

As Introduced

131st General Assembly

Regular Session

2015-2016

S. B. No. 320

Senator Seitz

Cosponsors: Senators Balderson, Jones

A BILL

To amend sections 1710.01, 1710.02, 1710.06, 1
1710.13, 3706.25, 4582.06, 4582.31, 4928.01, 2
4928.02, 4928.55, 4928.64, 4928.66, 4928.662, 3
4928.6610, and 4928.67; to recodify section 4
4928.67 as sections 4928.6711, 4928.6713, 5
4928.6715, 4928.6717, 4928.6723, and 4928.6725; 6
and to enact sections 1710.20, 1710.21, 1710.22, 7
1710.24, 1710.241, 1710.26, 1710.28, 3745.28, 8
4928.41, 4928.6620, 4928.6621, 4928.671, 9
4928.672, 4928.673, 4928.676, 4928.677, 10
4928.679, 4928.6719, and 4928.6721 of the 11
Revised Code to revise the requirements for 12
renewable energy, energy efficiency, and peak 13
demand reduction, to permit property owners to 14
petition municipal corporations and townships 15
for the purpose of developing and implementing 16
special energy improvement projects, to govern 17
condominium association participation in special 18
improvement districts, to require deployment and 19
permit cost recovery of advanced energy 20
analytics technology by electric distribution 21
utilities, and to revise the law governing net 22

metering service provided by electric utilities 23
and electric services companies. 24

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

Section 1. That sections 1710.01, 1710.02, 1710.06, 25
1710.13, 3706.25, 4582.06, 4582.31, 4928.01, 4928.02, 4928.55, 26
4928.64, 4928.66, 4928.662, 4928.6610, and 4928.67 be amended; 27
section 4928.67 be recodified into sections 4928.6711, 28
4928.6713, 4928.6715, 4928.6717, 4928.6723, and 4928.6725; and 29
sections 1710.20, 1710.21, 1710.22, 1710.24, 1710.241, 1710.26, 30
1710.28, 3745.28, 4928.41, 4928.6620, 4928.6621, 4928.671, 31
4928.672, 4928.673, 4928.676, 4928.677, 4928.679, 4928.6719, and 32
4928.6721 of the Revised Code be enacted to read as follows: 33

Sec. 1710.01. As used in this chapter: 34

(A) "Special improvement district" means a special 35
improvement district organized under this chapter. 36

(B) "Church" means a fellowship of believers, 37
congregation, society, corporation, convention, or association 38
that is formed primarily or exclusively for religious purposes 39
and that is not formed for the private profit of any person. 40

(C) "Church property" means property that is described as 41
being exempt from taxation under division (A) (2) of section 42
5709.07 of the Revised Code and that the county auditor has 43
entered on the exempt list compiled under section 5713.07 of the 44
Revised Code. 45

(D) "Municipal executive" means the mayor, city manager, 46
or other chief executive officer of the municipal corporation in 47

which a special improvement district is located. 48

(E) "Participating political subdivision" means the 49
municipal corporation or township, or each of the municipal 50
corporations or townships, that has territory within the 51
boundaries of a special improvement district created under this 52
chapter. 53

(F) "Legislative authority of a participating political 54
subdivision" means, with reference to a township, the board of 55
township trustees. 56

(G) "Public improvement" means the planning, design, 57
construction, reconstruction, enlargement, or alteration of any 58
facility or improvement, including the acquisition of land, for 59
which a special assessment may be levied under Chapter 727. of 60
the Revised Code, and includes any special energy improvement 61
project. 62

(H) "Public service" means any service that can be 63
provided by a municipal corporation or any service for which a 64
special assessment may be levied under Chapter 727. of the 65
Revised Code. 66

(I) "Special energy improvement project" means any 67
property, device, structure, or equipment necessary for the 68
acquisition, installation, equipping, and improvement of any 69
real or personal property used for the purpose of creating a 70
solar photovoltaic project, a solar thermal energy project, a 71
geothermal energy project, a customer-generated energy project, 72
or an energy efficiency improvement, whether such real or 73
personal property is publicly or privately owned. 74

(J) "Existing qualified nonprofit corporation" means a 75
nonprofit corporation that existed before the creation of the 76

corresponding district under this chapter, that is composed of 77
members located within or adjacent to the district, that has 78
established a police department under section 1702.80 of the 79
Revised Code, and that is organized for purposes that include 80
acquisition of real property within an area specified by its 81
articles for the subsequent transfer of such property to its 82
members exclusively for charitable, scientific, literary, or 83
educational purposes, or holding and maintaining and leasing 84
such property; planning for and assisting in the development of 85
its members; providing for the relief of the poor and distressed 86
or underprivileged in the area and adjacent areas; combating 87
community deterioration and lessening the burdens of government; 88
providing or assisting others in providing housing for low- or 89
moderate-income persons; and assisting its members by the 90
provision of public safety and security services, parking 91
facilities, transit service, landscaping, and parks. 92

(K) "Energy efficiency improvement" means energy 93
efficiency technologies, products, and activities that reduce or 94
support the reduction of energy consumption, allow for the 95
reduction in demand, or support the production of clean, 96
renewable energy and that are or will be permanently fixed to 97
real property. 98

(L) "Customer-generated energy project" means a wind, 99
biomass, or gasification facility for the production of 100
electricity that meets either of the following requirements: 101

(1) The facility is designed to have a generating capacity 102
of two hundred fifty kilowatts of electricity or less. 103

(2) The facility is: 104

(a) Designed to have a generating capacity of more than 105

two hundred fifty kilowatts of electricity;	106
(b) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;	107 108 109
(c) Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and	110 111 112 113
(d) Not producing energy for direct sale by the facility owner to the public.	114 115
(M) "Reduction in demand" means a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives.	116 117 118 119
(N) "Electric distribution utility" and "mercantile customer" have the same meanings as in section 4928.01 of the Revised Code.	120 121 122
<u>(O) "Port authority" means a port authority created under section 4582.02 or 4582.22 of the Revised Code.</u>	123 124
<u>(P) "Condominium property," "unit owner," and "unit owners association" have the same meanings as in section 5311.01 of the Revised Code.</u>	125 126 127
Sec. 1710.02. (A) A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition	128 129 130 131 132 133

of the owners of real property within the proposed district, or 134
by an existing qualified nonprofit corporation. If the district 135
is created by an existing qualified nonprofit corporation, the 136
purposes for which the district is created may be supplemental 137
to the other purposes for which the corporation is organized. 138
All territory in a special improvement district shall be 139
contiguous; except that the territory in a special improvement 140
district may be noncontiguous if at least one special energy 141
improvement project is designated for each parcel of real 142
property included within the special improvement district. 143
Additional territory may be added to a special improvement 144
district created under this chapter for the purpose of 145
developing and implementing plans for special energy improvement 146
projects if at least one special energy improvement project is 147
designated for each parcel of real property included within such 148
additional territory and the addition of territory is authorized 149
by the initial plan proposed under division (F) of this section 150
or a plan adopted by the board of directors of the special 151
improvement district under section 1710.06 of the Revised Code. 152

The district shall be governed by the board of trustees of 153
a nonprofit corporation. This board shall be known as the board 154
of directors of the special improvement district. No special 155
improvement district shall include any church property, or 156
property of the federal or state government or a county, 157
township, or municipal corporation, unless the church or the 158
county, township, or municipal corporation specifically requests 159
in writing that the property be included within the district, or 160
unless the church is a member of the existing qualified 161
nonprofit corporation creating the district at the time the 162
district is created. More than one district may be created 163
within a participating political subdivision, but no real 164

property may be included within more than one district unless 165
the owner of the property files a written consent with the clerk 166
of the legislative authority, the township fiscal officer, or 167
the village clerk, as appropriate. The area of each district 168
shall be contiguous; except that the area of a special 169
improvement district may be noncontiguous if all parcels of real 170
property included within such area contain at least one special 171
energy improvement thereon. 172

(B) Except as provided in division (C) of this section, a 173
district created under this chapter is not a political 174
subdivision. A district created under this chapter shall be 175
considered a public agency under section 102.01 and a public 176
authority under section 4115.03 of the Revised Code. Each member 177
of the board of directors of a district, each member's designee 178
or proxy, and each officer and employee of a district shall be 179
considered a public official or employee under section 102.01 of 180
the Revised Code and a public official and public servant under 181
section 2921.42 of the Revised Code. Districts created under 182
this chapter are not subject to sections 121.81 to 121.83 of the 183
Revised Code. Districts created under this chapter are subject 184
to sections 121.22 and 121.23 of the Revised Code. 185

(C) Each district created under this chapter shall be 186
considered a political subdivision for purposes of section 187
4905.34 of the Revised Code. 188

Membership on the board of directors of the district shall 189
not be considered as holding a public office. Directors and 190
their designees shall be entitled to the immunities provided by 191
Chapter 1702. and to the same immunity as an employee under 192
division (A) (6) of section 2744.03 of the Revised Code, except 193
that directors and their designees shall not be entitled to the 194

indemnification provided in section 2744.07 of the Revised Code 195
unless the director or designee is an employee or official of a 196
participating political subdivision of the district and is 197
acting within the scope of the director's or designee's 198
employment or official responsibilities. 199

District officers and district members and directors and 200
their designees or proxies shall not be required to file a 201
statement with the Ohio ethics commission under section 102.02 202
of the Revised Code. All records of the district shall be 203
treated as public records under section 149.43 of the Revised 204
Code, except that records of organizations contracting with a 205
district shall not be considered to be public records under 206
section 149.43 or section 149.431 of the Revised Code solely by 207
reason of any contract with a district. 208

(D) Except as otherwise provided in this section, the 209
nonprofit corporation that governs a district shall be organized 210
in the manner described in Chapter 1702. of the Revised Code. 211
Except in the case of a district created by an existing 212
qualified nonprofit corporation, the corporation's articles of 213
incorporation are required to be approved, as provided in 214
division (E) of this section, by resolution of the legislative 215
authority of each participating political subdivision of the 216
district. A copy of that resolution shall be filed along with 217
the articles of incorporation in the secretary of state's 218
office. 219

In addition to meeting the requirements for articles of 220
incorporation set forth in Chapter 1702. of the Revised Code, 221
the articles of incorporation for the nonprofit corporation 222
governing a district formed under this chapter shall provide all 223
the following: 224

(1) The name for the district, which shall include the 225
name of each participating political subdivision of the 226
district; 227

(2) A description of the territory within the district, 228
which may be all or part of each participating political 229
subdivision. The description shall be specific enough to enable 230
real property owners to determine if their property is located 231
within the district. 232

(3) A description of the procedure by which the articles 233
of incorporation may be amended. The procedure shall include 234
receiving approval of the amendment, by resolution, from the 235
legislative authority of each participating political 236
subdivision and filing the approved amendment and resolution 237
with the secretary of state. 238

(4) The reasons for creating the district, plus an 239
explanation of how the district will be conducive to the public 240
health, safety, peace, convenience, and welfare of the district. 241

(E) (1) The articles of incorporation for a nonprofit 242
corporation governing a district created under this chapter and 243
amendments to them shall be submitted to the municipal 244
executive, if any, and the legislative authority of each 245
municipal corporation or township in which the proposed district 246
is to be located. ~~Except~~ 247

(2) (a) Except in the case of a district created by an 248
existing qualified nonprofit corporation and except as provided 249
in division (E) (2) (b) of this section, the articles or 250
amendments shall be accompanied by a petition signed either by 251
the owners of at least sixty per cent of the front footage of 252
all real property located in the proposed district that abuts 253

upon any street, alley, public road, place, boulevard, parkway, 254
park entrance, easement, or other existing public improvement 255
within the proposed district, excluding church property or 256
property owned by the state, county, township, municipal, or 257
federal government, unless a church, county, township, or 258
municipal corporation has specifically requested in writing that 259
the property be included in the district, or by the owners of at 260
least seventy-five per cent of the area of all real property 261
located within the proposed district, excluding church property 262
or property owned by the state, county, township, municipal, or 263
federal government, unless a church, county, township, or 264
municipal corporation has specifically requested in writing that 265
the property be included in the district. Pursuant to Section 2o 266
of Article VIII, Ohio Constitution, the petition required under 267
this division may be for the purpose of developing and 268
implementing plans for special energy improvement projects, and, 269
in such case, is determined to be in furtherance of the purposes 270
set forth in Section 2o of Article VIII, Ohio Constitution. If a 271
special improvement district is being created under this chapter 272
for the purpose of developing and implementing plans for special 273
energy improvement projects, the petition required under this 274
division shall be signed by one hundred per cent of the owners 275
of the area of all real property located within the proposed 276
special improvement district, at least one special energy 277
improvement project shall be designated for each parcel of real 278
property within the special improvement district, and the 279
special improvement district may include any number of parcels 280
of real property as determined by the legislative authority of 281
each participating political subdivision in which the proposed 282
special improvement district is to be located. For purposes of 283
determining compliance with these requirements, the area of the 284
district, or the front footage and ownership of property, shall 285

be as shown in the most current records available at the county 286
recorder's office and the county engineer's office sixty days 287
prior to the date on which the petition is filed. 288

~~Each~~ (b) If a condominium property is included in the area 289
of the proposed district, the petition shall be signed by a 290
member of the board of directors of the unit owners association 291
on behalf of all owners of units in the condominium property if 292
both of the following apply: 293

(i) A vote is conducted according to the unit owners 294
association bylaws and declaration to determine whether the 295
condominium property is to be included in the proposed special 296
improvement district. 297

(ii) The result of the vote is that the condominium 298
property is to be included in the proposed special improvement 299
district. 300

No unit owner shall sign the petition on the unit owner's 301
own behalf. 302

(3) Each municipal corporation or township with which the 303
petition is filed has sixty days to approve or disapprove, by 304
resolution, the petition, including the articles of 305
incorporation. In the case of a district created by an existing 306
qualified nonprofit corporation, each municipal corporation or 307
township has sixty days to approve or disapprove the creation of 308
the district after the corporation submits the articles of 309
incorporation or amendments thereto. This chapter does not 310
prohibit or restrict the rights of municipal corporations under 311
Article XVIII of the Ohio Constitution or the right of the 312
municipal legislative authority to impose reasonable conditions 313
in a resolution of approval. The acquisition, installation, 314

equipping, and improvement of a special energy improvement 315
project under this chapter shall not supersede any local zoning, 316
environmental, or similar law or regulation. 317

(F) Persons proposing creation and operation of the 318
district may propose an initial plan for public services or 319
public improvements that benefit all or any part of the 320
district. Any initial plan shall be submitted as part of the 321
petition proposing creation of the district or, in the case of a 322
district created by an existing qualified nonprofit corporation, 323
shall be submitted with the articles of incorporation or 324
amendments thereto. 325

An initial plan may include provisions for the following: 326

(1) Creation and operation of the district and of the 327
nonprofit corporation to govern the district under this chapter; 328

(2) Hiring employees and professional services; 329

(3) Contracting for insurance; 330

(4) Purchasing or leasing office space and office 331
equipment; 332

(5) Other actions necessary initially to form, operate, or 333
organize the district and the nonprofit corporation to govern 334
the district; 335

(6) A plan for public improvements or public services that 336
benefit all or part of the district, which plan shall comply 337
with the requirements of division (A) of section 1710.06 of the 338
Revised Code and may include, but is not limited to, any of the 339
permissive provisions described in the fourth sentence of that 340
division or listed in divisions (A) (1) to (7) of that section; 341

(7) If the special improvement district is being created 342

under this chapter for the purpose of developing and 343
implementing plans for special energy improvement projects, 344
provision for the addition of territory to the special 345
improvement district. 346

After the initial plan is approved by all municipal 347
corporations and townships to which it is submitted for approval 348
and the district is created, each participating subdivision 349
shall levy a special assessment within its boundaries to pay for 350
the costs of the initial plan. The levy shall be for no more 351
than ten years from the date of the approval of the initial 352
plan; except that if the proceeds of the levy are to be used to 353
pay the costs of a special energy improvement project, the levy 354
of a special assessment shall be for no more than thirty years 355
from the date of approval of the initial plan. In the event that 356
additional territory is added to a special improvement district, 357
the special assessment to be levied with respect to such 358
additional territory shall commence not earlier than the date 359
such territory is added and shall be for no more than thirty 360
years from such date. For purposes of levying an assessment for 361
this initial plan, the services or improvements included in the 362
initial plan shall be deemed a special benefit to property 363
owners within the district. 364

(G) Each nonprofit corporation governing a district under 365
this chapter may do the following: 366

(1) Exercise all powers of nonprofit corporations granted 367
under Chapter 1702. of the Revised Code that do not conflict 368
with this chapter; 369

(2) Develop, adopt, revise, implement, and repeal plans 370
for public improvements and public services for all or any part 371
of the district; 372

(3) Contract with any person, political subdivision as 373
defined in section 2744.01 of the Revised Code, or state agency 374
as defined in section 1.60 of the Revised Code to develop and 375
implement plans for public improvements or public services 376
within the district; 377

(4) Contract and pay for insurance for the district and 378
for directors, officers, agents, contractors, employees, or 379
members of the district for any consequences of the 380
implementation of any plan adopted by the district or any 381
actions of the district. 382

The board of directors of a special improvement district 383
may, acting as agent and on behalf of a participating political 384
subdivision, sell, transfer, lease, or convey any special energy 385
improvement project owned by the participating political 386
subdivision upon a determination by the legislative authority 387
thereof that the project is not required to be owned exclusively 388
by the participating political subdivision for its purposes, for 389
uses determined by the legislative authority thereof as those 390
that will promote the welfare of the people of such 391
participating political subdivision; to improve the quality of 392
life and the general and economic well-being of the people of 393
the participating political subdivision; better ensure the 394
public health, safety, and welfare; protect water and other 395
natural resources; provide for the conservation and preservation 396
of natural and open areas and farmlands, including by making 397
urban areas more desirable or suitable for development and 398
revitalization; control, prevent, minimize, clean up, or mediate 399
certain contamination of or pollution from lands in the state 400
and water contamination or pollution; or provide for safe and 401
natural areas and resources. The legislative authority of each 402
participating political subdivision shall specify the 403

consideration for such sale, transfer, lease, or conveyance and 404
any other terms thereof. Any determinations made by a 405
legislative authority of a participating political subdivision 406
under this division shall be conclusive. 407

Any sale, transfer, lease, or conveyance of a special 408
energy improvement project by a participating political 409
subdivision or the board of directors of the special improvement 410
district may be made without advertising, receipt of bids, or 411
other competitive bidding procedures applicable to the 412
participating political subdivision or the special improvement 413
district under Chapter 153. or 735. or section 1710.11 of the 414
Revised Code or other representative provisions of the Revised 415
Code. 416

Sec. 1710.06. (A) The board of directors of a special 417
improvement district may develop and adopt one or more written 418
plans for public improvements or public services that benefit 419
all or any part of the district. Each plan shall set forth the 420
specific public improvements or public services that are to be 421
provided, identify the area in which they will be provided, and 422
specify the method of assessment to be used. Each plan for 423
public improvements or public services shall indicate the period 424
of time the assessments are to be levied for the improvements 425
and services and, if public services are included in the plan, 426
the period of time the services are to remain in effect. Plans 427
for public improvements may include the planning, design, 428
construction, reconstruction, enlargement, or alteration of any 429
public improvements and the acquisition of land for the 430
improvements. Plans for public improvements or public services 431
may also include, but are not limited to, provisions for the 432
following: 433

(1) Creating and operating the district and the nonprofit corporation under this chapter, including hiring employees and professional services, contracting for insurance, and purchasing or leasing office space and office equipment and other requirements of the district;	434 435 436 437 438
(2) Planning, designing, and implementing a public improvements or public services plan, including hiring architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning services, and, for public services, managing, protecting, and maintaining public and private facilities, including public improvements;	439 440 441 442 443 444
(3) Conducting court proceedings to carry out this chapter;	445 446
(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;	447 448
(5) Paying the costs of issuing, paying interest on, and redeeming notes and bonds issued for funding public improvements and public services plans;	449 450 451
(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved; and	452 453 454 455 456 457 458 459 460 461
(7) Aggregating the renewable energy credits generated by	462

one or more special energy improvement projects within a special 463
improvement district, upon the consent of the owners of the 464
credits and for the purpose of negotiating and completing the 465
sale of such credits. 466

(B) (1) Once the board of directors of the special 467
improvement district adopts a plan, it shall submit the plan to 468
the legislative authority of each participating political 469
subdivision and the municipal executive of each municipal 470
corporation in which the district is located, if any. The 471
legislative authorities and municipal executives shall review 472
the plan and, within sixty days after receiving it, may submit 473
their comments and recommendations about it to the district. 474
After reviewing these comments and recommendations, the board of 475
directors may amend the plan. It may then submit the plan, 476
amended or otherwise, in the form of a petition to members of 477
the district whose property may be assessed for the plan. ~~Once~~ 478

(2) (a) Except as provided in division (B) (2) (b) of this 479
section, once the petition is signed by those members who own at 480
least sixty per cent of the front footage of property that is to 481
be assessed and that abuts upon a street, alley, public road, 482
place, boulevard, parkway, park entrance, easement, or other 483
public improvement, or those members who own at least seventy- 484
five per cent of the area to be assessed for the improvement or 485
service, the petition may be submitted to each legislative 486
authority for approval. If the special improvement district was 487
created for the purpose of developing and implementing plans for 488
special energy improvement projects, the petition required under 489
this division shall be signed by one hundred per cent of the 490
owners of the area of all real property located within the area 491
to be assessed for the special energy improvement project. 492

Each (b) If a condominium property is included in the area 493
of the special improvement district for which the board of 494
directors of the special improvement district has adopted a 495
plan, the petition shall be signed by a member of the board of 496
directors of the unit owners association on behalf of all owners 497
of units in the condominium property if both of the following 498
apply: 499

(i) A vote is conducted according to the unit owners 500
association bylaws and declaration to determine whether the unit 501
owners association, on behalf of all unit owners, approves the 502
plan proposed by the board of directors of the special 503
improvement district. 504

(ii) The result of the vote is that the unit owners 505
association approves the plan proposed by the board of directors 506
of the special improvement district. 507

No unit owner shall sign the petition on the unit owner's 508
own behalf. 509

(3) Each legislative authority shall, by resolution, 510
approve or reject the petition within sixty days after receiving 511
it. If the petition is approved by the legislative authority of 512
each participating political subdivision, the plan contained in 513
the petition shall be effective at the earliest date on which a 514
nonemergency resolution of the legislative authority with the 515
latest effective date may become effective. A plan may not be 516
resubmitted to the legislative authorities and municipal 517
executives more than three times in any twelve-month period. 518

(C) Each participating political subdivision shall levy, 519
by special assessment upon specially benefited property located 520
within the district, the costs of any public improvements or 521

public services plan contained in a petition approved by the 522
participating political subdivisions under this section or 523
division (F) of section 1710.02 of the Revised Code. The levy 524
shall be made in accordance with the procedures set forth in 525
Chapter 727. of the Revised Code, except that: 526

(1) The assessment for each improvements or services plan 527
may be levied by any one or any combination of the methods of 528
assessment listed in section 727.01 of the Revised Code, 529
provided that the assessment is uniformly applied. 530

(2) For the purpose of levying an assessment, the board of 531
directors may combine one or more improvements or services plans 532
or parts of plans and levy a single assessment against specially 533
benefited property. 534

(3) For purposes of special assessments levied by a 535
township pursuant to this chapter, references in Chapter 727. of 536
the Revised Code to the municipal corporation shall be deemed to 537
refer to the township, and references to the legislative 538
authority of the municipal corporation shall be deemed to refer 539
to the board of township trustees. 540

Church property or property owned by a political 541
subdivision, including any participating political subdivision 542
in which a special improvement district is located, shall be 543
included in and be subject to special assessments made pursuant 544
to a plan adopted under this section or division (F) of section 545
1710.02 of the Revised Code, if the church or political 546
subdivision has specifically requested in writing that its 547
property be included within the special improvement district and 548
the church or political subdivision is a member of the district 549
or, in the case of a district created by an existing qualified 550
nonprofit corporation, if the church is a member of the 551

corporation. 552

(D) All rights and privileges of property owners who are 553
assessed under Chapter 727. of the Revised Code shall be granted 554
to property owners assessed under this chapter, including those 555
rights and privileges specified in sections 727.15 to 727.17 and 556
727.18 to 727.22 of the Revised Code and the right to notice of 557
the resolution of necessity and the filing of the estimated 558
assessment under section 727.13 of the Revised Code. Property 559
owners assessed for public services under this chapter shall 560
have the same rights and privileges as property owners assessed 561
for public improvements under this chapter. 562

Sec. 1710.13. (A) This section does not apply to a special 563
improvement district created by an existing qualified nonprofit 564
corporation. 565

~~The~~ (B) (1) Except as provided in division (B) (2) of this 566
section, the process for dissolving a special improvement 567
district or repealing an improvements or services plan may be 568
initiated by a petition signed by members of the district who 569
own at least twenty per cent of the appraised value of the real 570
property located in the district, excluding church property or 571
real property owned by the federal government, the state, or a 572
county, township, or municipal corporation, unless the church, 573
county, township, or municipal corporation has specifically 574
requested in writing that the property be included in the 575
district, and filed with the municipal executive, if any, and 576
the legislative authorities of all the participating political 577
subdivisions of the district. As used in this section, 578
"appraised value" means the taxable value established by the 579
county auditor for purposes of real estate taxation. 580

(2) If a condominium property is included in the area of 581

the special improvement district, the petition shall be signed 582
by a member of the board of directors of the unit owners 583
association on behalf of all owners of units in the condominium 584
property if both of the following apply: 585

(a) A vote is conducted according to the unit owners 586
association bylaws and declaration to determine whether the unit 587
owners association, on behalf of all unit owners, is in favor of 588
dissolving the special improvement district or repealing an 589
improvements or services plan, as applicable. 590

(b) The result of the vote is that the unit owners 591
association is in favor of dissolving the special improvement 592
district or repealing an improvements or services plan, as 593
applicable. 594

No unit owner shall sign the petition on the unit owner's 595
own behalf. 596

(C) (1) No later than forty-five days after such a petition 597
is filed, the members of the district shall meet to consider it. 598
Notice of the meeting shall be given as provided in section 599
1710.05 of the Revised Code. ~~Upon~~ Except as provided in division 600
(C) (2) of this section, upon the affirmative vote of members who 601
collectively own more than fifty per cent of the appraised value 602
of the real property in the district that may be subject to 603
assessment under division (C) of section 1710.06 of the Revised 604
Code, the district shall be dissolved, or the plan shall be 605
repealed, as applicable. 606

(2) The member of the board of directors who signed the 607
petition described in division (B) (2) of this section shall 608
represent the unit owners association at the meeting. That 609
member shall vote in accordance with the results of the vote 610

held in accordance with that division. 611

(D) No rights or obligations of any person under any 612
contract, or in relation to any bonds, notes, or assessments 613
made under this chapter, shall be affected by the dissolution of 614
the district or the repeal of a plan, except with the consent of 615
that person or by order of a court with jurisdiction over the 616
matter. Upon dissolution of a district, any assets or rights of 617
the district, after payment of all bonds, notes, or other 618
obligations of the district, shall be deposited in a special 619
account in the treasury of each participating political 620
subdivision, prorated among all participating political 621
subdivisions to reflect the percentage of the district's 622
territory within that political subdivision, to be used for the 623
benefit of the territory that made up the district. 624

(E) Once the members have approved the repeal of a plan, 625
all bonds, notes, and other obligations of the district 626
associated with the plan shall be paid. Thereafter, the plan 627
shall be repealed. Upon receipt of proof that all bonds, notes, 628
and other obligations have been paid and that the plan has been 629
repealed, the participating political subdivisions shall 630
terminate any levies imposed to pay for costs of the plan. 631

Sec. 1710.20. A property owner or owners may petition the 632
legislative authority of any municipal corporation or township 633
in which their property is located for authorization to develop 634
and implement one or more special energy improvement projects 635
that consist only of energy efficiency improvements. The 636
property owner or owners shall petition the municipal 637
corporation or township in accordance with sections 1710.20 to 638
1710.28 of the Revised Code. For purposes of this section, 639
property is located in a municipal corporation or township if 640

the property is located wholly within the boundaries of the 641
municipal corporation or township. 642

Sec. 1710.21. (A) In order to develop and implement one or 643
more special energy improvement projects under sections 1710.20 644
to 1710.28 of the Revised Code, the person or persons proposing 645
the development and implementation shall submit to the municipal 646
corporation or township a petition for the development and 647
implementation of the project or projects signed by one hundred 648
per cent of the property owners of the parcels to be assessed. 649

(B) For purposes of compliance with division (A) of this 650
section, the person or persons proposing the development and 651
implementation shall show the ownership of each parcel of 652
property to be assessed by reference to records that were 653
available from each county recorder's office not more than sixty 654
days prior to the submission of the petition. 655

Sec. 1710.22. (A) The person or persons proposing the 656
development and implementation of one or more special energy 657
improvement projects under sections 1710.20 to 1710.28 of the 658
Revised Code shall ensure that the petition required under 659
section 1710.21 of the Revised Code includes all of the 660
following: 661

(1) A description of the proposed special energy 662
improvement project or projects, including the cost of the 663
proposed project or projects and a statement of which property 664
or properties each project will benefit; 665

(2) A designation of at least one special energy 666
improvement project for each parcel of real property; 667

(3) The method of assessment to be used and the time 668
period during which the assessment will be levied; 669

(4) A statement that the development and implementation of the special energy improvement project or projects is being requested under sections 1710.20 to 1710.28 of the Revised Code. 670
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(B) The person or persons proposing the development and implementation of one or more special energy improvement projects under sections 1710.20 to 1710.28 of the Revised Code may include in the petition submitted under section 1710.21 of the Revised Code provisions for the following: 673
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(1) Planning, designing, and implementing the project or projects, and paying the cost of any action taken in furtherance of the project or projects, including hiring architectural, engineering, legal, financial, appraisal, insurance, consulting, energy auditing, and planning services; 678
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(2) Paying the costs of issuing, paying interest on, and redeeming or refunding notes and bonds issued for the purpose of paying costs of the project or projects, reimbursing costs of the project or projects that were previously incurred, and cooperating with any person, any public or private lender, or any port authority having jurisdiction over the parcels upon which the project or projects are proposed to be developed and implemented to provide financing to pay or reimburse the costs of the project or projects; 683
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(3) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the project or projects between a municipal corporation or township and any owner of real property on which one of the projects is acquired, installed, equipped, or improved; 692
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(4) Any other actions necessary to develop and implement the project or projects. 699
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Sec. 1710.24. (A) A municipal corporation or township with which a petition is filed under section 1710.21 of the Revised Code may, by legislation, approve or disapprove the petition not later than sixty days after the date that the petition is filed. 701
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This division does not prohibit or restrict the rights of municipal corporations under Article XVIII of the Ohio Constitution or the right of the municipal legislative authority to impose reasonable conditions in approval legislation. The acquisition, installation, equipping, and improvement of one or more special energy improvement projects under sections 1710.20 to 1710.28 of the Revised Code does not supersede any of the following: 705
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(1) Any local zoning, environmental, or similar law or regulation; 713
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(2) Sections 4933.81 to 4933.90 of the Revised Code governing the certified territories of electric suppliers; 715
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(3) Any state or federal law relating to the provision of electric service or the regulation of electric light companies that operate their utilities not for profit or public utilities. As used in this division, "electric light company" has the same meaning as in section 4905.03 of the Revised Code and "public utility" has the same meaning as in section 4905.02 of the Revised Code. 717
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(B) If the municipal corporation or township approves the petition, the municipal corporation or township shall levy a special assessment on all real property subject to the petition to pay for the costs of the development and implementation of 724
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the special energy improvement project or projects. The 728
municipal corporation or township shall levy the special 729
assessment for not more than thirty years from the first day of 730
the year in which the special assessment is first imposed. 731

(C) For purposes of levying a special assessment under 732
this section, the special energy improvement project or projects 733
included in the petition are deemed a special benefit to any 734
private property owners subject to the petition. The use of 735
special assessments levied to benefit such property owners does 736
not constitute expenditures made with public funds. The 737
municipal corporation or township shall levy the special 738
assessment in accordance with Chapter 727. of the Revised Code 739
except that: 740

(1) The municipal corporation or township may levy the 741
assessment for each project by any one or any combination of the 742
methods of assessment listed in section 727.01 of the Revised 743
Code, provided that the assessment is uniformly applied; 744

(2) For purposes of levying an assessment, the municipal 745
corporation or township may combine one or more special energy 746
improvement projects and levy a single assessment against 747
specially benefited property; 748

(3) For purposes of special assessments levied by a 749
township under this section, references in Chapter 727. of the 750
Revised Code to the municipal corporation are deemed to refer to 751
the township, and references to the legislative authority of the 752
municipal corporation are deemed to refer to the board of 753
township trustees. 754

(D) All applicable rights and privileges of a property 755
owner that is assessed under Chapter 727. of the Revised Code 756

are granted to a property owner assessed under this section, 757
including those rights and privileges specified in sections 758
727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and 759
the right to notice of the resolution of necessity and the 760
filing of the estimated assessment under section 727.13 of the 761
Revised Code, unless waived by the property owner. 762

Sec. 1710.241. A petition submitted under section 1710.21 763
of the Revised Code, and any actions taken by the municipal 764
corporation or township under the petition and the legislation 765
approving the petition, are in furtherance of the purposes set 766
forth in Section 2o or 2q of Article VIII, Ohio Constitution, if 767
approved by the municipal corporation or township with which the 768
petition is filed. 769

Sec. 1710.26. Any municipal corporation or township 770
levying a special assessment under section 1710.24 of the 771
Revised Code may develop, finance, manage, or implement part or 772
all of any special energy improvement project approved under 773
that section and may contract with any person, community 774
improvement corporation, political subdivision as defined in 775
division (F) of section 2744.01 of the Revised Code, state 776
agency as defined in section 1.60 of the Revised Code, or port 777
authority to develop, finance, manage, or implement part or all 778
of any special energy improvement project approved under section 779
1710.24 of the Revised Code. 780

Sec. 1710.28. (A) A municipal corporation or township 781
levying a special assessment under section 1710.24 of the 782
Revised Code may sell, transfer, lease, or convey any special 783
energy improvement project owned by the municipal corporation or 784
township upon a determination by the legislative authority of 785
the municipal corporation or township that the project is not 786

required to be owned exclusively by the municipal corporation or township for its purposes or for any of the following purposes: 787
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(1) Uses determined by the legislative authority of the municipal corporation or township as those that will promote the welfare of the people of the municipal corporation or township; 789
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(2) To improve the quality of life and the general and economic well being of the people of the municipal corporation or township; 792
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(3) To better ensure the public health, safety, and welfare; 795
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(4) To protect water and other natural resources; 797

(5) To provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; 798
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(6) To control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or 802
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(7) To provide for safe and natural areas and resources. 805

(B) The legislative authority of a municipal corporation or township that has determined to sell, transfer, lease, or convey a project under this section shall specify the consideration and any other terms for the sale, transfer, lease, or conveyance. 806
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(C) Any determinations made by a legislative authority of a municipal corporation or township under division (A) or (B) of this section are conclusive. 811
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(D) A sale, transfer, lease, or conveyance made under this 814
section may be made without advertising, receipt of bids, or 815
other competitive bidding procedures under Chapter 153. or 735. 816
or section 1710.11 of the Revised Code or other representative 817
provisions of the Revised Code applicable to a municipal 818
corporation or township levying assessments under section 819
1710.24 of the Revised Code. 820

Sec. 3706.25. As used in sections 3706.25 to 3706.30 of 821
the Revised Code: 822

(A) "Advanced energy project" means any technologies, 823
products, activities, or management practices or strategies that 824
facilitate the generation or use of electricity or energy and 825
that reduce or support the reduction of energy consumption or 826
support the production of clean, renewable energy for 827
industrial, distribution, commercial, institutional, 828
governmental, research, not-for-profit, or residential energy 829
users including, but not limited to, advanced energy resources 830
and renewable energy resources. "Advanced energy project" 831
includes any project described in division (A), (B), or (C) of 832
section 4928.621 of the Revised Code. 833

(B) "Advanced energy resource" means any of the following: 834

(1) Any method or any modification or replacement of any 835
property, process, device, structure, or equipment that 836
increases the generation output of an electric generating 837
facility to the extent such efficiency is achieved without 838
additional carbon dioxide emissions by that facility; 839

(2) Any distributed generation system consisting of 840
customer cogeneration technology, primarily to meet the energy 841
needs of the customer's facilities; 842

(3) Advanced nuclear energy technology consisting of 843
generation III technology as defined by the nuclear regulatory 844
commission; other, later technology; or significant improvements 845
to existing facilities; 846

(4) Any fuel cell used in the generation of electricity, 847
including, but not limited to, a proton exchange membrane fuel 848
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 849
solid oxide fuel cell; 850

(5) Advanced solid waste or construction and demolition 851
debris conversion technology, including, but not limited to, 852
advanced stoker technology, and advanced fluidized bed 853
gasification technology, that results in measurable greenhouse 854
gas emissions reductions as calculated pursuant to the United 855
States environmental protection agency's waste reduction model 856
(WARM). 857

(C) "Air contaminant source" has the same meaning as in 858
section 3704.01 of the Revised Code. 859

(D) "Cogeneration technology" means technology that 860
produces electricity and useful thermal output simultaneously. 861

(E) (1) "Renewable energy resource" means ~~solar~~ any of the 862
following: 863

(a) Solar photovoltaic or solar thermal energy, ~~wind;~~ 864

(b) Wind energy, ~~power;~~ 865

(c) Power produced by a hydroelectric facility, ~~power;~~ 866

(d) Power produced by a run-of-the-river hydroelectric 867
facility placed in service on or after January 1, 1980, that is 868
located within this state, relies upon the Ohio river, and 869
operates, or is rated to operate, at an aggregate capacity of 870

forty or more megawatts, ~~geothermal~~; 871

(e) Geothermal energy, ~~fuel~~; 872

(f) Fuel derived from solid wastes, as defined in section 873
3734.01 of the Revised Code, through fractionation, biological 874
decomposition, or other process that does not principally 875
involve combustion, ~~biomass~~ except that combustion may be 876
principally involved if the combustion is effected in a facility 877
to generate electricity or heat for a length of time and at a 878
temperature to achieve the destruction of dioxins and also if 879
the facility is equipped with scrubbers, powdered-activated- 880
carbon injection, pulse-jet fabric filters, selective catalytic 881
reduction of nitric oxide and nitrogen dioxide, and continuous 882
emissions monitoring; 883

(g) Biomass energy, ~~energy~~; 884

(h) Energy produced by cogeneration technology that is 885
placed into service on or before December 31, 2015, and for 886
which more than ninety per cent of the total annual energy input 887
is from combustion of a waste or byproduct gas from an air 888
contaminant source in this state, which source has been in 889
operation since on or before January 1, 1985, provided that the 890
cogeneration technology is a part of a facility located in a 891
county having a population of more than three hundred sixty-five 892
thousand but less than three hundred seventy thousand according 893
to the most recent federal decennial census, ~~biologically~~; 894

(i) Biologically derived methane gas, ~~heat~~; 895

(j) Heat captured from a generator of electricity, boiler, 896
or heat exchanger fueled by biologically derived methane gas, ~~or~~ 897
~~energy~~; 898

(k) Energy derived from nontreated by-products of the 899

pulping process or wood manufacturing process, including bark, 900
wood chips, sawdust, and lignin in spent pulping liquors. 901

(2) "Renewable energy resource" includes, but is not 902
limited to, any ~~fuel~~; 903

(a) Fuel cell used in the generation of electricity, 904
including, but not limited to, a proton exchange membrane fuel 905
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 906
solid oxide fuel cell; ~~wind~~ 907

(b) Wind turbine located in the state's territorial waters 908
of Lake Erie; ~~methane~~ 909

(c) Methane gas emitted from an abandoned coal mine; 910
~~storage~~ 911

(d) Storage facility that will promote the better 912
utilization of a renewable energy resource that primarily 913
generates off peak; or ~~distributed~~ 914

(e) Distributed generation system used by a customer to 915
generate electricity from any such energy. 916

(3) As used in ~~this division~~ (E) of this section, 917
"hydroelectric facility" means a hydroelectric generating 918
facility that is located at a dam on a river, or on any water 919
discharged to a river, that is within or bordering this state or 920
within or bordering an adjoining state and meets all of the 921
following standards: 922

~~(1)~~ (a) The facility provides for river flows that are not 923
detrimental for fish, wildlife, and water quality, including 924
seasonal flow fluctuations as defined by the applicable 925
licensing agency for the facility. 926

~~(2)~~ (b) The facility demonstrates that it complies with 927

the water quality standards of this state, which compliance may 928
consist of certification under Section 401 of the "Clean Water 929
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 930
demonstrates that it has not contributed to a finding by this 931
state that the river has impaired water quality under Section 932
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 933
U.S.C. 1313. 934

~~(3)~~ (c) The facility complies with mandatory prescriptions 935
regarding fish passage as required by the federal energy 936
regulatory commission license issued for the project, regarding 937
fish protection for riverine, anadromous, and catadromous fish. 938

~~(4)~~ (d) The facility complies with the recommendations of 939
the Ohio environmental protection agency and with the terms of 940
its federal energy regulatory commission license regarding 941
watershed protection, mitigation, or enhancement, to the extent 942
of each agency's respective jurisdiction over the facility. 943

~~(5)~~ (e) The facility complies with provisions of the 944
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 945
to 1544, as amended. 946

~~(6)~~ (f) The facility does not harm cultural resources of 947
the area. This can be shown through compliance with the terms of 948
its federal energy regulatory commission license or, if the 949
facility is not regulated by that commission, through 950
development of a plan approved by the Ohio historic preservation 951
office, to the extent it has jurisdiction over the facility. 952

~~(7)~~ (g) The facility complies with the terms of its 953
federal energy regulatory commission license or exemption that 954
are related to recreational access, accommodation, and 955
facilities or, if the facility is not regulated by that 956

commission, the facility complies with similar requirements as 957
are recommended by resource agencies, to the extent they have 958
jurisdiction over the facility; and the facility provides access 959
to water to the public without fee or charge. 960

~~(g)~~-(h) The facility is not recommended for removal by any 961
federal agency or agency of any state, to the extent the 962
particular agency has jurisdiction over the facility. 963

Sec. 3745.28. (A) As used in this section, "electric light 964
company" has the same meaning as in section 4928.01 of the 965
Revised Code. 966

(B) The environmental protection agency shall not derive 967
any new state statutory authority from the final guidelines 968
limiting carbon dioxide emissions from fossil-fuel-fired power 969
plants that exist on the effective date of this section under 970
section 111(d) of the federal Clean Air Act, consistent with the 971
cooperative federalism model in that act. 972

(C) The environmental protection agency shall not 973
regulate, mandate, dictate, establish, or otherwise order any 974
electric dispatch protocols for any electric light company 975
without new and specific state authority to do so. The 976
environmental protection agency maintains its authority under 977
this chapter to provide for the prevention, abatement, and 978
control of all air pollution and require air pollution controls 979
for any facility, process, or activity that produces or might 980
produce significant emissions of air pollutants. However, 981
consistent with this section, the final guidelines limiting 982
carbon dioxide emissions from existing fossil-fuel-fired power 983
plants under 42 U.S.C. 7411(d) do not expand the authority of 984
the environmental protection agency to allow for the 985
development, implementation, or regulation of electric dispatch 986

protocols. 987

(D) The environmental protection agency shall not 988
regulate, establish, or otherwise order any specific levels of 989
natural gas utilization for any electric light company without 990
new and specific state statutory authority to do so. 991

(E) The environmental protection agency shall not 992
regulate, develop, or otherwise order the acquisition of any 993
amounts of renewable energy under section 4928.64 of the Revised 994
Code or any other state law without new and specific state 995
statutory authority to do so. 996

(F) Without new and specific state authority to do so, 997
neither the environmental protection agency, the public 998
utilities commission, nor any other state agency may award, 999
allocate, assign, or transfer any carbon-dioxide-emission 1000
allowance, with respect to a mass-based standard, or emission- 1001
rate credit, with respect to a rate-based standard, to any 1002
electric light company or to any owner or operator of any 1003
existing fossil-fuel-fired power plant that is subject to the 1004
final guidelines limiting carbon dioxide emissions from existing 1005
fossil-fuel-fired power plants under 42 U.S.C. 7411(d), either 1006
independently or as part of any state plan submitted to the 1007
federal environmental protection agency under those guidelines. 1008

(G) The environmental protection agency shall not 1009
regulate, develop, or otherwise order any person or entity, 1010
including an electric light company or any owner or operator of 1011
an electric generating unit, to achieve any energy savings or 1012
peak demand reduction under section 4928.66 of the Revised Code 1013
or any other state law without new and specific state statutory 1014
authority to do so. 1015

(H) Neither the environmental protection agency, the 1016
public utilities commission, nor any other state agency may 1017
develop or implement any trading program or any plan premised in 1018
any way on an allowance system, whether on a single-state or 1019
multi-state basis, as part of any state plan submitted to the 1020
federal environmental protection agency under the final 1021
guidelines described in division (C) of this section without new 1022
and specific state statutory authority to do so. 1023

Sec. 4582.06. (A) A port authority created in accordance 1024
with section 4582.02 of the Revised Code may: 1025

(1) Acquire, construct, furnish, equip, maintain, repair, 1026
sell, exchange, lease to or from, lease with an option to 1027
purchase, convey other interests in, or operate real or personal 1028
property, or any combination thereof, related to, useful for, or 1029
in furtherance of any authorized purpose, and make charges for 1030
the use of any port authority facility, which shall be not less 1031
than the charges established for the same services furnished by 1032
a public utility or common carrier in the jurisdiction of the 1033
particular port authority; 1034

(2) Straighten, deepen, and improve any canal, channel, 1035
river, stream, or other water course or way that may be 1036
necessary or proper in the development of the facilities of the 1037
port authority; 1038

(3) Issue bonds or notes for the acquisition, 1039
construction, furnishing, or equipping of any real or personal 1040
property, or any combination thereof, related to, useful for, or 1041
in furtherance of any authorized purpose, in compliance with 1042
Chapter 133. of the Revised Code, except that the bonds or notes 1043
only may be issued pursuant to a vote of the electors residing 1044
within the territory of the port authority. The net indebtedness 1045

incurred by a port authority shall never exceed two per cent of 1046
the total value of all property within the territory comprising 1047
the authority as listed and assessed for taxation. 1048

(4) By resolution of its board of directors, issue revenue 1049
bonds beyond the limit of bonded indebtedness provided by law, 1050
for the acquisition, construction, furnishing, or equipping of 1051
any real or personal property, or any combination thereof, 1052
related to, useful for, or in furtherance of any authorized 1053
purpose, including all costs in connection with or incidental 1054
thereto. 1055

The revenue bonds of the port authority shall be secured 1056
only by a pledge of and a lien on the revenues of the port 1057
authority derived from those loan payments, rentals, fees, 1058
charges, or other revenues that are designated in the 1059
resolution, including, but not limited to, any property to be 1060
acquired, constructed, furnished, or equipped with the proceeds 1061
of the bond issue, after provision only for the reasonable cost 1062
of operating, maintaining, and repairing the property of the 1063
port authority so designated. The bonds may further be secured 1064
by the covenant of the port authority to maintain rates or 1065
charges that will produce revenues sufficient to meet the costs 1066
of operating, maintaining, and repairing such property and to 1067
meet the interest and principal requirements of the bonds and to 1068
establish and maintain reserves for the foregoing purposes. The 1069
board of directors, by resolution, may provide for the issuance 1070
of additional revenue bonds from time to time, to be secured 1071
equally and ratably, without preference, priority, or 1072
distinction, with outstanding revenue bonds, but subject to the 1073
terms and limitations of any trust agreement described in this 1074
section, and of any resolution authorizing bonds then 1075
outstanding. The board of directors, by resolution, may 1076

designate additional property of the port authority, the 1077
revenues of which shall be pledged and be subject to a lien for 1078
the payment of the debt charges on revenue bonds theretofore 1079
authorized by resolution of the board of directors, to the same 1080
extent as the revenues above described. 1081

In the discretion of the board of directors, the revenue 1082
bonds of the port authority may be secured by a trust agreement 1083
between the board of directors on behalf of the port authority 1084
and a corporate trustee, that may be any trust company or bank 1085
having powers of a trust company, within or without the state. 1086

The trust agreement may provide for the pledge or 1087
assignment of the revenues to be received, but shall not pledge 1088
the general credit and taxing power of the port authority. A 1089
trust agreement securing revenue bonds issued to acquire, 1090
construct, furnish, or equip real property, plants, factories, 1091
offices, and other structures and facilities for authorized 1092
purposes consistent with Section 13 or 16 of Article VIII, Ohio 1093
Constitution, may mortgage the real or personal property, or a 1094
combination thereof, to be acquired, constructed, furnished, or 1095
equipped from the proceeds of such revenue bonds, as further 1096
security for the bonds. The trust agreement or the resolution 1097
providing for the issuance of revenue bonds may set forth the 1098
rights and remedies of the bondholders and trustee, and may 1099
contain other provisions for protecting and enforcing their 1100
rights and remedies that are determined in the discretion of the 1101
board of directors to be reasonable and proper. The agreement or 1102
resolution may provide for the custody, investment, and 1103
disbursement of all moneys derived from the sale of such bonds, 1104
or from the revenues of the port authority, other than those 1105
moneys received from taxes levied pursuant to section 4582.14 of 1106
the Revised Code, and may provide for the deposit of such funds 1107

without regard to section 4582.15 of the Revised Code. 1108

All bonds issued under authority of this chapter, 1109
regardless of form or terms and regardless of any other law to 1110
the contrary, shall have all qualities and incidents of 1111
negotiable instruments, subject to provisions for registration, 1112
and may be issued in coupon, fully registered, or other form, or 1113
any combination thereof, as the board of directors determines. 1114
Provision may be made for the registration of any coupon bonds 1115
as to principal alone or as to both principal and interest, and 1116
for the conversion into coupon bonds of any fully registered 1117
bonds or bonds registered as to both principal and interest. 1118

The revenue bonds shall bear interest at such rate or 1119
rates, shall bear such date or dates, and shall mature within 1120
forty-five years following the date of issuance and in such 1121
amount, at such time or times, and in such number of 1122
installments, as may be provided in or pursuant to the 1123
resolution authorizing their issuance. The final maturity of any 1124
original issue of revenue bonds shall not be later than forty- 1125
five years from their date of issue. Such resolution also shall 1126
provide for the execution of the bonds, which may be by 1127
facsimile signatures unless prohibited by the resolution, and 1128
the manner of sale of the bonds. The resolution shall provide 1129
for, or provide for the determination of, any other terms and 1130
conditions relative to the issuance, sale, and retirement of the 1131
bonds that the board of directors in its discretion determines 1132
to be reasonable and proper. 1133

Whenever a port authority considers it expedient, it may 1134
issue renewal notes and refund any bonds, whether the bonds to 1135
be refunded have or have not matured. The final maturity of any 1136
notes, including any renewal notes, shall not be later than five 1137

years from the date of issue of the original issue of notes. The 1138
final maturity of any refunding bonds shall not be later than 1139
the later of forty-five years from the date of issue of the 1140
original issue of bonds. The refunding bonds shall be sold and 1141
the proceeds applied to the purchase, redemption, or payment of 1142
the bonds to be refunded and the costs of issuance of the 1143
refunding bonds. The bonds and notes issued under this chapter, 1144
their transfer, and the income therefrom, shall at all times be 1145
free from taxation within the state. 1146

(5) Do any of the following, in regard to any interests in 1147
any real or personal property, or any combination thereof, 1148
including, without limitation, machinery, equipment, plants, 1149
factories, offices, and other structures and facilities related 1150
to, useful for, or in furtherance of any authorized purpose, for 1151
such consideration and in such manner, consistent with Article 1152
VIII, Ohio Constitution, as the board in its sole discretion may 1153
determine: 1154

(a) Loan moneys to any person or governmental entity for 1155
the acquisition, construction, furnishing, and equipping of the 1156
property; 1157

(b) Acquire, construct, maintain, repair, furnish, and 1158
equip the property; 1159

(c) Sell to, exchange with, lease, convey other interests 1160
in, or lease with an option to purchase the same or any lesser 1161
interest in the property to the same or any other person or 1162
governmental entity; 1163

(d) Guarantee the obligations of any person or 1164
governmental entity. 1165

A port authority may accept and hold as consideration for 1166

the conveyance of property or any interest therein such property 1167
or interests therein as the board in its discretion may 1168
determine, notwithstanding any restrictions that apply to the 1169
investment of funds by a port authority. 1170

(6) Construct, maintain, repair, furnish, equip, sell, 1171
exchange, lease, or lease with an option to purchase, any 1172
property that it is authorized to acquire. A port authority that 1173
is subject to this section also may operate any property in 1174
connection with transportation, recreational, governmental 1175
operations, or cultural activities. 1176

(a) Any purchase, exchange, sale, lease, lease with an 1177
option to purchase, conveyance of other interests in, or other 1178
contract with a person or governmental entity that pertains to 1179
the acquisition, construction, maintenance, repair, furnishing, 1180
equipping, or operation of any real or personal property, or any 1181
combination thereof, related to, useful for, or in furtherance 1182
of an activity contemplated by Section 13 or 16 of Article VIII, 1183
Ohio Constitution, shall be made in such manner and subject to 1184
such terms and conditions as may be determined by the board of 1185
directors in its discretion. 1186

(b) Division (A) (6) (a) of this section applies to all 1187
contracts that are subject to the division, notwithstanding any 1188
other provision of law that might otherwise apply, including, 1189
without limitation, any requirement of notice, any requirement 1190
of competitive bidding or selection, or any requirement for the 1191
provision of security. 1192

(c) Divisions (A) (6) (a) and (b) of this section do not 1193
apply to either of the following: 1194

(i) Any contract secured by or to be paid from moneys 1195

raised by taxation or the proceeds of obligations secured by a 1196
pledge of moneys raised by taxation; 1197

(ii) Any contract secured exclusively by or to be paid 1198
exclusively from the general revenues of the port authority. For 1199
the purposes of this section, any revenues derived by the port 1200
authority under a lease or other agreement that, by its terms, 1201
contemplates the use of amounts payable under the agreement 1202
either to pay the costs of the improvement that is the subject 1203
of the contract or to secure obligations of the port authority 1204
issued to finance costs of such improvement, are excluded from 1205
general revenues. 1206

(7) Apply to the proper authorities of the United States 1207
pursuant to appropriate law for the right to establish, operate, 1208
and maintain foreign trade zones and to establish, operate, and 1209
maintain foreign trade zones; and to acquire land or property 1210
therefor, in a manner consistent with section 4582.17 of the 1211
Revised Code; 1212

(8) Exercise the right of eminent domain to appropriate 1213
any land, rights, rights-of-way, franchises, easements, or other 1214
property, necessary or proper for any authorized purpose, 1215
pursuant to the procedure provided in sections 163.01 to 163.22 1216
of the Revised Code, if funds equal to the appraised value of 1217
the property to be acquired as a result of such proceedings are 1218
available for that purpose, except that nothing contained in 1219
sections 4582.01 to 4582.20 of the Revised Code shall authorize 1220
a port authority to take or disturb property or facilities 1221
belonging to any agency or political subdivision of this state, 1222
public utility, or common carrier, which property or facilities 1223
are necessary and convenient in the operation of the agency or 1224
political subdivision, public utility, or common carrier, unless 1225

provision is made for the restoration, relocation, or 1226
duplication of the property or facilities, or upon the election 1227
of the agency or political subdivision, public utility, or 1228
common carrier, for the payment of compensation, if any, at the 1229
sole cost of the port authority, provided that: 1230

(a) If any restoration or duplication proposed to be made 1231
pursuant to this section involves a relocation of such property 1232
or facilities, the new facilities and location shall be of at 1233
least comparable utilitarian value and effectiveness, and the 1234
relocation shall not impair the ability of the public utility or 1235
common carrier to compete in its original area of operation. 1236

(b) If any restoration or duplication made pursuant to 1237
this section involves a relocation of such property or 1238
facilities, the port authority shall acquire no interest or 1239
right in or to the appropriated property or facilities, except 1240
as provided in division (A)(11) of this section, until the 1241
relocated property or facilities are available for use and until 1242
marketable title thereto has been transferred to the public 1243
utility or common carrier. 1244

(c) Provisions for restoration or duplication shall be 1245
described in detail in the resolution for appropriation passed 1246
by the port authority. 1247

(9) Enjoy and possess the same rights, privileges, and 1248
powers granted municipal corporations under sections 721.04 to 1249
721.11 of the Revised Code; 1250

(10) Maintain such funds as it considers necessary; 1251

(11) Direct its agents or employees, when properly 1252
identified in writing, and after at least five days' written 1253
notice, to enter upon lands within the confines of its 1254

jurisdiction in order to make surveys and examinations 1255
preliminary to location and construction of works for the 1256
purposes of the port authority, without liability of the port 1257
authority or its agents or employees except for actual damage 1258
done; 1259

(12) Sell, lease, or convey other interests in real and 1260
personal property and grant easements or rights-of-way over 1261
property of the port authority. The board of directors shall 1262
specify the consideration and any terms thereof for the sale, 1263
lease, or conveyance of other interests in real and personal 1264
property. Any determinations made by the board of directors 1265
under this division shall be conclusive. The sale, lease, or 1266
conveyance may be made without advertising and the receipt of 1267
bids. 1268

(13) Promote, advertise, and publicize the port authority 1269
facilities and its authorized purposes, provide information to 1270
persons with an interest in transportation and other port 1271
authority activities, and appear before rate-making authorities 1272
to represent and promote the interests of the port authority and 1273
its authorized purposes; 1274

(14) Adopt rules, not in conflict with general law, 1275
governing the use of and the safeguarding of its property, 1276
grounds, buildings, equipment, and facilities, safeguarding 1277
persons and their property located on or in port authority 1278
property, and governing the conduct of its employees and the 1279
public, in order to promote the public safety and convenience in 1280
and about its terminals and grounds, and to maintain order. Any 1281
such regulation shall be posted at no less than five public 1282
places in the port authority, as determined by the board of 1283
directors, for a period of not fewer than fifteen days, and 1284

shall be available for public inspection at the principal office 1285
of the port authority during regular business hours. No person 1286
shall violate any lawful regulation adopted and posted as 1287
provided in this division. 1288

(15) Establish and administer one or more payment card 1289
programs for purposes of paying expenses related to port 1290
authority business. Any obligation incurred as a result of the 1291
use of such a payment card shall be paid from port authority 1292
funds. 1293

(16) Do all acts necessary or appropriate to carry out its 1294
authorized purposes. The port authority shall have the powers 1295
and rights granted to other subdivisions under section 9.20 of 1296
the Revised Code. 1297

(17) (a) Cooperate with a person or persons petitioning for 1298
the development and implementation of one or more special energy 1299
improvement projects under sections 1710.20 to 1710.28 of the 1300
Revised Code, if the port authority has jurisdiction over the 1301
parcels upon which the project or projects are proposed to be 1302
developed and implemented, to provide financing to pay or 1303
reimburse the costs of the project or projects; 1304

(b) Contract with a municipal corporation or township in 1305
accordance with section 1710.26 of the Revised Code to develop, 1306
finance, manage, or implement part or all of a special energy 1307
improvement project, if the port authority has jurisdiction over 1308
the parcel or parcels upon which the project is proposed to be 1309
developed and implemented. 1310

(c) The powers granted in divisions (A) (17) (a) and (b) of 1311
this section may be exercised jointly or separately by one or 1312
more port authorities, are in addition to the powers granted to 1313

port authorities under Chapter 4582. of the Revised Code, and 1314
shall not be construed as limitations on any of the powers 1315
granted to port authorities under Chapter 4582. of the Revised 1316
Code. 1317

(B) Any instrument by which real property is acquired 1318
pursuant to this section shall identify the agency of the state 1319
that has the use and benefit of the real property as specified 1320
in section 5301.012 of the Revised Code. 1321

(C) Whoever violates division (A) (14) of this section is 1322
guilty of a minor misdemeanor. 1323

Sec. 4582.31. (A) A port authority created in accordance 1324
with section 4582.22 of the Revised Code may: 1325

(1) Adopt bylaws for the regulation of its affairs and the 1326
conduct of its business; 1327

(2) Adopt an official seal; 1328

(3) Maintain a principal office within its jurisdiction, 1329
and maintain such branch offices as it may require; 1330

(4) Acquire, construct, furnish, equip, maintain, repair, 1331
sell, exchange, lease to or from, or lease with an option to 1332
purchase, convey other interests in real or personal property, 1333
or any combination thereof, related to, useful for, or in 1334
furtherance of any authorized purpose and operate any property 1335
in connection with transportation, recreational, governmental 1336
operations, or cultural activities; 1337

(5) Straighten, deepen, and improve any channel, river, 1338
stream, or other water course or way which may be necessary or 1339
proper in the development of the facilities of a port authority; 1340

(6) Make available the use or services of any port 1341

authority facility to one or more persons, one or more 1342
governmental agencies, or any combination thereof; 1343

(7) Issue bonds or notes for the acquisition, 1344
construction, furnishing, or equipping of any port authority 1345
facility or other permanent improvement that a port authority is 1346
authorized to acquire, construct, furnish, or equip, in 1347
compliance with Chapter 133. of the Revised Code, except that 1348
such bonds or notes may only be issued pursuant to a vote of the 1349
electors residing within the area of jurisdiction of the port 1350
authority. The net indebtedness incurred by a port authority 1351
shall never exceed two per cent of the total value of all 1352
property within the territory comprising the port authority as 1353
listed and assessed for taxation. 1354

(8) Issue port authority revenue bonds beyond the limit of 1355
bonded indebtedness provided by law, payable solely from 1356
revenues as provided in section 4582.48 of the Revised Code, for 1357
the purpose of providing funds to pay the costs of any port 1358
authority facility or facilities or parts thereof; 1359

(9) Apply to the proper authorities of the United States 1360
pursuant to appropriate law for the right to establish, operate, 1361
and maintain foreign trade zones and establish, operate, and 1362
maintain foreign trade zones and to acquire, exchange, sell, 1363
lease to or from, lease with an option to purchase, or operate 1364
facilities, land, or property therefor in accordance with the 1365
"Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 1366
81u; 1367

(10) Enjoy and possess the same rights, privileges, and 1368
powers granted municipal corporations under sections 721.04 to 1369
721.11 of the Revised Code; 1370

- (11) Maintain such funds as it considers necessary; 1371
- (12) Direct its agents or employees, when properly 1372
identified in writing, and after at least five days' written 1373
notice, to enter upon lands within the confines of its 1374
jurisdiction in order to make surveys and examinations 1375
preliminary to location and construction of works for the 1376
purposes of the port authority, without liability of the port 1377
authority or its agents or employees except for actual damage 1378
done; 1379
- (13) Promote, advertise, and publicize the port authority 1380
and its facilities; provide information to shippers and other 1381
commercial interests; and appear before rate-making authorities 1382
to represent and promote the interests of the port authority; 1383
- (14) Adopt rules, not in conflict with general law, it 1384
finds necessary or incidental to the performance of its duties 1385
and the execution of its powers under sections 4582.21 to 1386
4582.54 of the Revised Code. Any such rule shall be posted at no 1387
less than five public places in the port authority, as 1388
determined by the board of directors, for a period of not fewer 1389
than fifteen days, and shall be available for public inspection 1390
at the principal office of the port authority during regular 1391
business hours. No person shall violate any lawful rule adopted 1392
and posted as provided in this division. 1393
- (15) Do any of the following, in regard to any interests 1394
in any real or personal property, or any combination thereof, 1395
including, without limitation, machinery, equipment, plants, 1396
factories, offices, and other structures and facilities related 1397
to, useful for, or in furtherance of any authorized purpose, for 1398
such consideration and in such manner, consistent with Article 1399
VIII of the Ohio Constitution, as the board in its sole 1400

discretion may determine: 1401

(a) Loan moneys to any person or governmental entity for 1402
the acquisition, construction, furnishing, and equipping of the 1403
property; 1404

(b) Acquire, construct, maintain, repair, furnish, and 1405
equip the property; 1406

(c) Sell to, exchange with, lease, convey other interests 1407
in, or lease with an option to purchase the same or any lesser 1408
interest in the property to the same or any other person or 1409
governmental entity; 1410

(d) Guarantee the obligations of any person or 1411
governmental entity. 1412

A port authority may accept and hold as consideration for 1413
the conveyance of property or any interest therein such property 1414
or interests therein as the board in its discretion may 1415
determine, notwithstanding any restrictions that apply to the 1416
investment of funds by a port authority. 1417

(16) Sell, lease, or convey other interests in real and 1418
personal property, and grant easements or rights-of-way over 1419
property of the port authority. The board of directors shall 1420
specify the consideration and any terms for the sale, lease, or 1421
conveyance of other interests in real and personal property. Any 1422
determination made by the board under this division shall be 1423
conclusive. The sale, lease, or conveyance may be made without 1424
advertising and the receipt of bids. 1425

(17) Exercise the right of eminent domain to appropriate 1426
any land, rights, rights-of-way, franchises, easements, or other 1427
property, necessary or proper for any authorized purpose, 1428
pursuant to the procedure provided in sections 163.01 to 163.22 1429

of the Revised Code, if funds equal to the appraised value of 1430
the property to be acquired as a result of such proceedings are 1431
available for that purpose. However, nothing contained in 1432
sections 4582.201 to 4582.59 of the Revised Code shall authorize 1433
a port authority to take or disturb property or facilities 1434
belonging to any agency or political subdivision of this state, 1435
public utility, cable operator, or common carrier, which 1436
property or facilities are necessary and convenient in the 1437
operation of the agency or political subdivision, public 1438
utility, cable operator, or common carrier, unless provision is 1439
made for the restoration, relocation, or duplication of such 1440
property or facilities, or upon the election of the agency or 1441
political subdivision, public utility, cable operator, or common 1442
carrier, for the payment of compensation, if any, at the sole 1443
cost of the port authority, provided that: 1444

(a) If any restoration or duplication proposed to be made 1445
under this section involves a relocation of the property or 1446
facilities, the new facilities and location shall be of at least 1447
comparable utilitarian value and effectiveness and shall not 1448
impair the ability of the public utility, cable operator, or 1449
common carrier to compete in its original area of operation; 1450

(b) If any restoration or duplication made under this 1451
section involves a relocation of the property or facilities, the 1452
port authority shall acquire no interest or right in or to the 1453
appropriated property or facilities, except as provided in 1454
division (A) (15) of this section, until the relocated property 1455
or facilities are available for use and until marketable title 1456
thereto has been transferred to the public utility, cable 1457
operator, or common carrier. 1458

As used in division (A) (17) of this section, "cable 1459

operator" has the same meaning as in the "Cable Communications 1460
Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 1461
U.S.C. 522, as amended by the "Telecommunications Act of 1996," 1462
Pub. L. No. 104-104, 110 Stat. 56. 1463

(18) (a) Make and enter into all contracts and agreements 1464
and execute all instruments necessary or incidental to the 1465
performance of its duties and the execution of its powers under 1466
sections 4582.21 to 4582.59 of the Revised Code. 1467

(b) (i) Except as provided in division (A) (18) (c) of this 1468
section or except when the port authority elects to construct a 1469
building, structure, or other improvement pursuant to a contract 1470
made with a construction manager at risk under sections 9.33 to 1471
9.335 of the Revised Code or with a design-build firm under 1472
section 153.65 to 153.73 of the Revised Code, when the cost of a 1473
contract for the construction of any building, structure, or 1474
other improvement undertaken by a port authority involves an 1475
expenditure exceeding the higher of one hundred thousand dollars 1476
or the amount as adjusted under division (A) (18) (b) (ii) of this 1477
section, and the port authority is the contracting entity, the 1478
port authority shall make a written contract after notice 1479
calling for bids for the award of the contract has been given by 1480
publication twice, with at least seven days between 1481
publications, in a newspaper of general circulation in the area 1482
of the port authority or as provided in section 7.16 of the 1483
Revised Code. Each such contract shall be let to the lowest 1484
responsive and responsible bidder in accordance with section 1485
9.312 of the Revised Code. Every contract shall be accompanied 1486
by or shall refer to plans and specifications for the work to be 1487
done, prepared for and approved by the port authority, signed by 1488
an authorized officer of the port authority and by the 1489
contractor, and shall be executed in triplicate. 1490

Each bid shall be awarded in accordance with sections 1491
153.54, 153.57, and 153.571 of the Revised Code. The port 1492
authority may reject any and all bids. 1493

(ii) On January 1, 2012, and the first day of January of 1494
every even-numbered year thereafter, the director of commerce 1495
shall adjust the threshold level for contracts subject to the 1496
bidding requirements contained in division (A)(18)(b)(i) of this 1497
section. The director shall adjust this amount according to the 1498
average increase for each of the two years immediately preceding 1499
the adjustment as set forth in the producer price index for 1500
material and supply inputs for new nonresidential construction 1501
as determined by the bureau of labor statistics of the United 1502
States department of labor or, if that index no longer is 1503
published, a generally available comparable index. If there is 1504
no resulting increase, the threshold shall remain the same until 1505
the next scheduled adjustment on the first day of January of the 1506
next even-numbered year. 1507

(c) The board of directors by rule may provide criteria 1508
for the negotiation and award without competitive bidding of any 1509
contract as to which the port authority is the contracting 1510
entity for the construction of any building or structure or 1511
other improvement under any of the following circumstances: 1512

(i) There exists a real and present emergency that 1513
threatens damage or injury to persons or property of the port 1514
authority or other persons, provided that a statement specifying 1515
the nature of the emergency that is the basis for the 1516
negotiation and award of a contract without competitive bidding 1517
shall be signed by the officer of the port authority that 1518
executes that contract at the time of the contract's execution 1519
and shall be attached to the contract. 1520

(ii) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement. 1521
1522
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(iii) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code. 1524
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(iv) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material. 1526
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(v) A single bid is received by the port authority after complying with the provisions of division (A) (18) (b) of this section. 1529
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(d) (i) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A) (18) (c) (ii) of this section, the port authority shall publish a notice calling for technical proposals twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority. 1532
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(ii) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A) (18) (c) (iv) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material. 1542
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(e) (i) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other 1548
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contract with a person or governmental entity that pertains to 1550
the acquisition, construction, maintenance, repair, furnishing, 1551
equipping, or operation of any real or personal property, or any 1552
combination thereof, related to, useful for, or in furtherance 1553
of an activity contemplated by Section 13 or 16 of Article VIII, 1554
Ohio Constitution, shall be made in such manner and subject to 1555
such terms and conditions as may be determined by the board of 1556
directors in its discretion. 1557

(ii) Division (A)(18)(e)(i) of this section applies to all 1558
contracts that are subject to the division, notwithstanding any 1559
other provision of law that might otherwise apply, including, 1560
without limitation, any requirement of notice, any requirement 1561
of competitive bidding or selection, or any requirement for the 1562
provision of security. 1563

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do 1564
not apply to either of the following: any contract secured by or 1565
to be paid from moneys raised by taxation or the proceeds of 1566
obligations secured by a pledge of moneys raised by taxation; or 1567
any contract secured exclusively by or to be paid exclusively 1568
from the general revenues of the port authority. For the 1569
purposes of this section, any revenues derived by the port 1570
authority under a lease or other agreement that, by its terms, 1571
contemplates the use of amounts payable under the agreement 1572
either to pay the costs of the improvement that is the subject 1573
of the contract or to secure obligations of the port authority 1574
issued to finance costs of such improvement, are excluded from 1575
general revenues. 1576

(19) Employ managers, superintendents, and other employees 1577
and retain or contract with consulting engineers, financial 1578
consultants, accounting experts, architects, attorneys, and any 1579

other consultants and independent contractors as are necessary 1580
in its judgment to carry out this chapter, and fix the 1581
compensation thereof. All expenses thereof shall be payable from 1582
any available funds of the port authority or from funds 1583
appropriated for that purpose by a political subdivision 1584
creating or participating in the creation of the port authority. 1585

(20) Receive and accept from any state or federal agency 1586
grants and loans for or in aid of the construction of any port 1587
authority facility or for research and development with respect 1588
to port authority facilities, and receive and accept aid or 1589
contributions from any source of money, property, labor, or 1590
other things of value, to be held, used, and applied only for 1591
the purposes for which the grants and contributions are made; 1592

(21) Engage in research and development with respect to 1593
port authority facilities; 1594

(22) Purchase fire and extended coverage and liability 1595
insurance for any port authority facility and for the principal 1596
office and branch offices of the port authority, insurance 1597
protecting the port authority and its officers and employees 1598
against liability for damage to property or injury to or death 1599
of persons arising from its operations, and any other insurance 1600
the port authority may agree to provide under any resolution 1601
authorizing its port authority revenue bonds or in any trust 1602
agreement securing the same; 1603

(23) Charge, alter, and collect rentals and other charges 1604
for the use or services of any port authority facility as 1605
provided in section 4582.43 of the Revised Code; 1606

(24) Provide coverage for its employees under Chapters 1607
145., 4123., and 4141. of the Revised Code; 1608

(25) Establish and administer one or more payment card 1609
programs for purposes of paying expenses related to port 1610
authority business. Any obligation incurred as a result of the 1611
use of such a payment card shall be paid from port authority 1612
funds. 1613

(26) Do all acts necessary or proper to carry out the 1614
powers expressly granted in sections 4582.21 to 4582.59 of the 1615
Revised Code; 1616

(27) (a) Cooperate with a person or persons petitioning for 1617
the development and implementation of one or more special energy 1618
improvement projects under sections 1710.20 to 1710.28 of the 1619
Revised Code, if the port authority has jurisdiction over the 1620
parcels upon which the project or projects are proposed to be 1621
developed and implemented, to provide financing to pay or 1622
reimburse the costs of the project or projects; 1623

(b) Contract with a municipal corporation or township in 1624
accordance with section 1710.26 of the Revised Code to develop, 1625
finance, manage, or implement part or all of a special energy 1626
improvement project, if the port authority has jurisdiction over 1627
the parcel or parcels upon which the project is proposed to be 1628
developed and implemented. 1629

(c) The powers granted in divisions (A) (27) (a) and (b) of 1630
this section may be exercised jointly or separately by one or 1631
more port authorities, are in addition to the powers granted to 1632
port authorities under Chapter 4582. of the Revised Code, and 1633
shall not be construed as limitations on any of the powers 1634
granted to port authorities under Chapter 4582. of the Revised 1635
Code. 1636

(B) Any instrument by which real property is acquired 1637

pursuant to this section shall identify the agency of the state 1638
that has the use and benefit of the real property as specified 1639
in section 5301.012 of the Revised Code. 1640

(C) Whoever violates division (A)(14) of this section is 1641
guilty of a minor misdemeanor. 1642

Sec. 4928.01. (A) As used in this chapter: 1643

(1) "Ancillary service" means any function necessary to 1644
the provision of electric transmission or distribution service 1645
to a retail customer and includes, but is not limited to, 1646
scheduling, system control, and dispatch services; reactive 1647
supply from generation resources and voltage control service; 1648
reactive supply from transmission resources service; regulation 1649
service; frequency response service; energy imbalance service; 1650
operating reserve-spinning reserve service; operating reserve- 1651
supplemental reserve service; load following; back-up supply 1652
service; real-power loss replacement service; dynamic 1653
scheduling; system black start capability; and network stability 1654
service. 1655

(2) "Billing and collection agent" means a fully 1656
independent agent, not affiliated with or otherwise controlled 1657
by an electric utility, electric services company, electric 1658
cooperative, or governmental aggregator subject to certification 1659
under section 4928.08 of the Revised Code, to the extent that 1660
the agent is under contract with such utility, company, 1661
cooperative, or aggregator solely to provide billing and 1662
collection for retail electric service on behalf of the utility 1663
company, cooperative, or aggregator. 1664

(3) "Certified territory" means the certified territory 1665
established for an electric supplier under sections 4933.81 to 1666

4933.90 of the Revised Code. 1667

(4) "Competitive retail electric service" means a 1668
component of retail electric service that is competitive as 1669
provided under division (B) of this section. 1670

(5) "Electric cooperative" means a not-for-profit electric 1671
light company that both is or has been financed in whole or in 1672
part under the "Rural Electrification Act of 1936," 49 Stat. 1673
1363, 7 U.S.C. 901, and owns or operates facilities in this 1674
state to generate, transmit, or distribute electricity, or a 1675
not-for-profit successor of such company. 1676

(6) "Electric distribution utility" means an electric 1677
utility that supplies at least retail electric distribution 1678
service. 1679

(7) "Electric light company" has the same meaning as in 1680
section 4905.03 of the Revised Code and includes an electric 1681
services company, but excludes any self-generator to the extent 1682
that it consumes electricity it so produces, sells that 1683
electricity for resale, or obtains electricity from a generating 1684
facility it hosts on its premises. 1685

(8) "Electric load center" has the same meaning as in 1686
section 4933.81 of the Revised Code. 1687

(9) "Electric services company" means an electric light 1688
company that is engaged on a for-profit or not-for-profit basis 1689
in the business of supplying or arranging for the supply of only 1690
a competitive retail electric service in this state. "Electric 1691
services company" includes a power marketer, power broker, 1692
aggregator, or independent power producer but excludes an 1693
electric cooperative, municipal electric utility, governmental 1694
aggregator, or billing and collection agent. 1695

- (10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code. 1696
1697
- (11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis either in the business of supplying a noncompetitive retail electric service in this state or in the businesses of supplying both a noncompetitive and a competitive retail electric service in this state. "Electric utility" excludes a municipal electric utility or a billing and collection agent. 1698
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- (12) "Firm electric service" means electric service other than nonfirm electric service. 1705
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- (13) "Governmental aggregator" means a legislative authority of a municipal corporation, a board of township trustees, or a board of county commissioners acting as an aggregator for the provision of a competitive retail electric service under authority conferred under section 4928.20 of the Revised Code. 1707
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- (14) A person acts "knowingly," regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. 1713
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- (15) "Level of funding for low-income customer energy efficiency programs provided through electric utility rates" means the level of funds specifically included in an electric utility's rates on October 5, 1999, pursuant to an order of the public utilities commission issued under Chapter 4905. or 4909. of the Revised Code and in effect on October 4, 1999, for the purpose of improving the energy efficiency of housing for the 1718
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utility's low-income customers. The term excludes the level of 1725
any such funds committed to a specific nonprofit organization or 1726
organizations pursuant to a stipulation or contract. 1727

(16) "Low-income customer assistance programs" means the 1728
percentage of income payment plan program, the home energy 1729
assistance program, the home weatherization assistance program, 1730
and the targeted energy efficiency and weatherization program. 1731

(17) "Market development period" for an electric utility 1732
means the period of time beginning on the starting date of 1733
competitive retail electric service and ending on the applicable 1734
date for that utility as specified in section 4928.40 of the 1735
Revised Code, irrespective of whether the utility applies to 1736
receive transition revenues under this chapter. 1737

(18) "Market power" means the ability to impose on 1738
customers a sustained price for a product or service above the 1739
price that would prevail in a competitive market. 1740

(19) "Mercantile customer" means a commercial or 1741
industrial customer if the electricity consumed is for 1742
nonresidential use and the customer consumes more than seven 1743
hundred thousand kilowatt hours per year or is part of a 1744
national account involving multiple facilities in one or more 1745
states. 1746

(20) "Municipal electric utility" means a municipal 1747
corporation that owns or operates facilities to generate, 1748
transmit, or distribute electricity. 1749

(21) "Noncompetitive retail electric service" means a 1750
component of retail electric service that is noncompetitive as 1751
provided under division (B) of this section. 1752

(22) "Nonfirm electric service" means electric service 1753

provided pursuant to a schedule filed under section 4905.30 of 1754
the Revised Code or pursuant to an arrangement under section 1755
4905.31 of the Revised Code, which schedule or arrangement 1756
includes conditions that may require the customer to curtail or 1757
interrupt electric usage during nonemergency circumstances upon 1758
notification by an electric utility. 1759

(23) "Percentage of income payment plan arrears" means 1760
funds eligible for collection through the percentage of income 1761
payment plan rider, but uncollected as of July 1, 2000. 1762

(24) "Person" has the same meaning as in section 1.59 of 1763
the Revised Code. 1764

(25) "Advanced energy project" means any technologies, 1765
products, activities, or management practices or strategies that 1766
facilitate the generation or use of electricity or energy and 1767
that reduce or support the reduction of energy consumption or 1768
support the production of clean, renewable energy for 1769
industrial, distribution, commercial, institutional, 1770
governmental, research, not-for-profit, or residential energy 1771
users, including, but not limited to, advanced energy resources 1772
and renewable energy resources. "Advanced energy project" also 1773
includes any project described in division (A), (B), or (C) of 1774
section 4928.621 of the Revised Code. 1775

(26) "Regulatory assets" means the unamortized net 1776
regulatory assets that are capitalized or deferred on the 1777
regulatory books of the electric utility, pursuant to an order 1778
or practice of the public utilities commission or pursuant to 1779
generally accepted accounting principles as a result of a prior 1780
commission rate-making decision, and that would otherwise have 1781
been charged to expense as incurred or would not have been 1782
capitalized or otherwise deferred for future regulatory 1783

consideration absent commission action. "Regulatory assets" 1784
includes, but is not limited to, all deferred demand-side 1785
management costs; all deferred percentage of income payment plan 1786
arrears; post-in-service capitalized charges and assets 1787
recognized in connection with statement of financial accounting 1788
standards no. 109 (receivables from customers for income taxes); 1789
future nuclear decommissioning costs and fuel disposal costs as 1790
those costs have been determined by the commission in the 1791
electric utility's most recent rate or accounting application 1792
proceeding addressing such costs; the undepreciated costs of 1793
safety and radiation control equipment on nuclear generating 1794
plants owned or leased by an electric utility; and fuel costs 1795
currently deferred pursuant to the terms of one or more 1796
settlement agreements approved by the commission. 1797

(27) "Retail electric service" means any service involved 1798
in supplying or arranging for the supply of electricity to 1799
ultimate consumers in this state, from the point of generation 1800
to the point of consumption. For the purposes of this chapter, 1801
retail electric service includes one or more of the following 1802
"service components": generation service, aggregation service, 1803
power marketing service, power brokerage service, transmission 1804
service, distribution service, ancillary service, metering 1805
service, and billing and collection service. 1806

(28) "Starting date of competitive retail electric 1807
service" means January 1, 2001. 1808

(29) "Customer-generator" means a user of a net metering 1809
system. 1810

(30) "Net metering" means measuring the difference in an 1811
applicable billing period between the electricity supplied by an 1812
electric service provider and the electricity generated by a 1813

customer-generator that is fed back to the electric service provider. 1814
1815

(31) "Net metering system" means a facility for the production of ~~electrical energy that does~~ electricity to which all of the following apply: 1816
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(a) ~~Uses~~ The facility uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell~~†~~. 1819
1820
1821

(b) ~~Is~~ The facility is located on a customer-generator's premises~~†~~. 1822
1823

(c) ~~Operates~~ The facility operates in parallel with the electric utility's transmission and distribution facilities~~†~~. 1824
1825

(d) ~~Is~~ The facility is intended primarily to offset part or all of the customer-generator's requirements for electricity. A facility that is sized to generate one hundred twenty per cent of the customer-generator's average usage for the three previous calendar years meets the requirements of division (A) (31) (d) of this section. 1826
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(e) The size of the facility is such that the facility is not required to register with a regional transmission organization as a net generator. 1832
1833
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(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the facility is installed or operated by the owner or by an agent under a contract. 1835
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(33) "Rate plan" means the standard service offer in 1841

effect on the effective date of the amendment of this section by 1842
S.B. 221 of the 127th general assembly, July 31, 2008. 1843

(34) "Advanced energy resource" means any of the 1844
following: 1845

(a) Any method or any modification or replacement of any 1846
property, process, device, structure, or equipment that 1847
increases the generation output of an electric generating 1848
facility to the extent such efficiency is achieved without 1849
additional carbon dioxide emissions by that facility; 1850

(b) Any distributed generation system consisting of 1851
customer cogeneration technology; 1852

(c) Clean coal technology that includes a carbon-based 1853
product that is chemically altered before combustion to 1854
demonstrate a reduction, as expressed as ash, in emissions of 1855
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1856
sulfur trioxide in accordance with the American society of 1857
testing and materials standard D1757A or a reduction of metal 1858
oxide emissions in accordance with standard D5142 of that 1859
society, or clean coal technology that includes the design 1860
capability to control or prevent the emission of carbon dioxide, 1861
which design capability the commission shall adopt by rule and 1862
shall be based on economically feasible best available 1863
technology or, in the absence of a determined best available 1864
technology, shall be of the highest level of economically 1865
feasible design capability for which there exists generally 1866
accepted scientific opinion; 1867

(d) Advanced nuclear energy technology consisting of 1868
generation III technology as defined by the nuclear regulatory 1869
commission; other, later technology; or significant improvements 1870

to existing facilities; 1871

(e) Any fuel cell used in the generation of electricity, 1872
including, but not limited to, a proton exchange membrane fuel 1873
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 1874
solid oxide fuel cell; 1875

(f) Advanced solid waste or construction and demolition 1876
debris conversion technology, including, but not limited to, 1877
advanced stoker technology, and advanced fluidized bed 1878
gasification technology, that results in measurable greenhouse 1879
gas emissions reductions as calculated pursuant to the United 1880
States environmental protection agency's waste reduction model 1881
(WARM); 1882

(g) Demand-side management and any energy efficiency 1883
improvement; 1884

(h) Any new, retrofitted, refueled, or repowered 1885
generating facility located in Ohio, including a simple or 1886
combined-cycle natural gas generating facility or a generating 1887
facility that uses biomass, coal, modular nuclear, or any other 1888
fuel as its input; 1889

(i) Any uprated capacity of an existing electric 1890
generating facility if the uprated capacity results from the 1891
deployment of advanced technology; 1892

(j) Any plan, policy, behavior, or practice that reduces 1893
the total energy intensity of a facility, pipeline, building, 1894
plant, or equipment regardless of the type of energy intensity 1895
reduction; 1896

(k) Any plan, policy, behavior, or practice that reduces 1897
the energy intensity of any water supply function or water 1898
treatment function. 1899

"Advanced energy resource" does not include a waste energy recovery system that is, or has been, included in an energy efficiency program of an electric distribution utility pursuant to requirements under section 4928.66 of the Revised Code.

(35) "Air contaminant source" has the same meaning as in section 3704.01 of the Revised Code.

(36) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously.

(37) (a) "Renewable energy resource" means any of the following:

(i) Solar photovoltaic or solar thermal energy;

(ii) Wind energy;

(iii) Power produced by a hydroelectric facility;

(iv) Power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts;

(v) Geothermal energy;

(vi) Fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion, except that combustion may be principally involved if the combustion is effected in a facility to generate electricity or heat for a length of time and at a temperature to achieve the destruction of dioxins and also if the facility is equipped with scrubbers, powdered-activated-carbon injection, pulse-jet fabric filters, selective catalytic reduction of

<u>nitric oxide and nitrogen dioxide, and continuous emissions</u>	1928
<u>monitoring;</u>	1929
(vii) Biomass energy;	1930
(viii) Energy produced by cogeneration technology that is	1931
placed into service on or before December 31, 2015, and for	1932
which more than ninety per cent of the total annual energy input	1933
is from combustion of a waste or byproduct gas from an air	1934
contaminant source in this state, which source has been in	1935
operation since on or before January 1, 1985, provided that the	1936
cogeneration technology is a part of a facility located in a	1937
county having a population of more than three hundred sixty-five	1938
thousand but less than three hundred seventy thousand according	1939
to the most recent federal decennial census;	1940
(ix) Biologically derived methane gas;	1941
(x) Heat captured from a generator of electricity, boiler,	1942
or heat exchanger fueled by biologically derived methane gas;	1943
(xi) Energy derived from nontreated by-products of the	1944
pulping process or wood manufacturing process, including bark,	1945
wood chips, sawdust, and lignin in spent pulping liquors.	1946
"Renewable energy resource" includes, but is not limited	1947
to, any fuel cell used in the generation of electricity,	1948
including, but not limited to, a proton exchange membrane fuel	1949
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	1950
solid oxide fuel cell; wind turbine located in the state's	1951
territorial waters of Lake Erie; methane gas emitted from an	1952
abandoned coal mine; waste energy recovery system placed into	1953
service or retrofitted on or after the effective date of the	1954
amendment of this section by S.B. 315 of the 129th general	1955
assembly, September 10, 2012, except that a waste energy	1956

recovery system described in division (A) (38) (b) of this section 1957
may be included only if it was placed into service between 1958
January 1, 2002, and December 31, 2004; combined heat and power 1959
system placed into service or retrofitted on or after September 1960
10, 2012; storage facility that will promote the better 1961
utilization of a renewable energy resource; or distributed 1962
generation system used by a customer to generate electricity 1963
from any such energy. 1964

"Renewable energy resource" does not include a waste 1965
energy recovery system that is, or was, on or after January 1, 1966
2012, included in an energy efficiency program of an electric 1967
distribution utility pursuant to requirements under section 1968
4928.66 of the Revised Code. 1969

(b) As used in division (A) (37) of this section, 1970
"hydroelectric facility" means a hydroelectric generating 1971
facility that is located at a dam on a river, or on any water 1972
discharged to a river, that is within or bordering this state or 1973
within or bordering an adjoining state and meets all of the 1974
following standards: 1975

(i) The facility provides for river flows that are not 1976
detrimental for fish, wildlife, and water quality, including 1977
seasonal flow fluctuations as defined by the applicable 1978
licensing agency for the facility. 1979

(ii) The facility demonstrates that it complies with the 1980
water quality standards of this state, which compliance may 1981
consist of certification under Section 401 of the "Clean Water 1982
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 1983
demonstrates that it has not contributed to a finding by this 1984
state that the river has impaired water quality under Section 1985
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 1986

U.S.C. 1313. 1987

(iii) The facility complies with mandatory prescriptions 1988
regarding fish passage as required by the federal energy 1989
regulatory commission license issued for the project, regarding 1990
fish protection for riverine, anadromous, and catadromous fish. 1991

(iv) The facility complies with the recommendations of the 1992
Ohio environmental protection agency and with the terms of its 1993
federal energy regulatory commission license regarding watershed 1994
protection, mitigation, or enhancement, to the extent of each 1995
agency's respective jurisdiction over the facility. 1996

(v) The facility complies with provisions of the 1997
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 1998
to 1544, as amended. 1999

(vi) The facility does not harm cultural resources of the 2000
area. This can be shown through compliance with the terms of its 2001
federal energy regulatory commission license or, if the facility 2002
is not regulated by that commission, through development of a 2003
plan approved by the Ohio historic preservation office, to the 2004
extent it has jurisdiction over the facility. 2005

(vii) The facility complies with the terms of its federal 2006
energy regulatory commission license or exemption that are 2007
related to recreational access, accommodation, and facilities 2008
or, if the facility is not regulated by that commission, the 2009
facility complies with similar requirements as are recommended 2010
by resource agencies, to the extent they have jurisdiction over 2011
the facility; and the facility provides access to water to the 2012
public without fee or charge. 2013

(viii) The facility is not recommended for removal by any 2014
federal agency or agency of any state, to the extent the 2015

particular agency has jurisdiction over the facility. 2016

(38) "Waste energy recovery system" means either of the 2017
following: 2018

(a) A facility that generates electricity through the 2019
conversion of energy from either of the following: 2020

(i) Exhaust heat from engines or manufacturing, 2021
industrial, commercial, or institutional sites, except for 2022
exhaust heat from a facility whose primary purpose is the 2023
generation of electricity; 2024

(ii) Reduction of pressure in gas pipelines before gas is 2025
distributed through the pipeline, provided that the conversion 2026
of energy to electricity is achieved without using additional 2027
fossil fuels. 2028

(b) A facility at a state institution of higher education 2029
as defined in section 3345.011 of the Revised Code that recovers 2030
waste heat from electricity-producing engines or combustion 2031
turbines and that simultaneously uses the recovered heat to 2032
produce steam, provided that the facility was placed into 2033
service between January 1, 2002, and December 31, 2004. 2034

(39) "Smart grid" means capital improvements to an 2035
electric distribution utility's distribution infrastructure that 2036
improve reliability, efficiency, resiliency, or reduce energy 2037
demand or use, including, but not limited to, advanced metering 2038
and automation of system functions. 2039

(40) "Combined heat and power system" means the 2040
coproduction of electricity and useful thermal energy from the 2041
same fuel source designed to achieve thermal-efficiency levels 2042
of at least sixty per cent, with at least twenty per cent of the 2043
system's total useful energy in the form of thermal energy. 2044

(41) "Water supply function" means the functions 2045
associated with the following: 2046

(a) Raw water collection, purification, treatment, and 2047
storage; 2048

(b) Establishing or maintaining pressure to balance water 2049
supply and demand; 2050

(c) Water delivery and transfer. 2051

(42) "Water treatment function" means any of the 2052
preliminary, secondary, tertiary, and advanced activities, 2053
whether physical, biological, or chemical, associated with the 2054
removal of contaminants from, or conditioning of, wastewater 2055
prior to its return to the environment or recycled use; 2056

(43) "Energy intensity" means the amount of energy used to 2057
produce a certain level of output or activity, measured by the 2058
quantity of energy needed to perform a particular activity, 2059
expressed as energy per unit of output, energy per unit of gross 2060
total floor space, or an activity measure of service. 2061

(B) For the purposes of this chapter, a retail electric 2062
service component shall be deemed a competitive retail electric 2063
service if the service component is competitive pursuant to a 2064
declaration by a provision of the Revised Code or pursuant to an 2065
order of the public utilities commission authorized under 2066
division (A) of section 4928.04 of the Revised Code. Otherwise, 2067
the service component shall be deemed a noncompetitive retail 2068
electric service. 2069

Sec. 4928.02. It is the policy of this state to do the 2070
following throughout this state: 2071

(A) Ensure the availability to consumers of adequate, 2072

reliable, safe, efficient, nondiscriminatory, and reasonably
2073
priced retail electric service;
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(B) Ensure the availability of unbundled and comparable
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retail electric service that provides consumers with the
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supplier, price, terms, conditions, and quality options they
2077
elect to meet their respective needs;
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(C) Ensure diversity of electricity supplies and
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suppliers, by giving consumers effective choices over the
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selection of those supplies and suppliers and by encouraging the
2081
development of distributed and small generation facilities;
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(D) Encourage innovation and market access for cost-
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effective supply- and demand-side retail electric service
2084
including, but not limited to, demand-side management, time-
2085
differentiated pricing, waste energy recovery systems, smart
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grid programs, ~~and~~ implementation of advanced metering
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infrastructure, and prompt access to interval customer energy
2088
usage data by customers and electric services companies;
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(E) Encourage cost-effective and efficient access to
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information regarding the operation of the transmission and
2091
distribution systems of electric utilities in order to promote
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both effective customer choice of retail electric service and
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the development of performance standards and targets for service
2094
quality for all consumers, including annual achievement reports
2095
written in plain language;
2096

(F) Ensure that an electric utility's transmission and
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distribution systems are available to a customer-generator or
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owner of distributed generation, so that the customer-generator
2099
or owner can market and deliver the electricity it produces;
2100

(G) Recognize the continuing emergence of competitive
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electricity markets through the development and implementation	2102
of flexible regulatory treatment;	2103
(H) Ensure effective competition in the provision of	2104
retail electric service by avoiding anticompetitive subsidies	2105
flowing from a noncompetitive retail electric service to a	2106
competitive retail electric service or to a product or service	2107
other than retail electric service, and vice versa, including by	2108
prohibiting the recovery of any generation-related costs through	2109
distribution or transmission rates;	2110
(I) Ensure retail electric service consumers protection	2111
against unreasonable sales practices, market deficiencies, and	2112
market power;	2113
(J) Provide coherent, transparent means of giving	2114
appropriate incentives to technologies that can adapt	2115
successfully to potential environmental mandates;	2116
(K) Encourage implementation of distributed generation	2117
across customer classes through regular review and updating of	2118
administrative rules governing critical issues such as, but not	2119
limited to, interconnection standards, standby charges, and net	2120
metering;	2121
(L) Protect at-risk populations, including, but not	2122
limited to, when considering the implementation of any new	2123
advanced energy or renewable energy resource;	2124
(M) Encourage the education of small business owners in	2125
this state regarding the use of, and encourage the use of,	2126
energy efficiency programs and alternative energy resources in	2127
their businesses;	2128
(N) <u>Encourage electric distribution utilities to make</u>	2129
<u>available to their customers meaningful and cost-effective</u>	2130

energy-savings programs; 2131

(O) Facilitate the state's effectiveness in the global 2132
economy. 2133

In carrying out this policy, the commission shall consider 2134
rules as they apply to the costs of electric distribution 2135
infrastructure, including, but not limited to, line extensions, 2136
for the purpose of development in this state. 2137

Sec. 4928.41. (A) As used in this section, "advanced 2138
energy analytics technology" includes internet-based and cloud- 2139
based computing solutions and subscription licensing models, 2140
including software as a service that uses cyber-physical systems 2141
to allow the correlation of data aggregated from appropriate 2142
data sources and smart grid sensor networks, employs analytics 2143
and machine learning, or employs other advanced computing 2144
solutions and models. 2145

(B) Upon approval of the public utilities commission, an 2146
electric distribution utility may recover its costs relating to 2147
the procurement, deployment, or use of advanced energy analytics 2148
technology, including a reasonable rate of return on all those 2149
costs incurred by the utility for the procurement, deployment, 2150
or use of advanced energy analytics technology, provided the 2151
technology is used by the utility for purposes of realizing 2152
operational efficiencies, cost savings, enhanced energy 2153
management and customer engagement, improvements in system 2154
reliability, safety, and cyber security, or other benefits to 2155
ratepayers. 2156

Sec. 4928.55. The director of development services shall 2157
establish an energy efficiency and weatherization program 2158
targeted, to the extent practicable, to high-cost, high-volume 2159

use structures occupied by customers eligible for the percentage 2160
of income payment plan program, with the goal of reducing the 2161
energy bills of the occupants. Acceptance of energy efficiency 2162
and weatherization services provided by the program shall be a 2163
condition for the eligibility of any such customer to 2164
participate in the percentage of income payment plan program. 2165
Any difference between universal service fund revenues under 2166
section 4928.51 of the Revised Code and any savings in 2167
percentage of income payment plan program costs as a result of 2168
the competitive procurement process under section 4928.54 of the 2169
Revised Code shall be reinvested in the targeted energy 2170
efficiency and weatherization program. 2171

Sec. 4928.64. (A) (1) As used in this section, "qualifying 2172
renewable energy resource" means a renewable energy resource, as 2173
defined in section 4928.01 of the Revised Code that has a 2174
placed-in-service date on or after January 1, 1998, or with 2175
respect to any run-of-the-river hydroelectric facility, an in- 2176
service date on or after January 1, 1980; a renewable energy 2177
resource created on or after January 1, 1998, by the 2178
modification or retrofit of any facility placed in service prior 2179
to January 1, 1998; an advanced energy resource; or a mercantile 2180
customer-sited renewable energy resource, whether new or 2181
existing, that the mercantile customer commits for integration 2182
into the electric distribution utility's demand-response, energy 2183
efficiency, or peak demand reduction programs as provided under 2184
division (A) (2) (c) of section 4928.66 of the Revised Code, 2185
including, but not limited to, any of the following: 2186

(a) A resource that has the effect of improving the 2187
relationship between real and reactive power; 2188

(b) A resource that makes efficient use of waste heat or 2189

other thermal capabilities owned or controlled by a mercantile customer; 2190
2191

(c) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics; 2192
2193
2194

(d) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource. 2195
2196

(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. 2197
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(B) (1) By ~~2027~~ 2030 and thereafter, an electric distribution utility shall 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 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 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. However, nothing in this section precludes a utility or company from providing a greater percentage. 2200
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(2) The portion required under division (B) (1) of this section shall be generated from renewable energy resources, including one-half per cent from solar energy resources, in accordance with the following benchmarks, subject to section 4928.6620 of the Revised Code:

By end of year	Renewable energy resources	Solar energy resources
2009	0.25%	0.004%
2010	0.50%	0.010%
2011	1%	0.030%
2012	1.5%	0.060%
2013	2%	0.090%
2014	2.5%	0.12%
2015	2.5%	0.12%
2016	2.5%	0.12%
2017	3.5 2.5%	0.15 0.12%
2018	4.5 2.5%	0.18 0.12%
2019	5.5 2.5%	0.22 0.12%
2020	6.5%	0.26%
2021	7.5%	0.3%
2022	8.5 5.5%	0.34 0.22%
2023	9.5%	0.38%
2024	10.5%	0.42%
2025	11.5 8.5%	0.46 0.34%
2026 and each calendar year thereafter	12.5%	0.5%
2028	11.5%	0.46%
<u>2029 and each calendar year thereafter</u>	<u>12.5%</u>	<u>0.5%.</u>

(3) The qualifying renewable energy resources implemented

by the utility or company shall be met either: 2248

(a) Through facilities located in this state; or 2249

(b) With resources that can be shown to be deliverable 2250
into this state. 2251

(C) (1) The commission annually shall review an electric 2252
distribution utility's or electric services company's compliance 2253
with the most recent applicable benchmark under division (B) (2) 2254
of this section and, in the course of that review, shall 2255
identify any undercompliance or noncompliance of the utility or 2256
company that it determines is weather-related, related to 2257
equipment or resource shortages for qualifying renewable energy 2258
resources as applicable, or is otherwise outside the utility's 2259
or company's control. 2260

(2) Subject to the cost cap provisions of division (C) (3) 2261
of this section, if the commission determines, after notice and 2262
opportunity for hearing, and based upon its findings in that 2263
review regarding avoidable undercompliance or noncompliance, but 2264
subject to division (C) (4) of this section, that the utility or 2265
company has failed to comply with any such benchmark, the 2266
commission shall impose a renewable energy compliance payment on 2267
the utility or company. 2268

(a) The compliance payment pertaining to the solar energy 2269
resource benchmarks under division (B) (2) of this section shall 2270
be an amount per megawatt hour of undercompliance or 2271
noncompliance in the period under review, as follows: 2272

(i) Three hundred dollars for ~~2014, 2015, and 2016;~~ 2273

(ii) Two hundred fifty dollars for 2017 and 2018; 2274

(iii) Two hundred dollars for ~~2019 and 2020;~~ 2275

(iv) ~~Similarly reduced every two years thereafter through~~ 2276
~~2026 by One hundred fifty dollars, to a minimum of fifty for~~ 2277
~~2022;~~ 2278

(v) Fifty dollars for 2025, 2028, 2029, and each calendar 2279
year thereafter. 2280

(b) The compliance payment pertaining to the renewable 2281
energy resource benchmarks under division (B) (2) of this section 2282
shall equal the number of additional renewable energy credits 2283
that the electric distribution utility or electric services 2284
company would have needed to comply with the applicable 2285
benchmark in the period under review times an amount that shall 2286
begin at forty-five dollars and shall be adjusted annually by 2287
the commission to reflect any change in the consumer price index 2288
as defined in section 101.27 of the Revised Code, but shall not 2289
be less than forty-five dollars. 2290

(c) The compliance payment shall not be passed through by 2291
the electric distribution utility or electric services company 2292
to consumers. The compliance payment shall be remitted to the 2293
commission, for deposit to the credit of the advanced energy 2294
fund created under section 4928.61 of the Revised Code. Payment 2295
of the compliance payment shall be subject to such collection 2296
and enforcement procedures as apply to the collection of a 2297
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 2298
Revised Code. 2299

(3) An electric distribution utility or an electric 2300
services company need not comply with a benchmark under division 2301
(B) (2) of this section to the extent that its reasonably 2302
expected cost of that compliance exceeds its reasonably expected 2303
cost of otherwise producing or acquiring the requisite 2304
electricity by three per cent or more. The cost of compliance 2305

shall be calculated as though any exemption from taxes and 2306
assessments had not been granted under section 5727.75 of the 2307
Revised Code. 2308

(4) (a) An electric distribution utility or electric 2309
services company may request the commission to make a force 2310
majeure determination pursuant to this division regarding all or 2311
part of the utility's or company's compliance with any minimum 2312
benchmark under division (B) (2) of this section during the 2313
period of review occurring pursuant to division (C) (2) of this 2314
section. The commission may require the electric distribution 2315
utility or electric services company to make solicitations for 2316
renewable energy resource credits as part of its default service 2317
before the utility's or company's request of force majeure under 2318
this division can be made. 2319

(b) Within ninety days after the filing of a request by an 2320
electric distribution utility or electric services company under 2321
division (C) (4) (a) of this section, the commission shall 2322
determine if qualifying renewable energy resources are 2323
reasonably available in the marketplace in sufficient quantities 2324
for the utility or company to comply with the subject minimum 2325
benchmark during the review period. In making this 2326
determination, the commission shall consider whether the 2327
electric distribution utility or electric services company has 2328
made a good faith effort to acquire sufficient qualifying 2329
renewable energy or, as applicable, solar energy resources to so 2330
comply, including, but not limited to, by banking or seeking 2331
renewable energy resource credits or by seeking the resources 2332
through long-term contracts. Additionally, the commission shall 2333
consider the availability of qualifying renewable energy or 2334
solar energy resources in this state and other jurisdictions in 2335
the PJM interconnection regional transmission organization, 2336

L.L.C., or its successor and the midcontinent independent system 2337
operator or its successor. 2338

(c) If, pursuant to division (C) (4) (b) of this section, 2339
the commission determines that qualifying renewable energy or 2340
solar energy resources are not reasonably available to permit 2341
the electric distribution utility or electric services company 2342
to comply, during the period of review, with the subject minimum 2343
benchmark prescribed under division (B) (2) of this section, the 2344
commission shall modify that compliance obligation of the 2345
utility or company as it determines appropriate to accommodate 2346
the finding. Commission modification shall not automatically 2347
reduce the obligation for the electric distribution utility's or 2348
electric services company's compliance in subsequent years. If 2349
it modifies the electric distribution utility or electric 2350
services company obligation under division (C) (4) (c) of this 2351
section, the commission may require the utility or company, if 2352
sufficient renewable energy resource credits exist in the 2353
marketplace, to acquire additional renewable energy resource 2354
credits in subsequent years equivalent to the utility's or 2355
company's modified obligation under division (C) (4) (c) of this 2356
section. 2357

(5) The commission shall establish a process to provide 2358
for at least an annual review of the renewable energy resource 2359
market in this state and in the service territories of the 2360
regional transmission organizations that manage transmission 2361
systems located in this state. The commission shall use the 2362
results of this study to identify any needed changes to the 2363
amount of the renewable energy compliance payment specified 2364
under divisions (C) (2) (a) and (b) of this section. Specifically, 2365
the commission may increase the amount to ensure that payment of 2366
compliance payments is not used to achieve compliance with this 2367

section in lieu of actually acquiring or realizing energy 2368
derived from qualifying renewable energy resources. However, if 2369
the commission finds that the amount of the compliance payment 2370
should be otherwise changed, the commission shall present this 2371
finding to the general assembly for legislative enactment. 2372

(D) The commission annually shall submit to the general 2373
assembly in accordance with section 101.68 of the Revised Code a 2374
report describing all of the following: 2375

(1) The compliance of electric distribution utilities and 2376
electric services companies with division (B) of this section; 2377

(2) The average annual cost of renewable energy credits 2378
purchased by utilities and companies for the year covered in the 2379
report; 2380

(3) Any strategy for utility and company compliance or for 2381
encouraging the use of qualifying renewable energy resources in 2382
supplying this state's electricity needs in a manner that 2383
considers available technology, costs, job creation, and 2384
economic impacts. 2385

The commission shall begin providing the information 2386
described in division (D) (2) of this section in each report 2387
submitted after September 10, 2012. The commission shall allow 2388
and consider public comments on the report prior to its 2389
submission to the general assembly. Nothing in the report shall 2390
be binding on any person, including any utility or company for 2391
the purpose of its compliance with any benchmark under division 2392
(B) of this section, or the enforcement of that provision under 2393
division (C) of this section. 2394

(E) All costs incurred by an electric distribution utility 2395
in complying with the requirements of this section shall be 2396

bypassable by any consumer that has exercised choice of supplier 2397
under section 4928.03 of the Revised Code. 2398

Sec. 4928.66. (A) (1) (a) ~~Beginning in 2009~~ In each calendar 2399
year through and including 2029, an electric distribution 2400
utility shall implement energy efficiency programs that achieve 2401
energy savings equivalent to ~~at least three tenths of one per-~~ 2402
~~cent~~ a percentage of the total, annual average, and normalized 2403
kilowatt-hour sales of the electric distribution utility during 2404
the preceding three calendar years to customers in this state. 2405
An energy efficiency program may include a combined heat and 2406
power system placed into service or retrofitted on or after the 2407
effective date of the amendment of this section by S.B. 315 of 2408
the 129th general assembly, September 10, 2012, or a waste 2409
energy recovery system placed into service or retrofitted on or 2410
after September 10, 2012, except that a waste energy recovery 2411
system described in division (A) (38) (b) of section 4928.01 of 2412
the Revised Code may be included only if it was placed into 2413
service between January 1, 2002, and December 31, 2004. For a 2414
waste energy recovery or combined heat and power system, the 2415
savings shall be as estimated by the public utilities 2416
commission. The savings requirement, using such a three-year 2417
average, shall ~~increase to an additional five tenths of one per-~~ 2418
~~cent in 2010, seven tenths of one per cent in 2011, eight tenths-~~ 2419
~~of one per cent in 2012, nine tenths of one per cent in 2013,~~ 2420
~~and one per cent in 2014. In 2015 and~~ equal, in 2016, an- 2421
~~electric distribution utility shall achieve energy savings equal-~~ 2422
~~to~~ 2017, 2018, and 2019, the result of subtracting the 2423
cumulative energy savings achieved since 2009 from the product 2424
of multiplying the baseline for energy savings, described in 2425
division (A) (2) (a) of this section, by four and two-tenths of 2426
one per cent. If the result is zero or less for the year for 2427

which the calculation is being made, the utility shall not be 2428
required to achieve additional energy savings for that year, but 2429
may achieve additional energy savings for that year. Thereafter, 2430
the annual savings requirements shall be, for years ~~2017, 2018,~~ 2431
~~2019, and 2020,~~ 2021, 2022, and 2023, one per cent of the 2432
baseline, and two per cent each year thereafter, ~~achieving~~ 2433
~~cumulative energy savings in excess of twenty two per cent by~~ 2434
~~the end of 2027 through 2029.~~ Subject to section 4928.6620 of 2435
the Revised Code, compliance with these annual requirements 2436
shall be measured only in years 2016, 2017, 2018, 2019, 2022, 2437
2025, 2028, and 2029. For purposes of a waste energy recovery or 2438
combined heat and power system, an electric distribution utility 2439
shall not apply more than the total annual percentage of the 2440
electric distribution utility's industrial-customer load, 2441
relative to the electric distribution utility's total load, to 2442
the annual energy savings requirement. 2443

(b) ~~Beginning in 2009~~ In each calendar year through and 2444
including 2029, an electric distribution utility shall implement 2445
peak demand reduction programs designed to achieve a ~~one per~~ 2446
~~cent percentage~~ reduction in peak demand ~~in 2009 and an~~ 2447
~~additional seventy five hundredths of one per cent reduction~~ 2448
~~each year through 2014.~~ In ~~2015 and 2016,~~ 2017, 2018, and 2019, 2449
an electric distribution utility shall achieve a reduction in 2450
peak demand equal to the result of subtracting the cumulative 2451
peak demand reductions achieved since 2009 from the product of 2452
multiplying the baseline for peak demand reduction, described in 2453
division (A) (2) (a) of this section, by four and seventy-five 2454
hundredths of one per cent. If the result is zero or less for 2455
the year for which the calculation is being made, the utility 2456
shall not be required to achieve an additional reduction in peak 2457
demand for that year, but may achieve an additional reduction in 2458

peak demand for that year. In ~~2017-2020~~ and each year thereafter 2459
through ~~2020~~ 2029, the utility shall achieve an additional 2460
seventy-five hundredths of one per cent reduction in peak 2461
demand. Subject to section 4928.6620 of the Revised Code, 2462
compliance with these annual requirements shall be measured only 2463
in years 2016, 2017, 2018, 2019, 2022, 2025, 2028, and 2029. 2464

(2) For the purposes of divisions (A) (1) (a) and (b) of 2465
this section: 2466

(a) The baseline for energy savings under division (A) (1) 2467
(a) of this section shall be the average of the total kilowatt 2468
hours the electric distribution utility sold in the preceding 2469
three calendar years. The baseline for a peak demand reduction 2470
under division (A) (1) (b) of this section shall be the average 2471
peak demand on the utility in the preceding three calendar 2472
years, except that the commission may reduce either baseline to 2473
adjust for new economic growth in the utility's certified 2474
territory. Neither baseline shall include the load and usage of 2475
any of the following customers: 2476

(i) Beginning January 1, 2017, a customer for which a 2477
reasonable arrangement has been approved under section 4905.31 2478
of the Revised Code; 2479

(ii) A customer that has opted out of the utility's 2480
portfolio plan under section 4928.6611 of the Revised Code; 2481

(iii) A customer that has opted out of the utility's 2482
portfolio plan under Section 8 of S.B. 310 of the 130th general 2483
assembly. 2484

(b) The commission may amend the benchmarks set forth in 2485
division (A) (1) (a) or (b) of this section if, after application 2486
by the electric distribution utility, the commission determines 2487

that the amendment is necessary because the utility cannot 2488
reasonably achieve the benchmarks due to regulatory, economic, 2489
or technological reasons beyond its reasonable control. 2490

(c) Compliance with divisions (A)(1)(a) and (b) of this 2491
section shall be measured by including the effects of all 2492
demand-response programs for mercantile customers of the subject 2493
electric distribution utility, all waste energy recovery systems 2494
and all combined heat and power systems, and all such mercantile 2495
customer-sited energy efficiency, including waste energy 2496
recovery and combined heat and power, and peak demand reduction 2497
programs, adjusted upward by the appropriate loss factors. Any 2498
mechanism designed to recover the cost of energy efficiency, 2499
including waste energy recovery and combined heat and power, and 2500
peak demand reduction programs under divisions (A)(1)(a) and (b) 2501
of this section may exempt mercantile customers that commit 2502
their demand-response or other customer-sited capabilities, 2503
whether existing or new, for integration into the electric 2504
distribution utility's demand-response, energy efficiency, 2505
including waste energy recovery and combined heat and power, or 2506
peak demand reduction programs, if the commission determines 2507
that that exemption reasonably encourages such customers to 2508
commit those capabilities to those programs. If a mercantile 2509
customer makes such existing or new demand-response, energy 2510
efficiency, including waste energy recovery and combined heat 2511
and power, or peak demand reduction capability available to an 2512
electric distribution utility pursuant to division (A)(2)(c) of 2513
this section, the electric utility's baseline under division (A) 2514
(2)(a) of this section shall be adjusted to exclude the effects 2515
of all such demand-response, energy efficiency, including waste 2516
energy recovery and combined heat and power, or peak demand 2517
reduction programs that may have existed during the period used 2518

to establish the baseline. The baseline also shall be normalized 2519
for changes in numbers of customers, sales, weather, peak 2520
demand, and other appropriate factors so that the compliance 2521
measurement is not unduly influenced by factors outside the 2522
control of the electric distribution utility. 2523

(d) (i) Programs implemented by a utility may include the 2524
following: 2525

(I) Demand-response programs; 2526

(II) Smart grid investment programs, provided that such 2527
programs are demonstrated to be cost-beneficial; 2528

(III) Customer-sited programs, including waste energy 2529
recovery and combined heat and power systems; 2530

(IV) Transmission and distribution infrastructure 2531
improvements that reduce line losses; 2532

(V) Energy efficiency savings and peak demand reduction 2533
that are achieved, in whole or in part, as a result of funding 2534
provided from the universal service fund established by section 2535
4928.51 of the Revised Code to benefit low-income customers 2536
through programs that include, but are not limited to, energy 2537
audits, the installation of energy efficiency insulation, 2538
appliances, and windows, and other weatherization measures. 2539

(ii) No energy efficiency or peak demand reduction 2540
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 2541
section shall qualify for shared savings. 2542

(iii) Division (A) (2) (c) of this section shall be applied 2543
to include facilitating efforts by a mercantile customer or 2544
group of those customers to offer customer-sited demand- 2545
response, energy efficiency, including waste energy recovery and 2546

combined heat and power, or peak demand reduction capabilities 2547
to the electric distribution utility as part of a reasonable 2548
arrangement submitted to the commission pursuant to section 2549
4905.31 of the Revised Code. 2550

(e) No programs or improvements described in division (A) 2551
(2) (d) of this section shall conflict with any statewide 2552
building code adopted by the board of building standards. 2553

(B) In accordance with rules it shall adopt, the public 2554
utilities commission shall produce and docket at the commission 2555
an annual report containing the results of its verification of 2556
the annual levels of energy efficiency and of peak demand 2557
reductions achieved by each electric distribution utility 2558
pursuant to division (A) of this section. A copy of the report 2559
shall be provided to the consumers' counsel. 2560

(C) If the commission determines, after notice and 2561
opportunity for hearing and based upon its report under division 2562
(B) of this section, that an electric distribution utility has 2563
failed to comply with an energy efficiency or peak demand 2564
reduction requirement of division (A) of this section, the 2565
commission shall assess a forfeiture on the utility as provided 2566
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 2567
Code, either in the amount, per day per undercompliance or 2568
noncompliance, relative to the period of the report, equal to 2569
that prescribed for noncompliances under section 4905.54 of the 2570
Revised Code, or in an amount equal to the then existing market 2571
value of one renewable energy credit per megawatt hour of 2572
undercompliance or noncompliance. Revenue from any forfeiture 2573
assessed under this division shall be deposited to the credit of 2574
the advanced energy fund created under section 4928.61 of the 2575
Revised Code. 2576

(D) The commission may establish rules regarding the 2577
content of an application by an electric distribution utility 2578
for commission approval of a revenue decoupling mechanism under 2579
this division. Such an application shall not be considered an 2580
application to increase rates and may be included as part of a 2581
proposal to establish, continue, or expand energy efficiency or 2582
conservation programs. The commission by order may approve an 2583
application under this division if it determines both that the 2584
revenue decoupling mechanism provides for the recovery of 2585
revenue that otherwise may be forgone by the utility as a result 2586
of or in connection with the implementation by the electric 2587
distribution utility of any energy efficiency or energy 2588
conservation programs and reasonably aligns the interests of the 2589
utility and of its customers in favor of those programs. 2590

(E) The commission additionally shall adopt rules that 2591
require an electric distribution utility to provide a customer 2592
upon request with two years' consumption data in an accessible 2593
form. 2594

Sec. 4928.662. For the purpose of measuring and 2595
determining compliance with the energy efficiency and peak 2596
demand reduction requirements under section 4928.66 of the 2597
Revised Code, the public utilities commission shall count and 2598
recognize compliance as follows: 2599

(A) Energy efficiency savings and peak demand reduction 2600
achieved through actions taken by customers or through electric 2601
distribution utility programs that comply with federal standards 2602
for either or both energy efficiency and peak demand reduction 2603
requirements, including resources associated with such savings 2604
or reduction that are recognized as capacity resources by the 2605
regional transmission organization operating in Ohio in 2606

compliance with section 4928.12 of the Revised Code, shall count 2607
toward compliance with the energy efficiency and peak demand 2608
reduction requirements. 2609

(B) Energy efficiency savings and peak demand reduction 2610
achieved on and after the effective date of S.B. 310 of the 2611
130th general assembly, September 12, 2014, shall be measured on 2612
the higher of an as found or deemed basis, except that, solely 2613
at the option of the electric distribution utility, such savings 2614
and reduction achieved since 2006 may also be measured using 2615
this method. For new construction, the energy efficiency savings 2616
and peak demand reduction shall be counted based on 2008 federal 2617
standards, provided that when new construction replaces an 2618
existing facility, the difference in energy consumed, energy 2619
intensity, and peak demand between the new and replaced facility 2620
shall be counted toward meeting the energy efficiency and peak 2621
demand reduction requirements. 2622

(C) The commission shall count both the energy efficiency 2623
savings and peak demand reduction on an annualized basis. 2624

(D) The commission shall count both the energy efficiency 2625
savings and peak demand reduction on a gross savings basis. 2626

(E) The commission shall count energy efficiency savings 2627
and peak demand reductions associated with transmission and 2628
distribution infrastructure improvements that reduce line 2629
losses. No energy efficiency or peak demand reduction achieved 2630
under division (E) of this section shall qualify for shared 2631
savings. 2632

(F) Energy efficiency savings and peak demand reduction 2633
amounts approved by the commission shall continue to be counted 2634
toward achieving the energy efficiency and peak demand reduction 2635

requirements as long as the requirements remain in effect. 2636

~~(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.~~ 2637
The commission shall count energy efficiency savings and peak demand reductions associated with increased use of post-consumer recycled glass by a mercantile customer. 2638
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(H) 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. 2645
2646
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(I) The commission shall recognize and count, on a British-thermal-unit-equivalent basis, nonelectric energy efficiency savings or nonelectric peak demand reductions that occur as a consequence of a portfolio plan, as defined in section 4928.6610 of the Revised Code. 2649
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Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 of the Revised Code: 2654
2655

(A) "Customer" means ~~any~~ either of the following: 2656

(1) A mercantile customer of an electric distribution utility; 2657
2658

(2) Any customer of an electric distribution utility to which either of the following applies: 2659
2660

~~(1)~~ (a) The customer receives service above the primary voltage level as determined by the utility's tariff classification. 2661
2662
2663

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

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

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

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

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

Sec. 4928.6620. Every electric distribution utility and electric services company shall submit an annual report to the public utilities commission not later than the thirty-first day of December of each year. The report shall detail the utility's or company's status of compliance with the requirements of sections 4928.64 and 4928.66 of the Revised Code, as applicable.

Sec. 4928.6621. An electric distribution utility shall be deemed in compliance with the energy efficiency and peak demand reduction savings requirements and shall be eligible for incentives approved by the public utilities commission in any year in which the utility's actual cumulative energy efficiency and peak demand reduction savings meet or exceed the cumulative mandates under division (A) (1) of section 4928.66 of the Revised

Code. 2693

Sec. 4928.67. ~~(A) (1) Except as provided in division (A) (2)~~ 2694
~~of this section, an~~ An electric utility shall develop a standard 2695
contract or tariff providing for net metering. 2696

That contract or tariff shall be identical in rate 2697
structure, all retail rate components, and any monthly charges 2698
to the contract or tariff to which the same customer would be 2699
assigned if that customer were not a customer-generator. 2700

That contract or tariff shall be subject to rules adopted 2701
by the public utilities commission. 2702

Sec. 4928.671. For purposes of sections 4928.672, 2703
4928.677, and 4928.679 of the Revised Code: 2704

"Meaningfully participates in the installation of a 2705
facility" means the completing, or managing the completion of, 2706
at least seventy-five per cent of the work to complete the 2707
installation. 2708

"Meaningfully finances the installation of a facility" 2709
means the financing, or arranging for the financing of, at least 2710
seventy-five per cent of the cost of the installation of the 2711
facility. 2712

Sec. 4928.672. (A) An electric utility may, but shall not 2713
be required to, enter into a contract, subject to section 2714
4928.673 of the Revised Code, for net metering with a customer 2715
if both of the following apply: 2716

(1) The electric utility does not receive cost or revenue 2717
recovery for the contract through a tariff or an order of the 2718
public utilities commission. 2719

(2) The electric utility or an entity owned by or 2720

corporately affiliated with the electric utility meaningfully 2721
participates in the installation of the facility that uses the 2722
fuel described in division (A) (31) (a) of section 4928.01 of the 2723
Revised Code or meaningfully finances the installation of the 2724
facility that uses that fuel. 2725

(B) The electric utility and the customer shall negotiate 2726
the terms of a contract entered into under division (A) of this 2727
section, including the price, rate, credit, or refund of any 2728
excess production by the customer. 2729

Sec. 4928.673. Except as otherwise provided in sections 2730
4928.6713, 4928.6715, 4928.6717, 4928.6723, and 4928.6725 of the 2731
Revised Code, a contract entered into under section 4928.672 of 2732
the Revised Code shall not be subject to supervision or 2733
regulation by the public utilities commission. 2734

Sec. 4928.676. (A) An electric services company may, but 2735
shall not be required to, enter into a contract for net metering 2736
service with a customer that is eligible to enroll for 2737
competitive retail electric service under rules of the public 2738
utilities commission governing that enrollment. 2739

(B) Subject to section 4928.679 of the Revised Code, the 2740
electric services company and the customer shall negotiate the 2741
terms of a contract entered into under division (A) of this 2742
section, including the price, rate, credit, or refund of any 2743
excess production by the customer. 2744

Sec. 4928.677. If an electric services company or any 2745
entity owned by or corporately affiliated with an electric 2746
services company meaningfully participates in the installation 2747
of the facility that uses the fuel described in division (A) (31) 2748
(a) of section 4928.01 of the Revised Code or meaningfully 2749

finances the installation of the facility that uses that fuel, 2750
neither a municipal corporation nor the public utilities 2751
commission shall supervise or regulate the contract entered into 2752
under section 4928.676 of the Revised Code. 2753

Sec. 4928.679. (A) Except as provided in division (B) of 2754
this section, the public utilities commission may adopt rules 2755
governing the purchase by an electric services company, under a 2756
contract entered into under section 4928.676 of the Revised 2757
Code, of excess production by the customer-generator if all of 2758
the following apply: 2759

(1) The customer-generator is classified as residential 2760
under the electric distribution utility's tariff. 2761

(2) Neither the electric services company nor any entity 2762
owned by or corporately affiliated with the electric services 2763
company meaningfully participated in the installation of the 2764
facility that uses the fuel described in division (A) (31) (a) of 2765
section 4928.01 of the Revised Code. 2766

(3) Neither the electric services company nor any entity 2767
owned by or corporately affiliated with the electric services 2768
company meaningfully financed the installation of the facility 2769
that uses the fuel described in division (A) (31) (a) of section 2770
4928.01 of the Revised Code. 2771

(B) The commission shall not adopt any of the following 2772
rules: 2773

(1) A rule requiring the electric services company to 2774
carry over a customer-generator's credit for overproduction for 2775
more than twelve months; 2776

(2) A rule requiring the electric services company to 2777
issue a monetary refund for a customer-generator's 2778

overproduction; 2779

(3) A rule prohibiting the electric services company and 2780
the customer-generator from agreeing that the customer-generator 2781
loses any overproduction credits or monetary refunds at the time 2782
that the customer-generator's competitive retail electric 2783
service switches to a different electric services company. 2784

Sec. 4928.6711. ~~(2)~~ An electric utility shall ~~also~~ develop 2785
a ~~separate~~ standard contract or tariff, separate from the 2786
standard contract or tariff developed under section 4928.67 of 2787
the Revised Code, providing for net metering for a hospital, as 2788
defined in section 3701.01 of the Revised Code, that is also a 2789
customer-generator, subject to all of the following: 2790

~~(a)~~ (A) No limitation, including that in divisions (A) (31) 2791
(a) and (d) of section 4928.01 of the Revised Code, shall apply 2792
regarding the availability of the contract or tariff to such 2793
~~hospital customer generators~~ customer-generator. 2794

~~(b)~~ (B) The contract or tariff shall be based both upon 2795
the rate structure, rate components, and any charges to which 2796
the hospital would otherwise be assigned if the hospital were 2797
not a customer-generator and upon the market value of the 2798
customer-generated electricity at the time it is generated. 2799

~~(c)~~ (C) The contract or tariff shall allow the hospital 2800
customer-generator to operate its electric generating facilities 2801
individually or collectively without any wattage limitation on 2802
size. 2803

Sec. 4928.6713. ~~(B)(1)~~ (A) Net metering under ~~this~~ section 2804
4928.67, 4928.672, 4928.676, or 4928.6711 of the Revised Code 2805
shall be accomplished using a single meter capable of 2806
registering the flow of electricity in each direction in 2807

intervals of no greater than one hour. If ~~its~~ a customer- 2808
generator's existing electrical meter is not capable of 2809
measuring the flow of electricity in two directions meeting this 2810
requirement, the customer-generator shall be responsible for all 2811
expenses involved in purchasing and installing a meter that is 2812
capable of measuring electricity flow in two directions meeting 2813
the requirement. Upon customer request or customer 2814
authorization, the electric utility shall install the meter. 2815

~~(2)~~ (B) The electric utility, at its own expense and with 2816
the written consent of the customer-generator, may install one 2817
or more additional meters to monitor the flow of electricity in 2818
each direction. 2819

Sec. 4928.6715. ~~(3)~~ Consistent with the other provisions 2820
of this section, the The measurement of net electricity supplied 2821
or generated through net metering under section 4928.67, 2822
4928.672, 4928.676, or 4928.6711 of the Revised Code shall be 2823
calculated in the following manner: 2824

~~(a)~~ (A) The electric utility shall measure the net 2825
electricity produced or consumed during the billing period, in 2826
accordance with normal metering practices. 2827

~~(b)~~ (B) If the electricity supplied by the electric 2828
utility or the electric services company exceeds the electricity 2829
generated by the customer-generator and fed back to the ~~utility~~ 2830
system during the billing period, the customer-generator shall 2831
be billed for the net electricity supplied by the utility or 2832
company, in accordance with normal metering practices. If 2833
electricity is provided to the utility or company, the credits 2834
for that electricity shall appear in the next billing cycle, 2835
unless the customer-generator and the electric services company 2836
agree to an alternative arrangement. The alternative arrangement 2837

shall be subject to the rules adopted under section 4928.679 of 2838
the Revised Code. 2839

Sec. 4928.6717.~~(4)~~ A With regard to net metering under 2840
section 4928.67, 4928.672, 4928.676, or 4928.6711 of the Revised 2841
Code, the net metering system used by a customer-generator shall 2842
meet all applicable safety and performance standards established 2843
by the national electrical code, the institute of electrical and 2844
electronics engineers, and underwriters laboratories. 2845

Sec. 4928.6719. The following shall apply regarding load 2846
under a net-metering contract entered into under section 2847
4928.676 of the Revised Code: 2848

(A) An electric utility shall ensure that any final 2849
settlement data sent to a regional transmission organization 2850
includes negative loads in the hourly load calculation of any 2851
electricity purchased by an electric services company from its 2852
customer-generators located in the utility's service territory. 2853

(B) Load from a customer-generator shall be incorporated 2854
into the purchasing electric services company's total hourly 2855
energy obligation reported to a regional transmission 2856
organization. 2857

(C) The load from customer-generators shall offset the 2858
purchasing electric services company's load reported to the 2859
regional transmission organization. 2860

Sec. 4928.6721. An electric utility shall do the following 2861
regarding each customer-generator located in the utility's 2862
service territory that has entered into a net-metering contract 2863
with an electric services company under section 4928.676 of the 2864
Revised Code: 2865

(A) Transmit to the electric services company via an 2866

electronic data interchange transaction or transactions the 2867
customer-generator's hourly interval energy production and 2868
consumption data for each billing period before the utility 2869
generates the customer-generator's bill for that period. The 2870
time period between the transmission and the generation of the 2871
bill shall be at least as long as the time period between 2872
transmission and generation applicable to a customer who is not 2873
a party to a net-metering contract under section 4928.676 of the 2874
Revised Code. 2875

(B) Either of the following: 2876

(1) Transmit to the electric services company via an 2877
electronic data interchange transaction, or another mechanism 2878
approved by the public utilities commission, the customer- 2879
generator's daily interval production and consumption data. The 2880
transmission shall occur not more than twenty-four hours from 2881
the time the utility receives the data from the meter. 2882

(2) Provide access to the meter for direct readings of the 2883
customer-generator's daily interval production and consumption 2884
data by the electric services company, to the extent that the 2885
meter technology is deployed in the utility's service territory. 2886

(C) Calculate, at least annually, and share with the 2887
electric services company each customer-generator's individual 2888
network service peak load value and individual network service 2889
peak load contribution. The utility shall share the data not 2890
later than ten calendar days after the utility calculates it. 2891

Sec. 4928.6723. ~~(C) The~~ With regard to net metering under 2892
section 4928.67, 4928.672, 4928.676, or 4928.6711 of the Revised 2893
Code, the public utilities commission shall adopt rules relating 2894
~~to additional control and testing requirements for customer-~~ 2895

generators that the commission determines are necessary to 2896
protect public and worker safety and system reliability. 2897

Sec. 4928.6725. ~~(D) An~~ With regard to net metering under 2898
section 4928.67, 4928.672, 4928.676, or 4928.6711 of the Revised 2899
Code, an electric utility shall not require a customer-generator 2900
whose net metering system meets the standards and requirements 2901
provided for in ~~divisions (B) (4)~~ sections 4928.6717 and (C) 2902
4928.6723 of this section the Revised Code to do any of the 2903
following: 2904

~~(1) (A)~~ Comply with additional safety or performance 2905
standards; 2906

~~(2) (B)~~ Perform or pay for additional tests; 2907

~~(3) (C)~~ Purchase additional liability insurance. 2908

Section 2. That existing sections 1710.01, 1710.02, 2909
1710.06, 1710.13, 3706.25, 4582.06, 4582.31, 4928.01, 4928.02, 2910
4928.55, 4928.64, 4928.66, 4928.662, 4928.6610, and 4928.67 of 2911
the Revised Code are hereby repealed. 2912

Section 3. Section 4928.6610 of the Revised Code, as 2913
amended by this act, shall take effect January 1, 2020. 2914

Section 4. (A) As used in this section, "electric 2915
distribution utility" has the same meaning as in section 4928.01 2916
of the Revised Code. 2917

(B) Not later than two years after the effective date of 2918
this section, the public utilities commission shall submit a 2919
report, including recommendations, to the General Assembly on 2920
the feasibility of the implementation of all of the following: 2921

(1) Other constructs for electric distribution utilities 2922
to fairly participate in distributed-generation opportunities. 2923

(2) Incentivizing the use of smart thermostats in residential homes so that consumers can remotely control energy usage while they are away.

(3) Investigating a market-based certification instrument for energy efficiency.

Section 5. The act recodifies section 4928.67 of the Revised Code by subdividing it into the sections identified in the following table. The left-hand column identifies the sections that result from the recodification, and the right-hand column indicates the source of the resulting section in section 4928.67 of the Revised Code before its recodification. Except insofar as amendments are indicated in the resulting sections, the resulting sections are a continuation of, and are to be substituted in a continuing way for, the law as it existed in section 4928.67 of the Revised Code before its recodification.

Sections resulting from the recodification	Source in former R.C. 4928.67	
4928.6711	4928.67 (A) (2)	2941
4928.6713	4928.67 (B) (1) and (2)	2942
4928.6715	4928.67 (B) (3)	2943
4928.6717	4928.67 (B) (4)	2944
4928.6723	4928.67 (C)	2945
4928.6725	4928.67 (D)	2946