements for the planning of the 17  
power transmission system and associated facilities investment 18  
in this state are cost effective and in the interest of 19

consumers. The board shall hold at least one public meeting 20  
before completing the report. The board shall complete the 21  
report in consultation with JobsOhio and may consult with or 22  
request the assistance of PJM interconnection regional 23  
transmission organization, L.L.C., the independent market 24  
monitor for PJM interconnection regional transmission 25  
organization, L.L.C. and other interested stakeholders, such as 26  
transmission owners. The report may include any recommendations 27  
for legislative changes to ensure transmission planning is cost 28  
effective and in the interest of consumers, including 29  
recommendations regarding any of the following: 30

(A) Whether the definition of a major utility facility 31  
should include an electric transmission line of a design 32  
capacity at or above sixty-nine kilovolts and associated 33  
facilities the costs of which are recovered as a transmission 34  
asset by the transmission owners; 35

(B) Whether the criteria for an accelerated certificate 36  
application should be modified; 37

(C) Whether the certification process is sufficiently 38  
transparent; 39

(D) Whether the board should require the following for, or 40  
determine if the following apply to, a transmission project 41  
certification application: 42

(1) That alternative transmission projects were 43  
considered; 44

(2) That the project was competitively bid or compared to 45  
the results of a competitive bid; 46

(3) That the project has been considered in the context of 47  
the utility's larger transmission plan; 48

(4) That the project has been considered in the context of 49  
the regional transmission planning process of PJM 50  
interconnection regional transmission organization, L.L.C.; 51

(5) That the project could not have been deferred or 52  
redesigned to achieve the same operational result at a lower 53  
overall cost; 54

(6) That the project has provided historical information 55  
for an existing transmission project or information for a 56  
planned or proposed project. 57

**Sec. 4928.143.** (A) For the purpose of complying with 58  
section 4928.141 of the Revised Code, an electric distribution 59  
utility may file an application for public utilities commission 60  
approval of an electric security plan as prescribed under 61  
division (B) of this section. The utility may file that 62  
application prior to the effective date of any rules the 63  
commission may adopt for the purpose of this section, and, as 64  
the commission determines necessary, the utility immediately 65  
shall conform its filing to those rules upon their taking 66  
effect. 67

(B) Notwithstanding any other provision of Title XLIX of 68  
the Revised Code to the contrary except division (D) of this 69  
section, divisions (I), (J), and (K) of section 4928.20, 70  
division (E) of section 4928.64, and section 4928.69 of the 71  
Revised Code: 72

(1) An electric security plan shall include provisions 73  
relating to the supply and pricing of electric generation 74  
service. In addition, if the proposed electric security plan has 75  
a term longer than three years, it may include provisions in the 76  
plan to permit the commission to test the plan pursuant to 77

division (E) of this section and any transitional conditions 78  
that should be adopted by the commission if the commission 79  
terminates the plan as authorized under that division. 80

(2) The plan may provide for or include, without 81  
limitation, any of the following: 82

(a) Automatic recovery of any of the following costs of 83  
the electric distribution utility, provided the cost is 84  
prudently incurred: the cost of fuel used to generate the 85  
electricity supplied under the offer; the cost of purchased 86  
power supplied under the offer, including the cost of energy and 87  
capacity, and including purchased power acquired from an 88  
affiliate; the cost of emission allowances; and the cost of 89  
federally mandated carbon or energy taxes; 90

(b) A reasonable allowance for construction work in 91  
progress for any of the electric distribution utility's cost of 92  
constructing an electric generating facility or for an 93  
environmental expenditure for any electric generating facility 94  
of the electric distribution utility, provided the cost is 95  
incurred or the expenditure occurs on or after January 1, 2009. 96  
Any such allowance shall be subject to the construction work in 97  
progress allowance limitations of division (A) of section 98  
4909.15 of the Revised Code, except that the commission may 99  
authorize such an allowance upon the incurrence of the cost or 100  
occurrence of the expenditure. No such allowance for generating 101  
facility construction shall be authorized, however, unless the 102  
commission first determines in the proceeding that there is need 103  
for the facility based on resource planning projections 104  
submitted by the electric distribution utility. Further, no such 105  
allowance shall be authorized unless the facility's construction 106  
was sourced through a competitive bid process, regarding which 107

process the commission may adopt rules. An allowance approved 108  
under division (B) (2) (b) of this section shall be established as 109  
a nonbypassable surcharge for the life of the facility. 110

(c) The establishment of a nonbypassable surcharge for the 111  
life of an electric generating facility that is owned or 112  
operated by the electric distribution utility, was sourced 113  
through a competitive bid process subject to any such rules as 114  
the commission adopts under division (B) (2) (b) of this section, 115  
and is newly used and useful on or after January 1, 2009, which 116  
surcharge shall cover all costs of the utility specified in the 117  
application, excluding costs recovered through a surcharge under 118  
division (B) (2) (b) of this section. However, no surcharge shall 119  
be authorized unless the commission first determines in the 120  
proceeding that there is need for the facility based on resource 121  
planning projections submitted by the electric distribution 122  
utility. Additionally, if a surcharge is authorized for a 123  
facility pursuant to plan approval under division (C) of this 124  
section and as a condition of the continuation of the surcharge, 125  
the electric distribution utility shall dedicate to Ohio 126  
consumers the capacity and energy and the rate associated with 127  
the cost of that facility. Before the commission authorizes any 128  
surcharge pursuant to this division, it may consider, as 129  
applicable, the effects of any decommissioning, deratings, and 130  
retirements. 131

(d) Terms, conditions, or charges relating to limitations 132  
on customer shopping for retail electric generation service, 133  
bypassability, standby, back-up, or supplemental power service, 134  
default service, carrying costs, amortization periods, and 135  
accounting or deferrals, including future recovery of such 136  
deferrals, as would have the effect of stabilizing or providing 137  
certainty regarding retail electric service; 138

(e) Automatic increases or decreases in any component of the standard service offer price;	139 140
(f) Consistent with sections 4928.23 to 4928.2318 of the Revised Code, both of the following:	141 142
(i) Provisions for the electric distribution utility to securitize any phase-in, inclusive of carrying charges, of the utility's standard service offer price, which phase-in is authorized in accordance with section 4928.144 of the Revised Code;	143 144 145 146 147
(ii) Provisions for the recovery of the utility's cost of securitization.	148 149
(g) Provisions relating to transmission, ancillary, congestion, or any related service required for the standard service offer, including provisions for the recovery of any cost of such service that the electric distribution utility incurs on or after that date pursuant to the standard service offer;	150 151 152 153 154
(h) Provisions regarding the utility's distribution service, including, without limitation and notwithstanding any provision of Title XLIX of the Revised Code to the contrary, provisions regarding single issue ratemaking, a revenue decoupling mechanism or any other incentive ratemaking, and provisions regarding distribution infrastructure and modernization incentives for the electric distribution utility. The latter may include a long-term energy delivery infrastructure modernization plan for that utility or any plan providing for the utility's recovery of costs, including lost revenue, shared savings, and avoided costs, and a just and reasonable rate of return on such infrastructure modernization. As part of its determination as to whether to allow in an	155 156 157 158 159 160 161 162 163 164 165 166 167

electric distribution utility's electric security plan inclusion 168  
of any provision described in division (B) (2) (h) of this 169  
section, the commission shall examine the reliability of the 170  
electric distribution utility's distribution system and ensure 171  
that customers' and the electric distribution utility's 172  
expectations are aligned and that the electric distribution 173  
utility is placing sufficient emphasis on and dedicating 174  
sufficient resources to the reliability of its distribution 175  
system. 176

(i) Provisions under which the electric distribution 177  
utility may implement economic development, job retention, and 178  
energy efficiency programs, which provisions may allocate 179  
program costs across all classes of customers of the utility and 180  
those of electric distribution utilities in the same holding 181  
company system. 182

(C) (1) The burden of proof in the proceeding shall be on 183  
the electric distribution utility. The commission shall issue an 184  
order under this division for an initial application under this 185  
section not later than one hundred fifty days after the 186  
application's filing date and, for any subsequent application by 187  
the utility under this section, not later than two hundred 188  
seventy-five days after the application's filing date. Subject 189  
to division (D) of this section, the commission by order shall 190  
approve or modify and approve an application filed under 191  
division (A) of this section if it finds that the electric 192  
security plan so approved, including its pricing and all other 193  
terms and conditions, including any deferrals and any future 194  
recovery of deferrals, is more favorable in the aggregate as 195  
compared to the expected results that would otherwise apply 196  
under section 4928.142 of the Revised Code. Additionally, if the 197  
commission so approves an application that contains a surcharge 198

under division (B) (2) (b) or (c) of this section, the commission 199  
shall ensure that the benefits derived for any purpose for which 200  
the surcharge is established are reserved and made available to 201  
those that bear the surcharge. Otherwise, the commission by 202  
order shall disapprove the application. 203

(2) (a) If the commission modifies and approves an 204  
application under division (C) (1) of this section, the electric 205  
distribution utility may withdraw the application, thereby 206  
terminating it, and may file a new standard service offer under 207  
this section or a standard service offer under section 4928.142 208  
of the Revised Code. 209

(b) If the utility terminates an application pursuant to 210  
division (C) (2) (a) of this section or if the commission 211  
disapproves an application under division (C) (1) of this 212  
section, the commission shall issue such order as is necessary 213  
to continue the provisions, terms, and conditions of the 214  
utility's most recent standard service offer, along with any 215  
expected increases or decreases in fuel costs from those 216  
contained in that offer, until a subsequent offer is authorized 217  
pursuant to this section or section 4928.142 of the Revised 218  
Code, respectively. 219

(D) Regarding the rate plan requirement of division (A) of 220  
section 4928.141 of the Revised Code, if an electric 221  
distribution utility that has a rate plan that extends beyond 222  
December 31, 2008, files an application under this section for 223  
the purpose of its compliance with division (A) of section 224  
4928.141 of the Revised Code, that rate plan and its terms and 225  
conditions are hereby incorporated into its proposed electric 226  
security plan and shall continue in effect until the date 227  
scheduled under the rate plan for its expiration, and that 228

portion of the electric security plan shall not be subject to 229  
commission approval or disapproval under division (C) of this 230  
section, and the earnings test provided for in division (F) of 231  
this section shall not apply until after the expiration of the 232  
rate plan. However, that utility may include in its electric 233  
security plan under this section, and the commission may 234  
approve, modify and approve, or disapprove subject to division 235  
(C) of this section, provisions for the incremental recovery or 236  
the deferral of any costs that are not being recovered under the 237  
rate plan and that the utility incurs during that continuation 238  
period to comply with section 4928.141, division (B) of section 239  
4928.64, or division (A) of section 4928.66 of the Revised Code. 240

(E) If an electric security plan approved under division 241  
(C) of this section, except one withdrawn by the utility as 242  
authorized under that division, has a term, exclusive of phase- 243  
ins or deferrals, that exceeds three years from the effective 244  
date of the plan, the commission shall test the plan in the 245  
fourth year, and if applicable, every fourth year thereafter, to 246  
determine whether the plan, including its then-existing pricing 247  
and all other terms and conditions, including any deferrals and 248  
any future recovery of deferrals, continues to be more favorable 249  
in the aggregate and during the remaining term of the plan as 250  
compared to the expected results that would otherwise apply 251  
under section 4928.142 of the Revised Code. The commission shall 252  
also determine the prospective effect of the electric security 253  
plan to determine if that effect is substantially likely to 254  
provide the electric distribution utility with a return on 255  
common equity that is significantly in excess of the return on 256  
common equity that is likely to be earned by publicly traded 257  
companies, including utilities, that face comparable business 258  
and financial risk, with such adjustments for capital structure 259

as may be appropriate. The burden of proof for demonstrating 260  
that significantly excessive earnings will not occur shall be on 261  
the electric distribution utility. ~~For affiliated Ohio electric-~~ 262  
~~distribution utilities that operate under a joint electric-~~ 263  
~~security plan, their total earned return on common equity shall-~~ 264  
~~be used for purposes of assessing significantly excessive-~~ 265  
~~earnings.~~ If the test results are in the negative or the 266  
commission finds that continuation of the electric security plan 267  
will result in a return on equity that is significantly in 268  
excess of the return on common equity that is likely to be 269  
earned by publicly traded companies, including utilities, that 270  
will face comparable business and financial risk, with such 271  
adjustments for capital structure as may be appropriate, during 272  
the balance of the plan, the commission may terminate the 273  
electric security plan, but not until it shall have provided 274  
interested parties with notice and an opportunity to be heard. 275  
The commission may impose such conditions on the plan's 276  
termination as it considers reasonable and necessary to 277  
accommodate the transition from an approved plan to the more 278  
advantageous alternative. In the event of an electric security 279  
plan's termination pursuant to this division, the commission 280  
shall permit the continued deferral and phase-in of any amounts 281  
that occurred prior to that termination and the recovery of 282  
those amounts as contemplated under that electric security plan. 283

(F) With regard to the provisions that are included in an 284  
electric security plan under this section, the commission shall 285  
consider, following the end of each annual period of the plan, 286  
if any such adjustments resulted in excessive earnings as 287  
measured by whether the earned return on common equity of the 288  
electric distribution utility is significantly in excess of the 289  
return on common equity that was earned during the same period 290

by publicly traded companies, including utilities, that face 291  
comparable business and financial risk, with such adjustments 292  
for capital structure as may be appropriate. ~~In making its~~ 293  
~~determination of significantly excessive earnings under this~~ 294  
~~division, the commission shall, for affiliated Ohio electric~~ 295  
~~distribution utilities that operate under a joint electric~~ 296  
~~security plan, use the total of the utilities' earned return on~~ 297  
~~common equity.~~ Consideration also shall be given to the capital 298  
requirements of future committed investments in this state. The 299  
burden of proof for demonstrating that significantly excessive 300  
earnings did not occur shall be on the electric distribution 301  
utility. If the commission finds that such adjustments, in the 302  
aggregate, did result in significantly excessive earnings, it 303  
shall require the electric distribution utility to return to 304  
consumers the amount of the excess by prospective adjustments; 305  
provided that, upon making such prospective adjustments, the 306  
electric distribution utility shall have the right to terminate 307  
the plan and immediately file an application pursuant to section 308  
4928.142 of the Revised Code. Upon termination of a plan under 309  
this division, rates shall be set on the same basis as specified 310  
in division (C) (2) (b) of this section, and the commission shall 311  
permit the continued deferral and phase-in of any amounts that 312  
occurred prior to that termination and the recovery of those 313  
amounts as contemplated under that electric security plan. In 314  
making its determination of significantly excessive earnings 315  
under this division, the commission shall not consider, directly 316  
or indirectly, the revenue, expenses, or earnings of any 317  
~~affiliate that is not an Ohio electric distribution utility or~~ 318  
parent company. 319

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying 320  
renewable energy resource" means a renewable energy resource, as 321

defined in section 4928.01 of the Revised Code that:	322
(a) Has a placed-in-service date on or after January 1, 1998;	323 324
(b) Is any run-of-the-river hydroelectric facility that has an in-service date on or after January 1, 1980;	325 326
(c) Is a small hydroelectric facility;	327
(d) Is created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or	328 329 330
(e) Is a mercantile customer-sited renewable energy resource, whether new or existing, that the mercantile customer commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs as provided under division (A) (2) (c) of section 4928.66 of the Revised Code, including, but not limited to, any of the following:	331 332 333 334 335 336 337
(i) A resource that has the effect of improving the relationship between real and reactive power;	338 339
(ii) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;	340 341 342
(iii) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;	343 344 345
(iv) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource.	346 347
(2) For the purpose of this section and as it considers	348

appropriate, the public utilities commission may classify any 349  
new technology as such a qualifying renewable energy resource. 350

(B) (1) By the end of 2026, an electric distribution 351  
utility shall have provided from qualifying renewable energy 352  
resources, including, at its discretion, qualifying renewable 353  
energy resources obtained pursuant to an electricity supply 354  
contract, a portion of the electricity supply required for its 355  
standard service offer under section 4928.141 of the Revised 356  
Code, and an electric services company shall have provided a 357  
portion of its electricity supply for retail consumers in this 358  
state from qualifying renewable energy resources, including, at 359  
its discretion, qualifying renewable energy resources obtained 360  
pursuant to an electricity supply contract. That portion shall 361  
equal eight and one-half per cent of the total number of 362  
kilowatt hours of electricity sold by the subject utility or 363  
company to any and all retail electric consumers whose electric 364  
load centers are served by that utility and are located within 365  
the utility's certified territory or, in the case of an electric 366  
services company, are served by the company and are located 367  
within this state. However, nothing in this section precludes a 368  
utility or company from providing a greater percentage. 369

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 370  
The portion required under division (B) (1) of this section shall 371  
be generated from renewable energy resources in accordance with 372  
the following benchmarks: 373

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A By end of year Renewable energy resources Solar energy resources

B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%
I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	5.5%	0%
N	2021	6%	0%
O	2022	6.5%	0%
P	2023	7%	0%
Q	2024	7.5%	0%
R	2025	8%	0%
S	2026	8.5%	0%

(3) The qualifying renewable energy resources implemented	375
by the utility or company shall be met either:	376
(a) Through facilities located in this state; or	377
(b) With resources that can be shown to be deliverable	378
into this state.	379
(C) (1) The commission annually shall review an electric	380
distribution utility's or electric services company's compliance	381
with the most recent applicable benchmark under division (B) (2)	382
of this section and, in the course of that review, shall	383
identify any undercompliance or noncompliance of the utility or	384
company that it determines is weather-related, related to	385
equipment or resource shortages for qualifying renewable energy	386
resources as applicable, or is otherwise outside the utility's	387
or company's control.	388
(2) Subject to the cost cap provisions of division (C) (3)	389
of this section, if the commission determines, after notice and	390
opportunity for hearing, and based upon its findings in that	391
review regarding avoidable undercompliance or noncompliance, but	392
subject to division (C) (4) of this section, that the utility or	393
company has failed to comply with any such benchmark, the	394
commission shall impose a renewable energy compliance payment on	395
the utility or company.	396
(a) The compliance payment pertaining to the solar energy	397
resource benchmarks under division (B) (2) of this section shall	398
be an amount per megawatt hour of undercompliance or	399
noncompliance in the period under review, as follows:	400
(i) Three hundred dollars for 2014, 2015, and 2016;	401
(ii) Two hundred fifty dollars for 2017 and 2018;	402

(iii) Two hundred dollars for 2019.	403
(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.	404 405 406 407 408 409 410 411 412 413
(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.	414 415 416 417 418 419 420 421 422
(3) An electric distribution utility or an electric services company need not comply with a benchmark under division (B) (2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three per cent or more. The cost of compliance shall be calculated as though any exemption from taxes and assessments had not been granted under section 5727.75 of the Revised Code.	423 424 425 426 427 428 429 430 431
(4) (a) An electric distribution utility or electric	432

services company may request the commission to make a force 433  
majeure determination pursuant to this division regarding all or 434  
part of the utility's or company's compliance with any minimum 435  
benchmark under division (B) (2) of this section during the 436  
period of review occurring pursuant to division (C) (2) of this 437  
section. The commission may require the electric distribution 438  
utility or electric services company to make solicitations for 439  
renewable energy resource credits as part of its default service 440  
before the utility's or company's request of force majeure under 441  
this division can be made. 442

(b) Within ninety days after the filing of a request by an 443  
electric distribution utility or electric services company under 444  
division (C) (4) (a) of this section, the commission shall 445  
determine if qualifying renewable energy resources are 446  
reasonably available in the marketplace in sufficient quantities 447  
for the utility or company to comply with the subject minimum 448  
benchmark during the review period. In making this 449  
determination, the commission shall consider whether the 450  
electric distribution utility or electric services company has 451  
made a good faith effort to acquire sufficient qualifying 452  
renewable energy or, as applicable, solar energy resources to so 453  
comply, including, but not limited to, by banking or seeking 454  
renewable energy resource credits or by seeking the resources 455  
through long-term contracts. Additionally, the commission shall 456  
consider the availability of qualifying renewable energy or 457  
solar energy resources in this state and other jurisdictions in 458  
the PJM interconnection regional transmission organization, 459  
L.L.C., or its successor and the midcontinent independent system 460  
operator or its successor. 461

(c) If, pursuant to division (C) (4) (b) of this section, 462  
the commission determines that qualifying renewable energy or 463

solar energy resources are not reasonably available to permit 464  
the electric distribution utility or electric services company 465  
to comply, during the period of review, with the subject minimum 466  
benchmark prescribed under division (B) (2) of this section, the 467  
commission shall modify that compliance obligation of the 468  
utility or company as it determines appropriate to accommodate 469  
the finding. Commission modification shall not automatically 470  
reduce the obligation for the electric distribution utility's or 471  
electric services company's compliance in subsequent years. If 472  
it modifies the electric distribution utility or electric 473  
services company obligation under division (C) (4) (c) of this 474  
section, the commission may require the utility or company, if 475  
sufficient renewable energy resource credits exist in the 476  
marketplace, to acquire additional renewable energy resource 477  
credits in subsequent years equivalent to the utility's or 478  
company's modified obligation under division (C) (4) (c) of this 479  
section. 480

(5) The commission shall establish a process to provide 481  
for at least an annual review of the renewable energy resource 482  
market in this state and in the service territories of the 483  
regional transmission organizations that manage transmission 484  
systems located in this state. The commission shall use the 485  
results of this study to identify any needed changes to the 486  
amount of the renewable energy compliance payment specified 487  
under divisions (C) (2) (a) and (b) of this section. Specifically, 488  
the commission may increase the amount to ensure that payment of 489  
compliance payments is not used to achieve compliance with this 490  
section in lieu of actually acquiring or realizing energy 491  
derived from qualifying renewable energy resources. However, if 492  
the commission finds that the amount of the compliance payment 493  
should be otherwise changed, the commission shall present this 494

finding to the general assembly for legislative enactment.	495
(D) The commission annually shall submit to the general assembly in accordance with section 101.68 of the Revised Code a report describing all of the following:	496 497 498
(1) The compliance of electric distribution utilities and electric services companies with division (B) of this section;	499 500
(2) The average annual cost of renewable energy credits purchased by utilities and companies for the year covered in the report;	501 502 503
(3) Any strategy for utility and company compliance or for encouraging the use of qualifying renewable energy resources in supplying this state's electricity needs in a manner that considers available technology, costs, job creation, and economic impacts.	504 505 506 507 508
The commission shall begin providing the information described in division (D) (2) of this section in each report submitted after September 10, 2012. The commission shall allow and consider public comments on the report prior to its submission to the general assembly. Nothing in the report shall be binding on any person, including any utility or company for the purpose of its compliance with any benchmark under division (B) of this section, or the enforcement of that provision under division (C) of this section.	509 510 511 512 513 514 515 516 517
(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.	518 519 520 521
<b>Sec. 4928.645.</b> (A) An electric distribution utility or electric services company may use, for the purpose of complying	522 523

with the requirements under divisions (B) (1) and (2) of section 524  
4928.64 of the Revised Code, renewable energy credits any time 525  
in the five calendar years following the date of their purchase 526  
or acquisition from any entity, including, but not limited to, 527  
the following: 528

(1) A mercantile customer; 529

(2) An owner or operator of a hydroelectric generating 530  
facility that is located at a dam on a river, or on any water 531  
discharged to a river, that is within or bordering this state or 532  
within or bordering an adjoining state, or that produces power 533  
that can be shown to be deliverable into this state; 534

(3) A seller of compressed natural gas that has been 535  
produced from biologically derived methane gas, provided that 536  
the seller may only provide renewable energy credits for metered 537  
amounts of gas. 538

(B) (1) The public utilities commission shall adopt rules 539  
specifying that one unit of credit shall equal one megawatt hour 540  
of electricity derived from renewable energy resources, except 541  
that, for a generating facility of seventy-five megawatts or 542  
greater that is situated within this state and has committed by 543  
December 31, 2009, to modify or retrofit its generating unit or 544  
units to enable the facility to generate principally from 545  
biomass energy by June 30, 2013, each megawatt hour of 546  
electricity generated principally from that biomass energy shall 547  
equal, in units of credit, the product obtained by multiplying 548  
the actual percentage of biomass feedstock heat input used to 549  
generate such megawatt hour by the quotient obtained by dividing 550  
the then existing unit dollar amount used to determine a 551  
renewable energy compliance payment as provided under division 552  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 553

existing market value of one renewable energy credit, but such 554  
megawatt hour shall not equal less than one unit of credit. 555  
Renewable energy resources do not have to be converted to 556  
electricity in order to be eligible to receive renewable energy 557  
credits. The rules shall specify that, for purposes of 558  
converting the quantity of energy derived from biologically 559  
derived methane gas to an electricity equivalent, one megawatt 560  
hour equals 3,412,142 British thermal units. 561

(2) The rules also shall provide for this state a system 562  
of registering renewable energy credits by specifying which of 563  
any generally available registries shall be used for that 564  
purpose and not by creating a registry. That selected system of 565  
registering renewable energy credits shall allow a hydroelectric 566  
generating facility to be eligible for obtaining renewable 567  
energy credits and shall allow customer-sited projects or 568  
actions the broadest opportunities to be eligible for obtaining 569  
renewable energy credits. 570

~~(C) Beginning January 1, 2020, a qualifying renewable 571  
resource as defined in section 3706.40 of the Revised Code is 572  
not eligible to obtain a renewable energy credit under this 573  
section for any megawatt hour for which the resource has been 574  
issued a renewable energy credit under section 3706.45 of the 575  
Revised Code. 576~~

**Section 2.** That existing sections 4928.143, 4928.64, and 577  
4928.645 of the Revised Code are hereby repealed. 578

**Section 3.** That sections 3706.40, 3706.41, 3706.43, 579  
3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 3706.55, 3706.59, 580  
3706.61, 3706.63, 3706.65, 4928.471, 4928.642, and 5727.231 of 581  
the Revised Code are hereby repealed. 582

**Section 4.** On and after the effective date of this 583  
section, and notwithstanding any provision in Title XLIX of the 584  
Revised Code to the contrary, no decoupling mechanism 585  
established under section 4928.471 of the Revised Code, as that 586  
section existed prior to the effective date of this section, 587  
shall remain in effect, and no amount, charge, mechanism, or 588  
rider related to that section may be assessed or collected from 589  
customers. 590

**Section 5.** Upon the effective date of this section, and 591  
notwithstanding section 4905.32 of the Revised Code and any 592  
other provision in Title XLIX of the Revised Code to the 593  
contrary, the full amount of revenues collected from customers 594  
through an amount, charge, mechanism, or rider established under 595  
section 4928.471 of the Revised Code, as that section existed 596  
prior to the effective date of this section, shall be promptly 597  
refunded to customers from whom the revenues were collected. 598  
Refunds paid to customers shall be allocated to customer classes 599  
in the same proportion as originally collected. 600

**Section 6.** Upon the effective date of this section, and 601  
notwithstanding section 4905.32 of the Revised Code and any 602  
other provision in Title XLIX of the Revised Code to the 603  
contrary, both of the following apply: 604

(A) The amounts of money collected from customers 605  
resulting from, or attributable to, the amendments to divisions 606  
(E) and (F) of section 4928.143 of the Revised Code by H.B. 166 607  
of the 133rd General Assembly, shall be treated as follows: 608

(1) The amounts shall be promptly refunded to customers 609  
from whom they were collected. 610

(2) The amounts refunded shall be allocated to customer 611

classes in the same proportion as originally collected. 612

(B) The public utilities commission shall reconsider any 613  
order or determination it made in compliance with the amendments 614  
to divisions (E) and (F) of section 4928.143 of the Revised Code 615  
made by H.B. 166 of the 133rd General Assembly prior to the 616  
effective date of this section and shall issue a new order or 617  
determination in compliance with the provisions of divisions (E) 618  
and (F) of section 4928.143 as amended by this act. 619