

As Introduced

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

H. B. No. 18

Representative Lanese

A BILL

To amend sections 303.213, 519.213, 713.081, 1
4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 2
4928.645, 4928.66, 4928.6610, and 5727.75; to 3
enact section 4928.6616, in order to revive the 4
section as it existed prior to the enactment of 5
H.B. 6 of the 133rd General Assembly; and to 6
repeal sections 3706.40, 3706.41, 3706.43, 7
3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 8
3706.55, 3706.59, 3706.61, 3706.63, 3706.65, 9
4928.148, 4928.47, 4928.471, 4928.642, 4928.75, 10
4928.80, and 5727.231 of the Revised Code and to 11
repeal Sections 4 and 5 of H.B. 6 of the 133rd 12
General Assembly to repeal the changes made by 13
H.B. 6 of the 133rd General Assembly to the laws 14
governing electric service, renewable energy, 15
and energy efficiency and the changes made to 16
other related laws. 17

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

Section 1. That sections 303.213, 519.213, 713.081, 18
4906.13, 4928.01, 4928.64, 4928.641, 4928.644, 4928.645, 19
4928.66, 4928.6610, and 5727.75 be amended and section 4928.6616 20

of the Revised Code be enacted to read as follows: 21

Sec. 303.213. (A) As used in this section, "small wind 22
farm" means wind turbines and associated facilities ~~that are not~~ 23
~~subject to the jurisdiction of the power siting board under~~ 24
~~sections 4906.20 and 4906.201 of the Revised Code~~ with a single 25
interconnection to the electrical grid and designed for, or 26
capable of, operation at an aggregate capacity of less than five 27
megawatts. 28

(B) Notwithstanding division (A) of section 303.211 of the 29
Revised Code, sections 303.01 to 303.25 of the Revised Code 30
confer power on a board of county commissioners or board of 31
zoning appeals to adopt zoning regulations governing the 32
location, erection, construction, reconstruction, change, 33
alteration, maintenance, removal, use, or enlargement of any 34
small wind farm, whether publicly or privately owned, or the use 35
of land for that purpose, which regulations may be more strict 36
than the regulations prescribed in rules adopted under division 37
(B) (2) of section 4906.20 of the Revised Code. 38

(C) The designation under this section of a small wind 39
farm as a public utility for purposes of sections 303.01 to 40
303.25 of the Revised Code shall not affect the classification 41
of a small wind farm for purposes of state or local taxation. 42

(D) Nothing in division (C) of this section shall be 43
construed as affecting the classification of a 44
telecommunications tower as defined in division (B) or (E) of 45
section 303.211 of the Revised Code or any other public utility 46
for purposes of state and local taxation. 47

Sec. 519.213. (A) As used in this section, "small wind 48
farm" means wind turbines and associated facilities ~~that are not~~ 49

~~subject to the jurisdiction of the power siting board under~~ 50
~~sections 4906.20 and 4906.201 of the Revised Code with a single~~ 51
~~interconnection to the electrical grid and designed for, or~~ 52
~~capable of, operation at an aggregate capacity of less than five~~ 53
~~megawatts.~~ 54

(B) Notwithstanding division (A) of section 519.211 of the 55
Revised Code, sections 519.02 to 519.25 of the Revised Code 56
confer power on a board of township trustees or board of zoning 57
appeals with respect to the location, erection, construction, 58
reconstruction, change, alteration, maintenance, removal, use, 59
or enlargement of any small wind farm, whether publicly or 60
privately owned, or the use of land for that purpose, which 61
regulations may be more strict than the regulations prescribed 62
in rules adopted under division (B) (2) of section 4906.20 of the 63
Revised Code. 64

(C) The designation under this section of a small wind 65
farm as a public utility for purposes of sections 519.02 to 66
519.25 of the Revised Code shall not affect the classification 67
of a small wind farm or any other public utility for purposes of 68
state or local taxation. 69

(D) Nothing in division (C) of this section shall be 70
construed as affecting the classification of a 71
telecommunications tower as defined in division (B) or (E) of 72
section 519.211 of the Revised Code or any other public utility 73
for purposes of state and local taxation. 74

Sec. 713.081. (A) As used in this section, "small wind 75
farm" means wind turbines and associated facilities ~~that are not~~ 76
~~subject to the jurisdiction of the power siting board under~~ 77
~~sections 4906.20 and 4906.201 of the Revised Code with a single~~ 78
~~interconnection to the electrical grid and designed for, or~~ 79

capable of, operation at an aggregate capacity of less than five 80
megawatts. 81

(B) Sections 713.06 to 713.15 of the Revised Code confer 82
power on the legislative authority of a municipal corporation 83
with respect to the location, erection, construction, 84
reconstruction, change, alteration, maintenance, removal, use, 85
or enlargement of any small wind farm as a public utility, 86
whether publicly or privately owned, or the use of land for that 87
purpose, which regulations may be more strict than the 88
regulations prescribed in rules adopted under division (B) (2) of 89
section 4906.20 of the Revised Code. 90

(C) The designation under this section of a small wind 91
farm as a public utility for purposes of sections 713.06 to 92
713.15 of the Revised Code shall not affect the classification 93
of a small wind farm or any other public utility for purposes of 94
state or local taxation. 95

Sec. 4906.13. (A) As used in this section and sections 96
4906.20 and 4906.98 of the Revised Code, "economically 97
significant wind farm" means wind turbines and associated 98
facilities with a single interconnection to the electrical grid 99
and designed for, or capable of, operation at an aggregate 100
capacity of five or more megawatts but less than fifty 101
megawatts. The term excludes any such wind farm in operation on 102
June 24, 2008. ~~The term also excludes one or more wind turbines~~ 103
~~and associated facilities that are primarily dedicated to~~ 104
~~providing electricity to a single customer at a single location~~ 105
~~and that are designed for, or capable of, operation at an~~ 106
~~aggregate capacity of less than twenty megawatts, as measured at~~ 107
~~the customer's point of interconnection to the electrical grid.~~ 108

(B) No public agency or political subdivision of this 109

state may require any approval, consent, permit, certificate, or 110
other condition for the construction or operation of a major 111
utility facility or economically significant wind farm 112
authorized by a certificate issued pursuant to Chapter 4906. of 113
the Revised Code. Nothing herein shall prevent the application 114
of state laws for the protection of employees engaged in the 115
construction of such facility or wind farm nor of municipal 116
regulations that do not pertain to the location or design of, or 117
pollution control and abatement standards for, a major utility 118
facility or economically significant wind farm for which a 119
certificate has been granted under this chapter. 120

Sec. 4928.01. (A) As used in this chapter: 121

(1) "Ancillary service" means any function necessary to 122
the provision of electric transmission or distribution service 123
to a retail customer and includes, but is not limited to, 124
scheduling, system control, and dispatch services; reactive 125
supply from generation resources and voltage control service; 126
reactive supply from transmission resources service; regulation 127
service; frequency response service; energy imbalance service; 128
operating reserve-spinning reserve service; operating reserve- 129
supplemental reserve service; load following; back-up supply 130
service; real-power loss replacement service; dynamic 131
scheduling; system black start capability; and network stability 132
service. 133

(2) "Billing and collection agent" means a fully 134
independent agent, not affiliated with or otherwise controlled 135
by an electric utility, electric services company, electric 136
cooperative, or governmental aggregator subject to certification 137
under section 4928.08 of the Revised Code, to the extent that 138
the agent is under contract with such utility, company, 139

cooperative, or aggregator solely to provide billing and 140
collection for retail electric service on behalf of the utility 141
company, cooperative, or aggregator. 142

(3) "Certified territory" means the certified territory 143
established for an electric supplier under sections 4933.81 to 144
4933.90 of the Revised Code. 145

(4) "Competitive retail electric service" means a 146
component of retail electric service that is competitive as 147
provided under division (B) of this section. 148

(5) "Electric cooperative" means a not-for-profit electric 149
light company that both is or has been financed in whole or in 150
part under the "Rural Electrification Act of 1936," 49 Stat. 151
1363, 7 U.S.C. 901, and owns or operates facilities in this 152
state to generate, transmit, or distribute electricity, or a 153
not-for-profit successor of such company. 154

(6) "Electric distribution utility" means an electric 155
utility that supplies at least retail electric distribution 156
service. 157

(7) "Electric light company" has the same meaning as in 158
section 4905.03 of the Revised Code and includes an electric 159
services company, but excludes any self-generator to the extent 160
that it consumes electricity it so produces, sells that 161
electricity for resale, or obtains electricity from a generating 162
facility it hosts on its premises. 163

(8) "Electric load center" has the same meaning as in 164
section 4933.81 of the Revised Code. 165

(9) "Electric services company" means an electric light 166
company that is engaged on a for-profit or not-for-profit basis 167
in the business of supplying or arranging for the supply of only 168

a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

(10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code.

(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.

(12) "Firm electric service" means electric service other than nonfirm electric service.

(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.

(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.

(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 utility's low-income customers. The term excludes the level of any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract.

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

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

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

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

(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate,

transmit, or distribute electricity.	227
(21) "Noncompetitive retail electric service" means a	228
component of retail electric service that is noncompetitive as	229
provided under division (B) of this section.	230
(22) "Nonfirm electric service" means electric service	231
provided pursuant to a schedule filed under section 4905.30 of	232
the Revised Code or pursuant to an arrangement under section	233
4905.31 of the Revised Code, which schedule or arrangement	234
includes conditions that may require the customer to curtail or	235
interrupt electric usage during nonemergency circumstances upon	236
notification by an electric utility.	237
(23) "Percentage of income payment plan arrears" means	238
funds eligible for collection through the percentage of income	239
payment plan rider, but uncollected as of July 1, 2000.	240
(24) "Person" has the same meaning as in section 1.59 of	241
the Revised Code.	242
(25) "Advanced energy project" means any technologies,	243
products, activities, or management practices or strategies that	244
facilitate the generation or use of electricity or energy and	245
that reduce or support the reduction of energy consumption or	246
support the production of clean, renewable energy for	247
industrial, distribution, commercial, institutional,	248
governmental, research, not-for-profit, or residential energy	249
users, including, but not limited to, advanced energy resources	250
and renewable energy resources. "Advanced energy project" also	251
includes any project described in division (A), (B), or (C) of	252
section 4928.621 of the Revised Code.	253
(26) "Regulatory assets" means the unamortized net	254
regulatory assets that are capitalized or deferred on the	255

regulatory books of the electric utility, pursuant to an order 256
or practice of the public utilities commission or pursuant to 257
generally accepted accounting principles as a result of a prior 258
commission rate-making decision, and that would otherwise have 259
been charged to expense as incurred or would not have been 260
capitalized or otherwise deferred for future regulatory 261
consideration absent commission action. "Regulatory assets" 262
includes, but is not limited to, all deferred demand-side 263
management costs; all deferred percentage of income payment plan 264
arrears; post-in-service capitalized charges and assets 265
recognized in connection with statement of financial accounting 266
standards no. 109 (receivables from customers for income taxes); 267
future nuclear decommissioning costs and fuel disposal costs as 268
those costs have been determined by the commission in the 269
electric utility's most recent rate or accounting application 270
proceeding addressing such costs; the undepreciated costs of 271
safety and radiation control equipment on nuclear generating 272
plants owned or leased by an electric utility; and fuel costs 273
currently deferred pursuant to the terms of one or more 274
settlement agreements approved by the commission. 275

(27) "Retail electric service" means any service involved 276
in supplying or arranging for the supply of electricity to 277
ultimate consumers in this state, from the point of generation 278
to the point of consumption. For the purposes of this chapter, 279
retail electric service includes one or more of the following 280
"service components": generation service, aggregation service, 281
power marketing service, power brokerage service, transmission 282
service, distribution service, ancillary service, metering 283
service, and billing and collection service. 284

(28) "Starting date of competitive retail electric 285
service" means January 1, 2001. 286

(29) "Customer-generator" means a user of a net metering system.	287 288
(30) "Net metering" means measuring the difference in an applicable billing period between the electricity supplied by an electric service provider and the electricity generated by a customer-generator that is fed back to the electric service provider.	289 290 291 292 293
(31) "Net metering system" means a facility for the production of electrical energy that does all of the following:	294 295
(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;	296 297
(b) Is located on a customer-generator's premises;	298
(c) Operates in parallel with the electric utility's transmission and distribution facilities;	299 300
(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity. For an industrial customer-generator with a net metering system that has a capacity of less than twenty megawatts and uses wind as energy, this means the net metering system was sized so as to not exceed one hundred per cent of the customer-generator's annual requirements for electric energy at the time of interconnection.	301 302 303 304 305 306 307 308
(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.	309 310 311 312 313 314

(33) "Rate plan" means the standard service offer in 315
effect on the effective date of the amendment of this section by 316
S.B. 221 of the 127th general assembly, July 31, 2008. 317

(34) "Advanced energy resource" means any of the 318
following: 319

(a) Any method or any modification or replacement of any 320
property, process, device, structure, or equipment that 321
increases the generation output of an electric generating 322
facility to the extent such efficiency is achieved without 323
additional carbon dioxide emissions by that facility; 324

(b) Any distributed generation system consisting of 325
customer cogeneration technology; 326

(c) Clean coal technology that includes a carbon-based 327
product that is chemically altered before combustion to 328
demonstrate a reduction, as expressed as ash, in emissions of 329
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 330
sulfur trioxide in accordance with the American society of 331
testing and materials standard D1757A or a reduction of metal 332
oxide emissions in accordance with standard D5142 of that 333
society, or clean coal technology that includes the design 334
capability to control or prevent the emission of carbon dioxide, 335
which design capability the commission shall adopt by rule and 336
shall be based on economically feasible best available 337
technology or, in the absence of a determined best available 338
technology, shall be of the highest level of economically 339
feasible design capability for which there exists generally 340
accepted scientific opinion; 341

(d) Advanced nuclear energy technology consisting of 342
generation III technology as defined by the nuclear regulatory 343

commission; other, later technology; or significant improvements	344
to existing facilities;	345
(e) Any fuel cell used in the generation of electricity,	346
including, but not limited to, a proton exchange membrane fuel	347
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	348
solid oxide fuel cell;	349
(f) Advanced solid waste or construction and demolition	350
debris conversion technology, including, but not limited to,	351
advanced stoker technology, and advanced fluidized bed	352
gasification technology, that results in measurable greenhouse	353
gas emissions reductions as calculated pursuant to the United	354
States environmental protection agency's waste reduction model	355
(WARM);	356
(g) Demand-side management and any energy efficiency	357
improvement;	358
(h) Any new, retrofitted, refueled, or repowered	359
generating facility located in Ohio, including a simple or	360
combined-cycle natural gas generating facility or a generating	361
facility that uses biomass, coal, modular nuclear, or any other	362
fuel as its input;	363
(i) Any uprated capacity of an existing electric	364
generating facility if the uprated capacity results from the	365
deployment of advanced technology.	366
"Advanced energy resource" does not include a waste energy	367
recovery system that is, or has been, included in an energy	368
efficiency program of an electric distribution utility pursuant	369
to requirements under section 4928.66 of the Revised Code.	370
(35) "Air contaminant source" has the same meaning as in	371
section 3704.01 of the Revised Code.	372

(36) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously.	373 374
(37) (a) "Renewable energy resource" means any of the following:	375 376
(i) Solar photovoltaic or solar thermal energy;	377
(ii) Wind energy;	378
(iii) Power produced by a hydroelectric facility;	379
(iv) Power produced by a small hydroelectric facility, which is a facility that operates, or is rated to operate, at an aggregate capacity of less than six megawatts;	380 381 382
(v) 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;	383 384 385 386 387
(vi) Geothermal energy;	388
(vii) 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;	389 390 391 392
(viii) Biomass energy;	393
(ix) Energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the	394 395 396 397 398 399

cogeneration technology is a part of a facility located in a 400
county having a population of more than three hundred sixty-five 401
thousand but less than three hundred seventy thousand according 402
to the most recent federal decennial census; 403

(x) Biologically derived methane gas; 404

(xi) Heat captured from a generator of electricity, 405
boiler, or heat exchanger fueled by biologically derived methane 406
gas; 407

(xii) Energy derived from nontreated by-products of the 408
pulping process or wood manufacturing process, including bark, 409
wood chips, sawdust, and lignin in spent pulping liquors. 410

"Renewable energy resource" includes, but is not limited 411
to, any fuel cell used in the generation of electricity, 412
including, but not limited to, a proton exchange membrane fuel 413
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 414
solid oxide fuel cell; wind turbine located in the state's 415
territorial waters of Lake Erie; methane gas emitted from an 416
abandoned coal mine; waste energy recovery system placed into 417
service or retrofitted on or after the effective date of the 418
amendment of this section by S.B. 315 of the 129th general 419
assembly, September 10, 2012, except that a waste energy 420
recovery system described in division (A) (38) (b) of this section 421
may be included only if it was placed into service between 422
January 1, 2002, and December 31, 2004; storage facility that 423
will promote the better utilization of a renewable energy 424
resource; or distributed generation system used by a customer to 425
generate electricity from any such energy. 426

"Renewable energy resource" does not include a waste 427
energy recovery system that is, or was, on or after January 1, 428

2012, included in an energy efficiency program of an electric 429
distribution utility pursuant to requirements under section 430
4928.66 of the Revised Code. 431

(b) As used in division (A) (37) of this section, 432
"hydroelectric facility" means a hydroelectric generating 433
facility that is located at a dam on a river, or on any water 434
discharged to a river, that is within or bordering this state or 435
within or bordering an adjoining state and meets all of the 436
following standards: 437

(i) The facility provides for river flows that are not 438
detrimental for fish, wildlife, and water quality, including 439
seasonal flow fluctuations as defined by the applicable 440
licensing agency for the facility. 441

(ii) The facility demonstrates that it complies with the 442
water quality standards of this state, which compliance may 443
consist of certification under Section 401 of the "Clean Water 444
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 445
demonstrates that it has not contributed to a finding by this 446
state that the river has impaired water quality under Section 447
303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 448
U.S.C. 1313. 449

(iii) The facility complies with mandatory prescriptions 450
regarding fish passage as required by the federal energy 451
regulatory commission license issued for the project, regarding 452
fish protection for riverine, anadromous, and catadromous fish. 453

(iv) The facility complies with the recommendations of the 454
Ohio environmental protection agency and with the terms of its 455
federal energy regulatory commission license regarding watershed 456
protection, mitigation, or enhancement, to the extent of each 457

agency's respective jurisdiction over the facility. 458

(v) The facility complies with provisions of the 459
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 460
to 1544, as amended. 461

(vi) The facility does not harm cultural resources of the 462
area. This can be shown through compliance with the terms of its 463
federal energy regulatory commission license or, if the facility 464
is not regulated by that commission, through development of a 465
plan approved by the Ohio historic preservation office, to the 466
extent it has jurisdiction over the facility. 467

(vii) The facility complies with the terms of its federal 468
energy regulatory commission license or exemption that are 469
related to recreational access, accommodation, and facilities 470
or, if the facility is not regulated by that commission, the 471
facility complies with similar requirements as are recommended 472
by resource agencies, to the extent they have jurisdiction over 473
the facility; and the facility provides access to water to the 474
public without fee or charge. 475

(viii) The facility is not recommended for removal by any 476
federal agency or agency of any state, to the extent the 477
particular agency has jurisdiction over the facility. 478

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 479
this section do not apply to a small hydroelectric facility 480
under division (A) (37) (a) (iv) of this section. 481

(38) "Waste energy recovery system" means either of the 482
following: 483

(a) A facility that generates electricity through the 484
conversion of energy from either of the following: 485

(i) Exhaust heat from engines or manufacturing, 486
industrial, commercial, or institutional sites, except for 487
exhaust heat from a facility whose primary purpose is the 488
generation of electricity; 489

(ii) Reduction of pressure in gas pipelines before gas is 490
distributed through the pipeline, provided that the conversion 491
of energy to electricity is achieved without using additional 492
fossil fuels. 493

(b) A facility at a state institution of higher education 494
as defined in section 3345.011 of the Revised Code that recovers 495
waste heat from electricity-producing engines or combustion 496
turbines and that simultaneously uses the recovered heat to 497
produce steam, provided that the facility was placed into 498
service between January 1, 2002, and December 31, 2004. 499

(39) "Smart grid" means capital improvements to an 500
electric distribution utility's distribution infrastructure that 501
improve reliability, efficiency, resiliency, or reduce energy 502
demand or use, including, but not limited to, advanced metering 503
and automation of system functions. 504

(40) "Combined heat and power system" means the 505
coproduction of electricity and useful thermal energy from the 506
same fuel source designed to achieve thermal-efficiency levels 507
of at least sixty per cent, with at least twenty per cent of the 508
system's total useful energy in the form of thermal energy. 509

~~(41) "Legacy generation resource" means all generating 510
facilities owned directly or indirectly by a corporation that 511
was formed prior to 1960 by investor-owned utilities for the 512
original purpose of providing power to the federal government 513
for use in the nation's defense or in furtherance of national 514~~

~~interests, including the Ohio valley electric corporation.~~ 515

~~(42) "Prudently incurred costs related to a legacy generation resource" means costs, including deferred costs, allocated pursuant to a power agreement approved by the federal energy regulatory commission that relates to a legacy generation resource, less any revenues realized from offering the contractual commitment for the power agreement into the wholesale markets, provided that where the net revenues exceed net costs, those excess revenues shall be credited to customers. Such costs shall exclude any return on investment in common equity and, in the event of a premature retirement of a legacy generation resource, shall exclude any recovery of remaining debt. Such costs shall include any incremental costs resulting from the bankruptcy of a current or former sponsor under such power agreement or co-owner of the legacy generation resource if not otherwise recovered through a utility rate cost recovery mechanism.~~ 516
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(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service. 532
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Sec. 4928.64. (A) (1) As used in this section, "qualifying renewable energy resource" means a renewable energy resource, as defined in section 4928.01 of the Revised Code that: 540
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(a) Has a placed-in-service date on or after January 1, 1998; 543
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(b) Is any run-of-the-river hydroelectric facility that	545
has an in-service date on or after January 1, 1980;	546
(c) Is a small hydroelectric facility;	547
(d) Is created on or after January 1, 1998, by the	548
modification or retrofit of any facility placed in service prior	549
to January 1, 1998; or	550
(e) Is a mercantile customer-sited renewable energy	551
resource, whether new or existing, that the mercantile customer	552
commits for integration into the electric distribution utility's	553
demand-response, energy efficiency, or peak demand reduction	554
programs as provided under division (A) (2) (c) of section 4928.66	555
of the Revised Code, including, but not limited to, any of the	556
following:	557
(i) A resource that has the effect of improving the	558
relationship between real and reactive power;	559
(ii) A resource that makes efficient use of waste heat or	560
other thermal capabilities owned or controlled by a mercantile	561
customer;	562
(iii) Storage technology that allows a mercantile customer	563
more flexibility to modify its demand or load and usage	564
characteristics;	565
(iv) Electric generation equipment owned or controlled by	566
a mercantile customer that uses a renewable energy resource.	567
(2) For the purpose of this section and as it considers	568
appropriate, the public utilities commission may classify any	569
new technology as such a qualifying renewable energy resource.	570
(B) (1) By the end of 2026 <u>2027 and thereafter</u> , an electric	571
distribution utility shall have provided <u>provide</u> from qualifying	572

renewable energy resources, including, at its discretion, 573
qualifying renewable energy resources obtained pursuant to an 574
electricity supply contract, a portion of the electricity supply 575
required for its standard service offer under section 4928.141 576
of the Revised Code, and an electric services company shall ~~have-~~ 577
~~provided~~ provide a portion of its electricity supply for retail 578
consumers in this state from qualifying renewable energy 579
resources, including, at its discretion, qualifying renewable 580
energy resources obtained pursuant to an electricity supply 581
contract. That portion shall equal ~~eight-twelve~~ and one-half per 582
cent of the total number of kilowatt hours of electricity sold 583
by the subject utility or company to any and all retail electric 584
consumers whose electric load centers are served by that utility 585
and are located within the utility's certified territory or, in 586
the case of an electric services company, are served by the 587
company and are located within this state. However, nothing in 588
this section precludes a utility or company from providing a 589
greater percentage. 590

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 591
The portion required under division (B) (1) of this section shall 592
be generated from renewable energy resources, including one-half 593
per cent from solar energy resources, in accordance with the 594
following benchmarks: 595

596

	1	2	3
A	By end of year	Renewable energy resources	Solar energy resources
B	2009	0.25%	0.004%

C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%
I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%
M	2020	5.5% <u>6.5%</u>	0% <u>0.26%</u>
N	2021	6% <u>7.5%</u>	0% <u>0.3%</u>
O	2022	6.5% <u>8.5%</u>	0% <u>0.34%</u>
P	2023	7% <u>9.5%</u>	0% <u>0.38%</u>
Q	2024	7.5% <u>10.5%</u>	0% <u>0.42%</u>
R	2025	8% <u>11.5%</u>	0% <u>0.46%</u>
S	<u>2026 and each calendar year thereafter</u>	8.5% <u>12.5%</u>	0% <u>0.5%</u>

(3) The qualifying renewable energy resources implemented 597
by the utility or company shall be met either: 598

(a) Through facilities located in this state; or 599

(b) With resources that can be shown to be deliverable 600
into this state. 601

(C) (1) The commission annually shall review an electric 602
distribution utility's or electric services company's compliance 603
with the most recent applicable benchmark under division (B) (2) 604
of this section and, in the course of that review, shall 605
identify any undercompliance or noncompliance of the utility or 606
company that it determines is weather-related, related to 607
equipment or resource shortages for qualifying renewable energy 608
resources as applicable, or is otherwise outside the utility's 609
or company's control. 610

(2) Subject to the cost cap provisions of division (C) (3) 611
of this section, if the commission determines, after notice and 612
opportunity for hearing, and based upon its findings in that 613
review regarding avoidable undercompliance or noncompliance, but 614
subject to division (C) (4) of this section, that the utility or 615
company has failed to comply with any such benchmark, the 616
commission shall impose a renewable energy compliance payment on 617
the utility or company. 618

(a) The compliance payment pertaining to the solar energy 619
resource benchmarks under division (B) (2) of this section shall 620
be an amount per megawatt hour of undercompliance or 621
noncompliance in the period under review, as follows: 622

(i) Three hundred dollars for 2014, 2015, and 2016; 623

(ii) Two hundred fifty dollars for 2017 and 2018; 624

(iii) Two hundred dollars for 2019 and 2020; 625

(iv) Similarly reduced every two years thereafter through 626
2026 by fifty dollars, to a minimum of fifty dollars. 627

(b) The compliance payment pertaining to the renewable 628
energy resource benchmarks under division (B) (2) of this section 629
shall equal the number of additional renewable energy credits 630
that the electric distribution utility or electric services 631
company would have needed to comply with the applicable 632
benchmark in the period under review times an amount that shall 633
begin at forty-five dollars and shall be adjusted annually by 634
the commission to reflect any change in the consumer price index 635
as defined in section 101.27 of the Revised Code, but shall not 636
be less than forty-five dollars. 637

(c) The compliance payment shall not be passed through by 638
the electric distribution utility or electric services company 639
to consumers. The compliance payment shall be remitted to the 640
commission, for deposit to the credit of the advanced energy 641
fund created under section 4928.61 of the Revised Code. Payment 642
of the compliance payment shall be subject to such collection 643
and enforcement procedures as apply to the collection of a 644
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 645
Revised Code. 646

(3) An electric distribution utility or an electric 647
services company need not comply with a benchmark under division 648
(B) (2) of this section to the extent that its reasonably 649
expected cost of that compliance exceeds its reasonably expected 650
cost of otherwise producing or acquiring the requisite 651
electricity by three per cent or more. The cost of compliance 652
shall be calculated as though any exemption from taxes and 653
assessments had not been granted under section 5727.75 of the 654

Revised Code. 655

(4) (a) An electric distribution utility or electric 656
services company may request the commission to make a force 657
majeure determination pursuant to this division regarding all or 658
part of the utility's or company's compliance with any minimum 659
benchmark under division (B) (2) of this section during the 660
period of review occurring pursuant to division (C) (2) of this 661
section. The commission may require the electric distribution 662
utility or electric services company to make solicitations for 663
renewable energy resource credits as part of its default service 664
before the utility's or company's request of force majeure under 665
this division can be made. 666

(b) Within ninety days after the filing of a request by an 667
electric distribution utility or electric services company under 668
division (C) (4) (a) of this section, the commission shall 669
determine if qualifying renewable energy resources are 670
reasonably available in the marketplace in sufficient quantities 671
for the utility or company to comply with the subject minimum 672
benchmark during the review period. In making this 673
determination, the commission shall consider whether the 674
electric distribution utility or electric services company has 675
made a good faith effort to acquire sufficient qualifying 676
renewable energy or, as applicable, solar energy resources to so 677
comply, including, but not limited to, by banking or seeking 678
renewable energy resource credits or by seeking the resources 679
through long-term contracts. Additionally, the commission shall 680
consider the availability of qualifying renewable energy or 681
solar energy resources in this state and other jurisdictions in 682
the PJM interconnection regional transmission organization, 683
L.L.C., or its successor and the midcontinent independent system 684
operator or its successor. 685

(c) If, pursuant to division (C)(4)(b) of this section, 686
the commission determines that qualifying renewable energy or 687
solar energy resources are not reasonably available to permit 688
the electric distribution utility or electric services company 689
to comply, during the period of review, with the subject minimum 690
benchmark prescribed under division (B)(2) of this section, the 691
commission shall modify that compliance obligation of the 692
utility or company as it determines appropriate to accommodate 693
the finding. Commission modification shall not automatically 694
reduce the obligation for the electric distribution utility's or 695
electric services company's compliance in subsequent years. If 696
it modifies the electric distribution utility or electric 697
services company obligation under division (C)(4)(c) of this 698
section, the commission may require the utility or company, if 699
sufficient renewable energy resource credits exist in the 700
marketplace, to acquire additional renewable energy resource 701
credits in subsequent years equivalent to the utility's or 702
company's modified obligation under division (C)(4)(c) of this 703
section. 704

(5) The commission shall establish a process to provide 705
for at least an annual review of the renewable energy resource 706
market in this state and in the service territories of the 707
regional transmission organizations that manage transmission 708
systems located in this state. The commission shall use the 709
results of this study to identify any needed changes to the 710
amount of the renewable energy compliance payment specified 711
under divisions (C)(2)(a) and (b) of this section. Specifically, 712
the commission may increase the amount to ensure that payment of 713
compliance payments is not used to achieve compliance with this 714
section in lieu of actually acquiring or realizing energy 715
derived from qualifying renewable energy resources. However, if 716

the commission finds that the amount of the compliance payment 717
should be otherwise changed, the commission shall present this 718
finding to the general assembly for legislative enactment. 719

(D) The commission annually shall submit to the general 720
assembly in accordance with section 101.68 of the Revised Code a 721
report describing all of the following: 722

(1) The compliance of electric distribution utilities and 723
electric services companies with division (B) of this section; 724

(2) The average annual cost of renewable energy credits 725
purchased by utilities and companies for the year covered in the 726
report; 727

(3) Any strategy for utility and company compliance or for 728
encouraging the use of qualifying renewable energy resources in 729
supplying this state's electricity needs in a manner that 730
considers available technology, costs, job creation, and 731
economic impacts. 732

The commission shall begin providing the information 733
described in division (D) (2) of this section in each report 734
submitted after September 10, 2012. The commission shall allow 735
and consider public comments on the report prior to its 736
submission to the general assembly. Nothing in the report shall 737
be binding on any person, including any utility or company for 738
the purpose of its compliance with any benchmark under division 739
(B) of this section, or the enforcement of that provision under 740
division (C) of this section. 741

(E) All costs incurred by an electric distribution utility 742
in complying with the requirements of this section shall be 743
bypassable by any consumer that has exercised choice of supplier 744
under section 4928.03 of the Revised Code. 745

Sec. 4928.641. (A) If an electric distribution utility has 746
executed a contract before April 1, 2014, to procure renewable 747
energy resources and there are ongoing costs associated with 748
that contract that are being recovered from customers through a 749
bypassable charge as of September 12, 2014, that cost recovery 750
shall, ~~regardless of the amendments to section 4928.64 of the~~ 751
~~Revised Code by H.B. 6 of the 133rd general assembly,~~ continue 752
on a bypassable basis ~~through December 31, 2032~~ until the 753
prudently incurred costs associated with that contract are fully 754
recovered. 755

(B) Division (A) of this section applies only to costs 756
associated with the original term of a contract described in 757
that division and entered into before April 1, 2014. This 758
section does not permit recovery of costs associated with an 759
extension of such a contract. This section does not permit 760
recovery of costs associated with an amendment of such a 761
contract if that amendment was made on or after April 1, 2014. 762

Sec. 4928.644. ~~(A)~~The public utilities commission may 763
reduce either baseline described in section 4928.643 of the 764
Revised Code to adjust for new economic growth in the electric 765
distribution utility's certified territory or in the electric 766
services company's service area in this state. 767

~~(B) To facilitate the competitiveness of mercantile~~ 768
~~customers located in this state that are registered as self-~~ 769
~~assessing purchasers under division (C) of section 5727.81 of~~ 770
~~the Revised Code, the commission shall reduce both baselines~~ 771
~~described in section 4928.643 of the Revised Code to exclude the~~ 772
~~load and usage of those self-assessing purchasers. Upon the~~ 773
~~effective date of this reduction, both of the following shall~~ 774
~~apply:~~ 775

~~(1) Any electric distribution utility or electric services company serving such a self-assessing purchaser shall be relieved of the amount of compliance with section 4928.64 of the Revised Code that would be required but for the baseline reduction.~~ 776
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~~(2) Such a self-assessing purchaser shall be exempt from any bypassable charge imposed under division (E) of section 4928.64 of the Revised Code.~~ 781
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Sec. 4928.645. (A) An electric distribution utility or electric services company may use, for the purpose of complying with the requirements under divisions (B) (1) and (2) of section 4928.64 of the Revised Code, renewable energy credits any time in the five calendar years following the date of their purchase or acquisition from any entity, including, but not limited to, the following: 784
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(1) A mercantile customer; 791

(2) An owner or operator of a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state, or that produces power that can be shown to be deliverable into this state; 792
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(3) A seller of compressed natural gas that has been produced from biologically derived methane gas, provided that the seller may only provide renewable energy credits for metered amounts of gas. 797
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(B) (1) The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources, except that, for a generating facility of seventy-five megawatts or 801
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greater that is situated within this state and has committed by 805
December 31, 2009, to modify or retrofit its generating unit or 806
units to enable the facility to generate principally from 807
biomass energy by June 30, 2013, each megawatt hour of 808
electricity generated principally from that biomass energy shall 809
equal, in units of credit, the product obtained by multiplying 810
the actual percentage of biomass feedstock heat input used to 811
generate such megawatt hour by the quotient obtained by dividing 812
the then existing unit dollar amount used to determine a 813
renewable energy compliance payment as provided under division 814
(C) (2) (b) of section 4928.64 of the Revised Code by the then 815
existing market value of one renewable energy credit, but such 816
megawatt hour shall not equal less than one unit of credit. 817
Renewable energy resources do not have to be converted to 818
electricity in order to be eligible to receive renewable energy 819
credits. The rules shall specify that, for purposes of 820
converting the quantity of energy derived from biologically 821
derived methane gas to an electricity equivalent, one megawatt 822
hour equals 3,412,142 British thermal units. 823

(2) The rules also shall provide for this state a system 824
of registering renewable energy credits by specifying which of 825
any generally available registries shall be used for that 826
purpose and not by creating a registry. That selected system of 827
registering renewable energy credits shall allow a hydroelectric 828
generating facility to be eligible for obtaining renewable 829
energy credits and shall allow customer-sited projects or 830
actions the broadest opportunities to be eligible for obtaining 831
renewable energy credits. 832

~~(C) Beginning January 1, 2020, a qualifying renewable 833
resource as defined in section 3706.40 of the Revised Code is 834
not eligible to obtain a renewable energy credit under this 835~~

~~section for any megawatt hour for which the resource has been~~ 836
~~issued a renewable energy credit under section 3706.45 of the~~ 837
~~Revised Code.~~ 838

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 839
distribution utility shall implement energy efficiency programs 840
that achieve energy savings equivalent to at least three-tenths 841
of one per cent of the total, annual average, and normalized 842
kilowatt-hour sales of the electric distribution utility during 843
the preceding three calendar years to customers in this state. 844
An energy efficiency program may include a combined heat and 845
power system placed into service or retrofitted on or after the 846
effective date of the amendment of this section by S.B. 315 of 847
the 129th general assembly, September 10, 2012, or a waste 848
energy recovery system placed into service or retrofitted on or 849
after September 10, 2012, except that a waste energy recovery 850
system described in division (A) (38) (b) of section 4928.01 of 851
the Revised Code may be included only if it was placed into 852
service between January 1, 2002, and December 31, 2004. For a 853
waste energy recovery or combined heat and power system, the 854
savings shall be as estimated by the public utilities 855
commission. The savings requirement, using such a three-year 856
average, shall increase to an additional five-tenths of one per 857
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 858
of one per cent in 2012, nine-tenths of one per cent in 2013, 859
and one per cent in 2014. In 2015 and 2016, an electric 860
distribution utility shall achieve energy savings equal to the 861
result of subtracting the cumulative energy savings achieved 862
since 2009 from the product of multiplying the baseline for 863
energy savings, described in division (A) (2) (a) of this section, 864
by four and two-tenths of one per cent. If the result is zero or 865
less for the year for which the calculation is being made, the 866

utility shall not be required to achieve additional energy 867
savings for that year, but may achieve additional energy savings 868
for that year. ~~The~~ Thereafter, the annual savings requirements 869
shall be, for years 2017, 2018, 2019, and 2020, ~~an additional~~ 870
one per cent of the baseline, and two per cent each year 871
thereafter, achieving cumulative energy savings in excess of 872
twenty-two per cent by the end of 2027. For purposes of a waste 873
energy recovery or combined heat and power system, an electric 874
distribution utility shall not apply more than the total annual 875
percentage of the electric distribution utility's industrial- 876
customer load, relative to the electric distribution utility's 877
total load, to the annual energy savings requirement. 878

(b) Beginning in 2009, an electric distribution utility 879
shall implement peak demand reduction programs designed to 880
achieve a one per cent reduction in peak demand in 2009 and an 881
additional seventy-five hundredths of one per cent reduction 882
each year through 2014. In 2015 and 2016, an electric 883
distribution utility shall achieve a reduction in peak demand 884
equal to the result of subtracting the cumulative peak demand 885
reductions achieved since 2009 from the product of multiplying 886
the baseline for peak demand reduction, described in division 887
(A) (2) (a) of this section, by four and seventy-five hundredths 888
of one per cent. If the result is zero or less for the year for 889
which the calculation is being made, the utility shall not be 890
required to achieve an additional reduction in peak demand for 891
that year, but may achieve an additional reduction in peak 892
demand for that year. In 2017 and each year thereafter through 893
2020, the utility shall achieve an additional seventy-five 894
hundredths of one per cent reduction in peak demand. 895

(2) For the purposes of divisions (A) (1) (a) and (b) of 896
this section: 897

(a) The baseline for energy savings under division (A) (1) 898
(a) of this section shall be the average of the total kilowatt 899
hours the electric distribution utility sold in the preceding 900
three calendar years. The baseline for a peak demand reduction 901
under division (A) (1) (b) of this section shall be the average 902
peak demand on the utility in the preceding three calendar 903
years, except that the commission may reduce either baseline to 904
adjust for new economic growth in the utility's certified 905
territory. Neither baseline shall include the load and usage of 906
any of the following customers: 907

(i) Beginning January 1, 2017, a customer for which a 908
reasonable arrangement has been approved under section 4905.31 909
of the Revised Code; 910

(ii) A customer that has opted out of the utility's 911
portfolio plan under section 4928.6611 of the Revised Code; 912

(iii) A customer that has opted out of the utility's 913
portfolio plan under Section 8 of S.B. 310 of the 130th general 914
assembly. 915

(b) The commission may amend the benchmarks set forth in 916
division (A) (1) (a) or (b) of this section if, after application 917
by the electric distribution utility, the commission determines 918
that the amendment is necessary because the utility cannot 919
reasonably achieve the benchmarks due to regulatory, economic, 920
or technological reasons beyond its reasonable control. 921

(c) Compliance with divisions (A) (1) (a) and (b) of this 922
section shall be measured by including the effects of all 923
demand-response programs for mercantile customers of the subject 924
electric distribution utility, all waste energy recovery systems 925
and all combined heat and power systems, and all such mercantile 926

customer-sited energy efficiency, including waste energy 927
recovery and combined heat and power, and peak demand reduction 928
programs, adjusted upward by the appropriate loss factors. Any 929
mechanism designed to recover the cost of energy efficiency, 930
including waste energy recovery and combined heat and power, and 931
peak demand reduction programs under divisions (A) (1) (a) and (b) 932
of this section may exempt mercantile customers that commit 933
their demand-response or other customer-sited capabilities, 934
whether existing or new, for integration into the electric 935
distribution utility's demand-response, energy efficiency, 936
including waste energy recovery and combined heat and power, or 937
peak demand reduction programs, if the commission determines 938
that that exemption reasonably encourages such customers to 939
commit those capabilities to those programs. If a mercantile 940
customer makes such existing or new demand-response, energy 941
efficiency, including waste energy recovery and combined heat 942
and power, or peak demand reduction capability available to an 943
electric distribution utility pursuant to division (A) (2) (c) of 944
this section, the electric utility's baseline under division (A) 945
(2) (a) of this section shall be adjusted to exclude the effects 946
of all such demand-response, energy efficiency, including waste 947
energy recovery and combined heat and power, or peak demand 948
reduction programs that may have existed during the period used 949
to establish the baseline. The baseline also shall be normalized 950
for changes in numbers of customers, sales, weather, peak 951
demand, and other appropriate factors so that the compliance 952
measurement is not unduly influenced by factors outside the 953
control of the electric distribution utility. 954

(d) (i) Programs implemented by a utility may include the 955
following: 956

(I) Demand-response programs; 957

(II) Smart grid investment programs, provided that such programs are demonstrated to be cost-beneficial;	958 959
(III) Customer-sited programs, including waste energy recovery and combined heat and power systems;	960 961
(IV) Transmission and distribution infrastructure improvements that reduce line losses;	962 963
(V) Energy efficiency savings and peak demand reduction that are achieved, in whole or in part, as a result of funding provided from the universal service fund established by section 4928.51 of the Revised Code to benefit low-income customers through programs that include, but are not limited to, energy audits, the installation of energy efficiency insulation, appliances, and windows, and other weatherization measures.	964 965 966 967 968 969 970
(ii) No energy efficiency or peak demand reduction achieved under divisions (A) (2) (d) (i) (IV) and (V) of this section shall qualify for shared savings.	971 972 973
(iii) Division (A) (2) (c) of this section shall be applied to include facilitating efforts by a mercantile customer or group of those customers to offer customer-sited demand-response, energy efficiency, including waste energy recovery and combined heat and power, or peak demand reduction capabilities to the electric distribution utility as part of a reasonable arrangement submitted to the commission pursuant to section 4905.31 of the Revised Code.	974 975 976 977 978 979 980 981
(e) No programs or improvements described in division (A) (2) (d) of this section shall conflict with any statewide building code adopted by the board of building standards.	982 983 984
(B) In accordance with rules it shall adopt, the public utilities commission shall produce and docket at the commission	985 986

an annual report containing the results of its verification of 987
the annual levels of energy efficiency and of peak demand 988
reductions achieved by each electric distribution utility 989
pursuant to division (A) of this section. A copy of the report 990
shall be provided to the consumers' counsel. 991

(C) If the commission determines, after notice and 992
opportunity for hearing and based upon its report under division 993
(B) of this section, that an electric distribution utility has 994
failed to comply with an energy efficiency or peak demand 995
reduction requirement of division (A) of this section, the 996
commission shall assess a forfeiture on the utility as provided 997
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 998
Code, either in the amount, per day per undercompliance or 999
noncompliance, relative to the period of the report, equal to 1000
that prescribed for noncompliances under section 4905.54 of the 1001
Revised Code, or in an amount equal to the then existing market 1002
value of one renewable energy credit per megawatt hour of 1003
undercompliance or noncompliance. Revenue from any forfeiture 1004
assessed under this division shall be deposited to the credit of 1005
the advanced energy fund created under section 4928.61 of the 1006
Revised Code. 1007

(D) The commission may establish rules regarding the 1008
content of an application by an electric distribution utility 1009
for commission approval of a revenue decoupling mechanism under 1010
this division. Such an application shall not be considered an 1011
application to increase rates and may be included as part of a 1012
proposal to establish, continue, or expand energy efficiency or 1013
conservation programs. The commission by order may approve an 1014
application under this division if it determines both that the 1015
revenue decoupling mechanism provides for the recovery of 1016
revenue that otherwise may be forgone by the utility as a result 1017

of or in connection with the implementation by the electric 1018
distribution utility of any energy efficiency or energy 1019
conservation programs and reasonably aligns the interests of the 1020
utility and of its customers in favor of those programs. 1021

(E) The commission additionally shall adopt rules that 1022
require an electric distribution utility to provide a customer 1023
upon request with two years' consumption data in an accessible 1024
form. 1025

~~(F)(1) As used in divisions (F)(2), (3), and (4) of this 1026
section, "portfolio plan" has the same meaning as in division 1027
(C)(1) of section 4928.6610 of the Revised Code. 1028~~

~~(2) If an electric distribution utility has a portfolio 1029
plan in effect as of the effective date of the amendments to 1030
this section by H.B. 6 of the 133rd general assembly and that 1031
plan expires before December 31, 2020, the commission shall 1032
extend the plan through that date. All portfolio plans shall 1033
terminate on that date. 1034~~

~~(3) If a portfolio plan is extended beyond its commission 1035
approved term by division (F)(2) of this section, the existing 1036
plan's budget shall be increased for the extended term to 1037
include an amount equal to the annual average of the approved 1038
budget for all years of the portfolio plan in effect as of the 1039
effective date of the amendments to this section by H.B. 6 of 1040
the 133rd general assembly. 1041~~

~~(4) All other terms and conditions of a portfolio plan 1042
extended beyond its commission approved term by division (F)(2) 1043
of this section shall remain the same unless changes are 1044
authorized by the commission. 1045~~

~~(G)(1) Not later than February 1, 2021, the commission 1046~~

~~shall determine the cumulative energy savings collectively~~ 1047
~~achieved, since 2009, by all electric distribution utilities in~~ 1048
~~this state as of December 31, 2020. In determining that~~ 1049
~~cumulative total, the commission shall do both of the following:~~ 1050

~~(a) Include energy savings that were estimated by the~~ 1051
~~commission to be achieved as of December 31, 2020, and banked~~ 1052
~~under division (G) of section 4928.662 of the Revised Code;~~ 1053

~~(b) Use an energy savings baseline that is the average of~~ 1054
~~the total kilowatt hours sold by all electric distribution~~ 1055
~~utilities in this state in the calendar years 2018, 2019, and~~ 1056
~~2020. The baseline shall exclude the load and usage described in~~ 1057
~~division (A) (2) (a) (i), (ii), and (iii) of this section. That~~ 1058
~~baseline may also be reduced for new economic growth in the~~ 1059
~~utility's certified territory as provided in division (A) (2) (a)~~ 1060
~~of this section and adjusted and normalized as provided in~~ 1061
~~division (A) (2) (c) of this section.~~ 1062

~~(2) (a) If the cumulative energy savings collectively~~ 1063
~~achieved as determined by the commission under division (G) (1)~~ 1064
~~of this section is at least seventeen and one half per cent of~~ 1065
~~the baseline described in division (G) (1) (b) of this section,~~ 1066
~~then full compliance with division (A) (1) (a) of this section~~ 1067
~~shall be deemed to have been achieved notwithstanding any~~ 1068
~~provision of this section to the contrary.~~ 1069

~~(b) If the cumulative energy savings collectively achieved~~ 1070
~~as determined by the commission under division (G) (1) of this~~ 1071
~~section is less than seventeen and one half per cent of the~~ 1072
~~baseline described in division (G) (1) (b) of this section, then~~ 1073
~~both of the following shall apply:~~ 1074

~~(i) The commission shall determine the manner in which~~ 1075

~~further implementation of energy efficiency programs shall occur~~ 1076
~~as may be reasonably necessary for collective achievement of~~ 1077
~~cumulative energy savings equal to seventeen and one-half~~ 1078
~~percent, and not more, of the baseline described in division (G)~~ 1079
~~(1)(b) of this section.~~ 1080

~~(ii) Full compliance with division (A)(1)(a) of this~~ 1081
~~section shall be deemed to be achieved as of a date certain~~ 1082
~~established by the commission notwithstanding any provision of~~ 1083
~~this section to the contrary.~~ 1084

~~(3) Upon the date that full compliance with division (A)~~ 1085
~~(1)(a) of this section is deemed achieved under division (G)(2)~~ 1086
~~(a) or (b) of this section, any electric distribution utility~~ 1087
~~cost recovery mechanisms authorized by the commission for~~ 1088
~~compliance with this section shall terminate except as may be~~ 1089
~~necessary to reconcile the difference between revenue collected~~ 1090
~~and the allowable cost of compliance associated with compliance~~ 1091
~~efforts occurring prior to the date upon which full compliance~~ 1092
~~with division (A)(1)(a) of this section is deemed achieved. No~~ 1093
~~such cost recovery mechanism shall be authorized by the~~ 1094
~~commission beyond the period of time required to complete this~~ 1095
~~final reconciliation.~~ 1096

Sec. 4928.6610. As used in sections 4928.6611 to ~~4928.6615-~~ 1097
4928.6616 of the Revised Code: 1098

(A) "Customer" means ~~either of the following:~~ 1099

~~(1) Effective January 1, 2020, a mercantile customer as~~ 1100
~~defined in section 4928.01 of the Revised Code;~~ 1101

~~(2) Any~~ any customer of an electric distribution utility 1102
to which either of the following applies: 1103

~~(a)~~ (1) The customer receives service above the primary 1104

voltage level as determined by the utility's tariff 1105
classification. 1106

~~(b)~~ (2) The customer is a commercial or industrial 1107
customer to which both of the following apply: 1108

~~(i)~~ (a) The customer receives electricity through a meter 1109
of an end user or through more than one meter at a single 1110
location in a quantity that exceeds forty-five million kilowatt 1111
hours of electricity for the preceding calendar year. 1112

~~(ii)~~ (b) The customer has made a written request for 1113
registration as a self-assessing purchaser pursuant to section 1114
5727.81 of the Revised Code. 1115

(B) "Energy intensity" means the amount of energy, from 1116
electricity, used or consumed per unit of production. 1117

(C) "Portfolio plan" means ~~either of the following:~~ 1118

~~(1) The comprehensive energy efficiency and peak-demand 1119
reduction program portfolio plan required under rules adopted by 1120
the public utilities commission and codified in Chapter 4901:1- 1121
39 of the Administrative Code or hereafter recodified or 1122
amended;~~ 1123

~~(2) Any plan implemented pursuant to division (C) of 1124
section 4928.66 of the Revised Code. 1125~~

Sec. 4928.6616. (A) Not later than sixty days after the 1126
effective date at a customer's election to opt out under section 1127
4928.6611 of the Revised Code, the customer shall prepare and 1128
submit an initial report to the staff of the public utilities 1129
commission. The report shall summarize the projects, actions, 1130
policies, or practices that the customer may consider 1131
implementing, based on the customer's cost-effectiveness 1132

criteria, for the purpose of reducing energy intensity. 1133

(B) For as long as the opt out is in effect, the customer 1134
shall, at least once every twenty-four months, commencing with 1135
the effective date of the election to opt out, prepare and 1136
submit, to the staff of the commission, an updated report. The 1137
updated report shall include a general description of any 1138
cumulative amount of energy-intensity reductions achieved by the 1139
customer during the period beginning on the effective date of 1140
the election to opt out and ending not later than sixty days 1141
prior to the date that the updated report is submitted. 1142

(C) All reports filed under this section shall be verified 1143
by the customer. 1144

(D) Upon submission of any updated report under division 1145
(B) of this section, the staff of the commission may request the 1146
customer to provide additional information on the energy- 1147
intensity-reducing projects, actions, policies, or practices 1148
implemented by the customer and the amount of energy-intensity 1149
reductions achieved during the period covered by the updated 1150
report. 1151

(E) Any information contained in any report submitted 1152
under this section and any customer responses to requests for 1153
additional information shall be deemed to be confidential, 1154
proprietary, and a trade secret. No such information or response 1155
shall be publicly divulged without written authorization by the 1156
customer or used for any purpose other than to identify the 1157
amount of energy-intensity reductions achieved by the customer. 1158

(F) If the commission finds, after notice and a hearing, 1159
that the customer has failed to achieve any substantial 1160
cumulative reduction in energy intensity identified by the 1161

customer in an updated report submitted under division (B) of 1162
this section, and if the failure is not excusable for good cause 1163
shown by the customer, the commission may suspend the opt out 1164
for the period of time that it may take the customer to achieve 1165
the cumulative reduction in energy intensity identified by the 1166
customer but no longer. 1167

Sec. 5727.75. (A) For purposes of this section: 1168

(1) "Qualified energy project" means an energy project 1169
certified by the director of development services pursuant to 1170
this section. 1171

(2) "Energy project" means a project to provide electric 1172
power through the construction, installation, and use of an 1173
energy facility. 1174

(3) "Alternative energy zone" means a county declared as 1175
such by the board of county commissioners under division (E) (1) 1176
(b) or (c) of this section. 1177

(4) "Full-time equivalent employee" means the total number 1178
of employee-hours for which compensation was paid to individuals 1179
employed at a qualified energy project for services performed at 1180
the project during the calendar year divided by two thousand 1181
eighty hours. 1182

(5) "Solar energy project" means an energy project 1183
composed of an energy facility using solar panels to generate 1184
electricity. 1185

(6) "Internet identifier of record" has the same meaning 1186
as in section 9.312 of the Revised Code. 1187

(B) (1) Tangible personal property of a qualified energy 1188
project using renewable energy resources is exempt from taxation 1189

for tax years 2011 through 2023 if all of the following 1190
conditions are satisfied: 1191

(a) On or before December 31, 2022, the owner or a lessee 1192
pursuant to a sale and leaseback transaction of the project 1193
submits an application to the power siting board for a 1194
certificate under section 4906.20 of the Revised Code, or if 1195
that section does not apply, submits an application for any 1196
approval, consent, permit, or certificate or satisfies any 1197
condition required by a public agency or political subdivision 1198
of this state for the construction or initial operation of an 1199
energy project. 1200

(b) Construction or installation of the energy facility 1201
begins on or after January 1, 2009, and before January 1, 2023. 1202
For the purposes of this division, construction begins on the 1203
earlier of the date of application for a certificate or other 1204
approval or permit described in division (B) (1) (a) of this 1205
section, or the date the contract for the construction or 1206
installation of the energy facility is entered into. 1207

(c) For a qualified energy project with a nameplate 1208
capacity of ~~twenty-five~~ megawatts or greater, a board of county 1209
commissioners of a county in which property of the project is 1210
located has adopted a resolution under division (E) (1) (b) or (c) 1211
of this section to approve the application submitted under 1212
division (E) of this section to exempt the property located in 1213
that county from taxation. A board's adoption of a resolution 1214
rejecting an application or its failure to adopt a resolution 1215
approving the application does not affect the tax-exempt status 1216
of the qualified energy project's property that is located in 1217
another county. 1218

(2) If tangible personal property of a qualified energy 1219

project using renewable energy resources was exempt from 1220
taxation under this section beginning in any of tax years 2011 1221
through 2023, and the certification under division (E) (2) of 1222
this section has not been revoked, the tangible personal 1223
property of the qualified energy project is exempt from taxation 1224
for tax year 2024 and all ensuing tax years if the property was 1225
placed into service before January 1, 2024, as certified in the 1226
construction progress report required under division (F) (2) of 1227
this section. Tangible personal property that has not been 1228
placed into service before that date is taxable property subject 1229
to taxation. An energy project for which certification has been 1230
revoked is ineligible for further exemption under this section. 1231
Revocation does not affect the tax-exempt status of the 1232
project's tangible personal property for the tax year in which 1233
revocation occurs or any prior tax year. 1234

(C) Tangible personal property of a qualified energy 1235
project using clean coal technology, advanced nuclear 1236
technology, or cogeneration technology is exempt from taxation 1237
for the first tax year that the property would be listed for 1238
taxation and all subsequent years if all of the following 1239
circumstances are met: 1240

(1) The property was placed into service before January 1, 1241
2021. Tangible personal property that has not been placed into 1242
service before that date is taxable property subject to 1243
taxation. 1244

(2) For such a qualified energy project with a nameplate 1245
capacity of ~~twenty~~five megawatts or greater, a board of county 1246
commissioners of a county in which property of the qualified 1247
energy project is located has adopted a resolution under 1248
division (E) (1) (b) or (c) of this section to approve the 1249

application submitted under division (E) of this section to 1250
exempt the property located in that county from taxation. A 1251
board's adoption of a resolution rejecting the application or 1252
its failure to adopt a resolution approving the application does 1253
not affect the tax-exempt status of the qualified energy 1254
project's property that is located in another county. 1255

(3) The certification for the qualified energy project 1256
issued under division (E) (2) of this section has not been 1257
revoked. An energy project for which certification has been 1258
revoked is ineligible for exemption under this section. 1259
Revocation does not affect the tax-exempt status of the 1260
project's tangible personal property for the tax year in which 1261
revocation occurs or any prior tax year. 1262

(D) Except as otherwise provided in this section, real 1263
property of a qualified energy project is exempt from taxation 1264
for any tax year for which the tangible personal property of the 1265
qualified energy project is exempted under this section. 1266

(E) (1) (a) A person may apply to the director of 1267
development services for certification of an energy project as a 1268
qualified energy project on or before the following dates: 1269

(i) December 31, 2022, for an energy project using 1270
renewable energy resources; 1271

(ii) December 31, 2017, for an energy project using clean 1272
coal technology, advanced nuclear technology, or cogeneration 1273
technology. 1274

(b) The director shall forward a copy of each application 1275
for certification of an energy project with a nameplate capacity 1276
of ~~twenty-five~~ megawatts or greater to the board of county 1277
commissioners of each county in which the project is located and 1278

to each taxing unit with territory located in each of the 1279
affected counties. Any board that receives from the director a 1280
copy of an application submitted under this division shall adopt 1281
a resolution approving or rejecting the application unless it 1282
has adopted a resolution under division (E) (1) (c) of this 1283
section. A resolution adopted under division (E) (1) (b) or (c) of 1284
this section may require an annual service payment to be made in 1285
addition to the service payment required under division (G) of 1286
this section. The sum of the service payment required in the 1287
resolution and the service payment required under division (G) 1288
of this section shall not exceed nine thousand dollars per 1289
megawatt of nameplate capacity located in the county. The 1290
resolution shall specify the time and manner in which the 1291
payments required by the resolution shall be paid to the county 1292
treasurer. The county treasurer shall deposit the payment to the 1293
credit of the county's general fund to be used for any purpose 1294
for which money credited to that fund may be used. 1295

The board shall send copies of the resolution to the owner 1296
of the facility and the director by certified mail or, if the 1297
board has record of an internet identifier of record associated 1298
with the owner or director, by ordinary mail and by that 1299
internet identifier of record. The board shall send such notice 1300
within thirty days after receipt of the application, or a longer 1301
period of time if authorized by the director. 1302

(c) A board of county commissioners may adopt a resolution 1303
declaring the county to be an alternative energy zone and 1304
declaring all applications submitted to the director of 1305
development services under this division after the adoption of 1306
the resolution, and prior to its repeal, to be approved by the 1307
board. 1308

All tangible personal property and real property of an 1309
energy project with a nameplate capacity of ~~twenty-five~~ 1310
megawatts or greater is taxable if it is located in a county in 1311
which the board of county commissioners adopted a resolution 1312
rejecting the application submitted under this division or 1313
failed to adopt a resolution approving the application under 1314
division (E) (1) (b) or (c) of this section. 1315

(2) The director shall certify an energy project if all of 1316
the following circumstances exist: 1317

(a) The application was timely submitted. 1318

(b) For an energy project with a nameplate capacity of 1319
~~twenty-five~~ megawatts or greater, a board of county 1320
commissioners of at least one county in which the project is 1321
located has adopted a resolution approving the application under 1322
division (E) (1) (b) or (c) of this section. 1323

(c) No portion of the project's facility was used to 1324
supply electricity before December 31, 2009. 1325

(3) The director shall deny a certification application if 1326
the director determines the person has failed to comply with any 1327
requirement under this section. The director may revoke a 1328
certification if the director determines the person, or 1329
subsequent owner or lessee pursuant to a sale and leaseback 1330
transaction of the qualified energy project, has failed to 1331
comply with any requirement under this section. Upon 1332
certification or revocation, the director shall notify the 1333
person, owner, or lessee, the tax commissioner, and the county 1334
auditor of a county in which the project is located of the 1335
certification or revocation. Notice shall be provided in a 1336
manner convenient to the director. 1337

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

(1) Comply with all applicable regulations;

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

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

(4) For energy projects with a nameplate capacity of ~~twenty-five~~ megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts.

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

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

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or

installation of the energy project to total full-time equivalent 1399
employees employed in the construction or installation of the 1400
energy project of not less than eighty per cent in the case of a 1401
solar energy project, and not less than fifty per cent in the 1402
case of any other energy project. In the case of an energy 1403
project for which certification from the power siting board is 1404
required under section 4906.20 of the Revised Code, the number 1405
of full-time equivalent employees employed in the construction 1406
or installation of the energy project equals the number actually 1407
employed or the number projected to be employed in the 1408
certificate application, if such projection is required under 1409
regulations adopted pursuant to section 4906.03 of the Revised 1410
Code, whichever is greater. For all other energy projects, the 1411
number of full-time equivalent employees employed in the 1412
construction or installation of the energy project equals the 1413
number actually employed or the number projected to be employed 1414
by the director of development services, whichever is greater. 1415
To estimate the number of employees to be employed in the 1416
construction or installation of an energy project, the director 1417
shall use a generally accepted job-estimating model in use for 1418
renewable energy projects, including but not limited to the job 1419
and economic development impact model. The director may adjust 1420
an estimate produced by a model to account for variables not 1421
accounted for by the model. 1422

(7) For energy projects with a nameplate capacity in 1423
excess of ~~twenty-two~~ megawatts, establish a relationship with a 1424
member of the university system of Ohio as defined in section 1425
3345.011 of the Revised Code or with a person offering an 1426
apprenticeship program registered with the employment and 1427
training administration within the United States department of 1428
labor or with the apprenticeship council created by section 1429

4139.02 of the Revised Code, to educate and train individuals 1430
for careers in the wind or solar energy industry. The 1431
relationship may include endowments, cooperative programs, 1432
internships, apprenticeships, research and development projects, 1433
and curriculum development. 1434

(8) Offer to sell power or renewable energy credits from 1435
the energy project to electric distribution utilities or 1436
electric service companies subject to renewable energy resource 1437
requirements under section 4928.64 of the Revised Code that have 1438
issued requests for proposal for such power or renewable energy 1439
credits. If no electric distribution utility or electric service 1440
company issues a request for proposal on or before December 31, 1441
2010, or accepts an offer for power or renewable energy credits 1442
within forty-five days after the offer is submitted, power or 1443
renewable energy credits from the energy project may be sold to 1444
other persons. Division (F)(8) of this section does not apply 1445
if: 1446

(a) The owner or lessee is a rural electric company or a 1447
municipal power agency as defined in section 3734.058 of the 1448
Revised Code. 1449

(b) The owner or lessee is a person that, before 1450
completion of the energy project, contracted for the sale of 1451
power or renewable energy credits with a rural electric company 1452
or a municipal power agency. 1453

(c) The owner or lessee contracts for the sale of power or 1454
renewable energy credits from the energy project before June 17, 1455
2010. 1456

(9) Make annual service payments as required by division 1457
(G) of this section and as may be required in a resolution 1458

adopted by a board of county commissioners under division (E) of 1459
this section. 1460

(G) The owner or a lessee pursuant to a sale and leaseback 1461
transaction of a qualified energy project shall make annual 1462
service payments in lieu of taxes to the county treasurer on or 1463
before the final dates for payments of taxes on public utility 1464
personal property on the real and public utility personal 1465
property tax list for each tax year for which property of the 1466
energy project is exempt from taxation under this section. The 1467
county treasurer shall allocate the payment on the basis of the 1468
project's physical location. Upon receipt of a payment, or if 1469
timely payment has not been received, the county treasurer shall 1470
certify such receipt or non-receipt to the director of 1471
development services and tax commissioner in a form determined 1472
by the director and commissioner, respectively. Each payment 1473
shall be in the following amount: 1474

(1) In the case of a solar energy project, seven thousand 1475
dollars per megawatt of nameplate capacity located in the county 1476
as of the thirty-first-day of December of the preceding tax 1477
year; 1478

(2) In the case of any other energy project using 1479
renewable energy resources, the following: 1480

(a) If the project maintains during the construction or 1481
installation of the energy facility a ratio of Ohio-domiciled 1482
full-time equivalent employees to total full-time equivalent 1483
employees of not less than seventy-five per cent, six thousand 1484
dollars per megawatt of nameplate capacity located in the county 1485
as of the thirty-first day of December of the preceding tax 1486
year; 1487

(b) If the project maintains during the construction or 1488
installation of the energy facility a ratio of Ohio-domiciled 1489
full-time equivalent employees to total full-time equivalent 1490
employees of less than seventy-five per cent but not less than 1491
sixty per cent, seven thousand dollars per megawatt of nameplate 1492
capacity located in the county as of the thirty-first day of 1493
December of the preceding tax year; 1494

(c) If the project maintains during the construction or 1495
installation of the energy facility a ratio of Ohio-domiciled 1496
full-time equivalent employees to total full-time equivalent 1497
employees of less than sixty per cent but not less than fifty 1498
per cent, eight thousand dollars per megawatt of nameplate 1499
capacity located in the county as of the thirty-first day of 1500
December of the preceding tax year. 1501

(3) In the case of an energy project using clean coal 1502
technology, advanced nuclear technology, or cogeneration 1503
technology, the following: 1504

(a) If the project maintains during the construction or 1505
installation of the energy facility a ratio of Ohio-domiciled 1506
full-time equivalent employees to total full-time equivalent 1507
employees of not less than seventy-five per cent, six thousand 1508
dollars per megawatt of nameplate capacity located in the county 1509
as of the thirty-first day of December of the preceding tax 1510
year; 1511

(b) If the project maintains during the construction or 1512
installation of the energy facility a ratio of Ohio-domiciled 1513
full-time equivalent employees to total full-time equivalent 1514
employees of less than seventy-five per cent but not less than 1515
sixty per cent, seven thousand dollars per megawatt of nameplate 1516
capacity located in the county as of the thirty-first day of 1517

December of the preceding tax year;	1518
(c) If the project maintains during the construction or	1519
installation of the energy facility a ratio of Ohio-domiciled	1520
full-time equivalent employees to total full-time equivalent	1521
employees of less than sixty per cent but not less than fifty	1522
per cent, eight thousand dollars per megawatt of nameplate	1523
capacity located in the county as of the thirty-first day of	1524
December of the preceding tax year.	1525
(H) The director of development services in consultation	1526
with the tax commissioner shall adopt rules pursuant to Chapter	1527
119. of the Revised Code to implement and enforce this section.	1528
Section 2. That existing sections 303.213, 519.213,	1529
713.081, 4906.13, 4928.01, 4928.64, 4928.641, 4928.644,	1530
4928.645, 4928.66, 4928.6610, and 5727.75 of the Revised Code	1531
are hereby repealed.	1532
Section 3. That sections 3706.40, 3706.41, 3706.43,	1533
3706.431, 3706.45, 3706.46, 3706.49, 3706.53, 3706.55, 3706.59,	1534
3706.61, 3706.63, 3706.65, 4928.148, 4928.47, 4928.471,	1535
4928.642, 4928.75, 4928.80, and 5727.231 of the Revised Code are	1536
hereby repealed.	1537
Section 4. That Sections 4 and 5 of H.B. 6 of the 133rd	1538
General Assembly are hereby repealed.	1539
Section 5. (A) The purpose of this act is to repeal all	1540
provisions of H.B. 6 of the 133rd General Assembly by doing the	1541
following:	1542
(1) Reinserting any language that H.B. 6 of the 133rd	1543
General Assembly deleted from individual sections of the Revised	1544
Code;	1545

(2) Striking through, and thereby repealing, any language 1546
that H.B. 6 of the 133rd General Assembly added to individual 1547
sections of the Revised Code; 1548

(3) Repealing outright all Revised Code sections and 1549
uncodified sections of law that were enacted by H.B. 6 of the 1550
133rd General Assembly; 1551

(4) Enacting, and thereby reviving, section 4928.6616 of 1552
the Revised Code as it existed prior to that section's repeal by 1553
H.B. 6 of the 133rd General Assembly. 1554

(B) Notwithstanding divisions (A) (1) and (2) of this 1555
section, the act retains the amendment made by H.B. 6 of the 1556
133rd General Assembly to division (A) of section 4928.641 of 1557
the Revised Code that replaces "the effective date of S.B. 310 1558
of the 130th general assembly," with the actual effective date 1559
of S.B. 310, "September 12, 2014," which amendment is 1560
nonsubstantive. 1561

Section 6. (A) Section 5727.75 of the Revised Code is 1562
presented in this act as a composite of the section as amended 1563
by both H.B. 6 and H.B. 166 of the 133rd General Assembly. The 1564
General Assembly, applying the principle stated in division (B) 1565
of section 1.52 of the Revised Code that amendments are to be 1566
harmonized if reasonably capable of simultaneous operation, 1567
finds that the composite is the resulting version of the section 1568
in effect prior to the effective date of the section as 1569
presented in this act. 1570

(B) Despite the harmonization endorsement in division (A) 1571
of this section, the amendment of section 5727.75 of the Revised 1572
Code by this act has the effect of repealing the changes made to 1573
this section by H.B. 6 of the 133rd General Assembly. 1574