

Sub. H.B. 33
As Passed by the Senate
TAXCD43

_____ moved to amend as follows:

Delete lines 114218 through 114568 and insert: 1

"Sec. 5727.75. (A) For purposes of this section: 2

(1) "Qualified energy project" means an energy project 3
certified by the director of development pursuant to this section. 4

(2) "Energy project" means a project to provide electric 5
power through the construction, installation, and use of an energy 6
facility. 7

(3) "Alternative energy zone" means a county declared as such 8
by the board of county commissioners under division (E)(1)(b) or 9
(c) of this section. 10

(4) "Full-time equivalent employee" means the total number of 11
employee-hours for which compensation was paid to individuals 12
employed at a qualified energy project for services performed at 13
the project during the calendar year divided by two thousand 14
eighty hours. For the purpose of this calculation, "performed at 15
the project" includes only hours worked at the qualified energy 16
project and devoted to site preparation or protection, 17
construction and installation, and the unloading and distribution 18
of materials at the project site, but does not include hours 19

worked by superintendents, owners, manufacturers' representatives, 20
persons employed in a bona fide executive, management, 21
supervisory, or administrative capacity, or persons whose sole 22
employment on the project is transporting materials or persons to 23
the project site. 24

(5) "Solar energy project" means an energy project composed 25
of an energy facility using solar panels to generate electricity. 26

(6) "Internet identifier of record" has the same meaning as 27
in section 9.312 of the Revised Code. 28

(7) "Applicable year" means the later of the following: 29

(a) The tax year in which the secretary of the treasury of 30
the United States, or the secretary's delegate, determines, in 31
accordance with section 45Y of the Internal Revenue Code, that the 32
annual greenhouse gas emissions from the production of electricity 33
in the United States are equal to or less than twenty-five per 34
cent of the annual greenhouse gas emissions from the production of 35
electricity in the United States for calendar year 2022; 36

(b) Tax year 2029. 37

(8) "Internal Revenue Code" means the Internal Revenue Code 38
as of the effective date of this amendment. 39

(B)(1) Tangible personal property of a qualified energy 40
project using renewable energy resources is exempt from taxation 41
for tax years 2011 through ~~2025~~ the applicable year if all of the 42
following conditions are satisfied: 43

(a) On or before ~~December 31, 2024~~ the last day of the tax 44
year preceding the applicable year, the owner or a lessee pursuant 45
to a sale and leaseback transaction of the project submits an 46
application to the power siting board for a certificate under 47
section 4906.20 of the Revised Code, or if that section does not 48

apply, submits an application for any approval, consent, permit, 49
 or certificate or satisfies any condition required by a public 50
 agency or political subdivision of this state for the construction 51
 or initial operation of an energy project. 52

(b) Construction or installation of the energy facility 53
 begins on or after January 1, 2009, and before ~~January 1, 2025~~ the 54
first day of the applicable year. For the purposes of this 55
 division, construction begins on the earlier of the date of 56
 application for a certificate or other approval or permit 57
 described in division (B)(1)(a) of this section, or the date the 58
 contract for the construction or installation of the energy 59
 facility is entered into. 60

(c) For a qualified energy project with a nameplate capacity 61
 of twenty megawatts or greater, a board of county commissioners of 62
 a county in which property of the project is located has adopted a 63
 resolution under division (E)(1)(b) or (c) of this section to 64
 approve the application submitted under division (E) of this 65
 section to exempt the property located in that county from 66
 taxation. A board's adoption of a resolution rejecting an 67
 application or its failure to adopt a resolution approving the 68
 application does not affect the tax-exempt status of the qualified 69
 energy project's property that is located in another county. 70

(2) If tangible personal property of a qualified energy 71
 project using renewable energy resources was exempt from taxation 72
 under this section beginning in any of tax years 2011 through ~~2025~~ 73
the applicable year, and the certification under division (E)(2) 74
 of this section has not been revoked, the tangible personal 75
 property of the qualified energy project is exempt from taxation 76
 for the tax year 2026 following the applicable year and all 77
 ensuing tax years if the property was placed into service before 78
~~January 1, 2026~~ before the first day of the tax year following the 79

applicable year, as certified in the construction progress report 80
 required under division (F)(2) of this section. Tangible personal 81
 property that has not been placed into service before that date is 82
 taxable property subject to taxation. An energy project for which 83
 certification has been revoked is ineligible for further exemption 84
 under this section. Revocation does not affect the tax-exempt 85
 status of the project's tangible personal property for the tax 86
 year in which revocation occurs or any prior tax year. 87

(C) Tangible personal property of a qualified energy project 88
 using clean coal technology, advanced nuclear technology, or 89
 cogeneration technology is exempt from taxation for the first tax 90
 year that the property would be listed for taxation and all 91
 subsequent years if all of the following circumstances are met: 92

(1) The property was placed into service before January 1, 93
 2021. Tangible personal property that has not been placed into 94
 service before that date is taxable property subject to taxation. 95

(2) For such a qualified energy project with a nameplate 96
 capacity of twenty megawatts or greater, a board of county 97
 commissioners of a county in which property of the qualified 98
 energy project is located has adopted a resolution under division 99
 (E)(1)(b) or (c) of this section to approve the application 100
 submitted under division (E) of this section to exempt the 101
 property located in that county from taxation. A board's adoption 102
 of a resolution rejecting the application or its failure to adopt 103
 a resolution approving the application does not affect the 104
 tax-exempt status of the qualified energy project's property that 105
 is located in another county. 106

(3) The certification for the qualified energy project issued 107
 under division (E)(2) of this section has not been revoked. An 108
 energy project for which certification has been revoked is 109

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

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

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

(i) ~~December 31, 2024~~ The last day of the tax year preceding
the applicable year, for an energy project using renewable energy
 resources;

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

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

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

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

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

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

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

(a) The application was timely submitted.

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

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

(d) For construction or installation of a qualified energy project described in division (B)(1)(b) of this section, that the project is subject to wage requirements described in section 45(b)(7)(A) of the Internal Revenue Code and apprenticeship requirements described in section 45(b)(8)(A)(i) of the Internal Revenue Code, provided both of the following apply:

(i) The person applies for such certificate after the effective date of this amendment.

(ii) A board of commissioners of at least one county in which the project is located is required to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

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

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:	198 199 200
(1) Comply with all applicable regulations;	201
(2) File with the director of development a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a certificate indicating the project's nameplate capacity.	202 203 204 205 206 207 208 209 210 211 212 213 214 215
(3) File with the director of development, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;	216 217 218 219 220
(4) For energy projects with a nameplate capacity of twenty megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to	221 222 223 224 225 226 227

support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

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

~~(6) Maintain (6)(a) Except as otherwise provided in this division, for projects for which certification as a qualified energy project was applied for, under division (E) of this section, before the effective date of this amendment, maintain a ratio of Ohio-domiciled full-time equivalent employees employed in~~

the construction or installation of the energy project to total 259
 full-time equivalent employees employed in the construction or 260
 installation of the energy project of not less than eighty per 261
 cent in the case of a solar energy project, and not less than 262
 fifty per cent in the case of any other energy project. ~~In A~~ 263
person applying for such a qualified energy project may certify to 264
the director of development that the project will be voluntarily 265
subject to the wage requirements described in section 45(b)(7)(A) 266
of the Internal Revenue Code and apprenticeship requirements 267
described in section 45(b)(8)(A)(i) of the Internal Revenue Code 268
as authorized in division (F)(6)(b) of this section. Upon receipt 269
of that certification, the project shall comply with division 270
(F)(6)(b) of this section rather than division (F)(6)(a) of this 271
section. 272

(b) For projects for which certification as a qualified 273
energy project was applied for, under division (E) of this 274
section, on or after the effective date of this amendment, 275
maintain a ratio of Ohio-domiciled full-time equivalent employees 276
employed in the construction or installation of the energy project 277
to total full-time equivalent employees employed in the 278
construction or installation of the energy project of not less 279
than seventy per cent in the case of a solar energy project, and 280
not less than fifty per cent in the case of any other energy 281
project. 282

(c) For purposes of divisions (F)(6)(a) and (b) of this 283
section, "Ohio-domiciled" includes persons who live outside the 284
state but within fifty miles of a border of the state who are 285
members of any bona fide labor organization which has as members, 286
or is authorized to represent, employees in Ohio and which exists, 287
in whole or in part, for the purpose of negotiating with employers 288
concerning the wages, hours, or terms and conditions of employment 289

of employees and whose members are engaged to perform work on the 290
construction or installation of the qualified energy project. 291

(d) For purposes of divisions (F)(6)(a) and (b) of this 292
section, in the case of an energy project for which certification 293
 from the power siting board is required under section 4906.20 of 294
 the Revised Code, the number of full-time equivalent employees 295
 employed in the construction or installation of the energy project 296
 equals the number actually employed or the number projected to be 297
 employed in the certificate application, if such projection is 298
 required under regulations adopted pursuant to section 4906.03 of 299
 the Revised Code, whichever is greater. For all other energy 300
 projects, the number of full-time equivalent employees employed in 301
 the construction or installation of the energy project equals the 302
 number actually employed or the number projected to be employed by 303
 the director of development, whichever is greater. To estimate the 304
 number of employees to be employed in the construction or 305
 installation of an energy project, the director shall use a 306
 generally accepted job-estimating model in use for renewable 307
 energy projects, including but not limited to the job and economic 308
 development impact model. The director may adjust an estimate 309
 produced by a model to account for variables not accounted for by 310
 the model. 311

(7) For energy projects with a nameplate capacity in excess 312
 of twenty megawatts, establish a relationship with any of the 313
 following to educate and train individuals for careers in the wind 314
 or solar energy industry: 315

(a) A member of the university system of Ohio as defined in 316
 section 3345.011 of the Revised Code; 317

(b) A person offering an apprenticeship program registered 318
 with the employment and training administration within the United 319

States department of labor or with the apprenticeship council	320
created by section 4139.02 of the Revised Code;	321
(c) A career-technical center, joint vocational school	322
district, comprehensive career-technical center, or compact	323
career-technical center;	324
(d) A training center operated by a labor organization, or	325
with a training center operated by a for-profit or nonprofit	326
organization.	327
The relationship may include endowments, cooperative	328
programs, internships, apprenticeships, research and development	329
projects, and curriculum development.	330
(8) Offer to sell power or renewable energy credits from the	331
energy project to electric distribution utilities or electric	332
service companies subject to renewable energy resource	333
requirements under section 4928.64 of the Revised Code that have	334
issued requests for proposal for such power or renewable energy	335
credits. If no electric distribution utility or electric service	336
company issues a request for proposal on or before December 31,	337
2010, or accepts an offer for power or renewable energy credits	338
within forty-five days after the offer is submitted, power or	339
renewable energy credits from the energy project may be sold to	340
other persons. Division (F)(8) of this section does not apply if:	341
(a) The owner or lessee is a rural electric company or a	342
municipal power agency as defined in section 3734.058 of the	343
Revised Code.	344
(b) The owner or lessee is a person that, before completion	345
of the energy project, contracted for the sale of power or	346
renewable energy credits with a rural electric company or a	347
municipal power agency.	348

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

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

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

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first-day of December of the preceding tax year;

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

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand

dollars per megawatt of nameplate capacity located in the county 379
 as of the thirty-first day of December of the preceding tax year; 380

(b) If the project maintains during the construction or 381
 installation of the energy facility a ratio of Ohio-domiciled 382
 full-time equivalent employees to total full-time equivalent 383
 employees of less than seventy-five per cent but not less than 384
 sixty per cent, seven thousand dollars per megawatt of nameplate 385
 capacity located in the county as of the thirty-first day of 386
 December of the preceding tax year; 387

(c) If the project maintains during the construction or 388
 installation of the energy facility a ratio of Ohio-domiciled 389
 full-time equivalent employees to total full-time equivalent 390
 employees of less than sixty per cent but not less than fifty per 391
 cent, eight thousand dollars per megawatt of nameplate capacity 392
 located in the county as of the thirty-first day of December of 393
 the preceding tax year. 394

(3) In the case of an energy project using clean coal 395
 technology, advanced nuclear technology, or cogeneration 396
 technology, the following: 397

(a) If the project maintains during the construction or 398
 installation of the energy facility a ratio of Ohio-domiciled 399
 full-time equivalent employees to total full-time equivalent 400
 employees of not less than seventy-five per cent, six thousand 401
 dollars per megawatt of nameplate capacity located in the county 402
 as of the thirty-first day of December of the preceding tax year; 403

(b) If the project maintains during the construction or 404
 installation of the energy facility a ratio of Ohio-domiciled 405
 full-time equivalent employees to total full-time equivalent 406
 employees of less than seventy-five per cent but not less than 407
 sixty per cent, seven thousand dollars per megawatt of nameplate 408

capacity located in the county as of the thirty-first day of 409
 December of the preceding tax year; 410

(c) If the project maintains during the construction or 411
 installation of the energy facility a ratio of Ohio-domiciled 412
 full-time equivalent employees to total full-time equivalent 413
 employees of less than sixty per cent but not less than fifty per 414
 cent, eight thousand dollars per megawatt of nameplate capacity 415
 located in the county as of the thirty-first day of December of 416
 the preceding tax year. 417

(H) The director of development in consultation with the tax 418
 commissioner shall adopt rules pursuant to Chapter 119. of the 419
 Revised Code to implement and enforce this section." 420

The motion was _____ agreed to.

SYNOPSIS

Qualified renewable energy project tax exemptions 421

R.C. 5727.75 422

Reinstates, with one modification, the House-passed bill's 423
 amendments to an existing property tax exemption for qualified 424
 energy projects. The Senate extended the termination of the 425
 exemption from 2025 to 2029. The reinstated House provisions do 426
 the following: 427

-- Extend the termination of the exemption to the later of 428
 the calendar year that the United States Secretary of the Treasury 429
 determines there has been, from 2022, a 75% or greater reduction 430
 in annual greenhouse gas emissions from electricity production in 431
 the United States, or 2029. The House extended the termination to 432

the later of the greenhouse gas emission threshold year or 2032. 433

-- Require clean energy projects with a capacity of at least 434
20 megawatts, and which apply for certification as qualified clean 435
energy projects after the amendment's effective date, to comply 436
with certain federal wage and apprenticeship requirements. 437

-- Reduce the required ratio of Ohio-domiciled full-time 438
equivalent employees on a new qualified clean energy project from 439
80% to 70% and include out-of-state workers who reside within 50 440
miles of Ohio and are members of certain labor organizations as 441
"Ohio-domiciled" employees for purposes of calculating these 442
ratios, both for new and existing projects. 443

-- Allow existing qualified clean energy projects that 444
voluntarily comply with the federal wage and apprenticeship 445
requirements the amendment requires of new projects with at least 446
20 megawatts of capacity to apply the reduced ratio for 447
Ohio-domiciled full-time equivalent employees. 448

-- Change the calculation of "full-time equivalent employee" 449
hours to include only employee hours devoted to site preparation 450
and protection, construction and installation, and material 451
unloading and distribution and to exclude management and purely 452
logistical positions. 453