

I_131_2143-5

131st General Assembly
Regular Session
2015-2016

Sub. H.B. No. 554

A BILL

To amend sections 4928.143, 4928.64, 4928.643, 1
4928.645, 4928.65, 4928.66, 4928.6610, and 2
5727.75 and to enact section 4928.6620 of the 3
Revised Code and to amend Section 6 of Sub. S.B. 4
310 of the 130th General Assembly to revise the 5
requirements for renewable energy, energy 6
efficiency, and peak demand reduction. 7

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

Section 1. That sections 4928.143, 4928.64, 4928.643, 8
4928.645, 4928.65, 4928.66, 4928.6610, and 5727.75 be amended 9
and section 4928.6620 of the Revised Code be enacted to read as 10
follows: 11

Sec. 4928.143. (A) For the purpose of complying with 12
section 4928.141 of the Revised Code, an electric distribution 13
utility may file an application for public utilities commission 14
approval of an electric security plan as prescribed under 15
division (B) of this section. The utility may file that 16
application prior to the effective date of any rules the 17
commission may adopt for the purpose of this section, and, as 18



xlktaxna95vuauqf9izb9h

the commission determines necessary, the utility immediately 19
shall conform its filing to those rules upon their taking 20
effect. 21

(B) Notwithstanding any other provision of Title XLIX of 22
the Revised Code to the contrary except division (D) of this 23
section, divisions (I), (J), and (K) of section 4928.20, 24
division ~~(E)~~ (G) of section 4928.64, and section 4928.69 of the 25
Revised Code: 26

(1) An electric security plan shall include provisions 27
relating to the supply and pricing of electric generation 28
service. In addition, if the proposed electric security plan has 29
a term longer than three years, it may include provisions in the 30
plan to permit the commission to test the plan pursuant to 31
division (E) of this section and any transitional conditions 32
that should be adopted by the commission if the commission 33
terminates the plan as authorized under that division. 34

(2) The plan may provide for or include, without 35
limitation, any of the following: 36

(a) Automatic recovery of any of the following costs of 37
the electric distribution utility, provided the cost is 38
prudently incurred: the cost of fuel used to generate the 39
electricity supplied under the offer; the cost of purchased 40
power supplied under the offer, including the cost of energy and 41
capacity, and including purchased power acquired from an 42
affiliate; the cost of emission allowances; and the cost of 43
federally mandated carbon or energy taxes; 44

(b) A reasonable allowance for construction work in 45
progress for any of the electric distribution utility's cost of 46
constructing an electric generating facility or for an 47

environmental expenditure for any electric generating facility 48
of the electric distribution utility, provided the cost is 49
incurred or the expenditure occurs on or after January 1, 2009. 50
Any such allowance shall be subject to the construction work in 51
progress allowance limitations of division (A) of section 52
4909.15 of the Revised Code, except that the commission may 53
authorize such an allowance upon the incurrence of the cost or 54
occurrence of the expenditure. No such allowance for generating 55
facility construction shall be authorized, however, unless the 56
commission first determines in the proceeding that there is need 57
for the facility based on resource planning projections 58
submitted by the electric distribution utility. Further, no such 59
allowance shall be authorized unless the facility's construction 60
was sourced through a competitive bid process, regarding which 61
process the commission may adopt rules. An allowance approved 62
under division (B) (2) (b) of this section shall be established as 63
a nonbypassable surcharge for the life of the facility. 64

(c) The establishment of a nonbypassable surcharge for the 65
life of an electric generating facility that is owned or 66
operated by the electric distribution utility, was sourced 67
through a competitive bid process subject to any such rules as 68
the commission adopts under division (B) (2) (b) of this section, 69
and is newly used and useful on or after January 1, 2009, which 70
surcharge shall cover all costs of the utility specified in the 71
application, excluding costs recovered through a surcharge under 72
division (B) (2) (b) of this section. However, no surcharge shall 73
be authorized unless the commission first determines in the 74
proceeding that there is need for the facility based on resource 75
planning projections submitted by the electric distribution 76
utility. Additionally, if a surcharge is authorized for a 77
facility pursuant to plan approval under division (C) of this 78

section and as a condition of the continuation of the surcharge, 79
the electric distribution utility shall dedicate to Ohio 80
consumers the capacity and energy and the rate associated with 81
the cost of that facility. Before the commission authorizes any 82
surcharge pursuant to this division, it may consider, as 83
applicable, the effects of any decommissioning, deratings, and 84
retirements. 85

(d) Terms, conditions, or charges relating to limitations 86
on customer shopping for retail electric generation service, 87
bypassability, standby, back-up, or supplemental power service, 88
default service, carrying costs, amortization periods, and 89
accounting or deferrals, including future recovery of such 90
deferrals, as would have the effect of stabilizing or providing 91
certainty regarding retail electric service; 92

(e) Automatic increases or decreases in any component of 93
the standard service offer price; 94

(f) Consistent with sections 4928.23 to 4928.2318 of the 95
Revised Code, both of the following: 96

(i) Provisions for the electric distribution utility to 97
securitize any phase-in, inclusive of carrying charges, of the 98
utility's standard service offer price, which phase-in is 99
authorized in accordance with section 4928.144 of the Revised 100
Code; 101

(ii) Provisions for the recovery of the utility's cost of 102
securitization. 103

(g) Provisions relating to transmission, ancillary, 104
congestion, or any related service required for the standard 105
service offer, including provisions for the recovery of any cost 106
of such service that the electric distribution utility incurs on 107

or after that date pursuant to the standard service offer; 108

(h) Provisions regarding the utility's distribution 109
service, including, without limitation and notwithstanding any 110
provision of Title XLIX of the Revised Code to the contrary, 111
provisions regarding single issue ratemaking, a revenue 112
decoupling mechanism or any other incentive ratemaking, and 113
provisions regarding distribution infrastructure and 114
modernization incentives for the electric distribution utility. 115
The latter may include a long-term energy delivery 116
infrastructure modernization plan for that utility or any plan 117
providing for the utility's recovery of costs, including lost 118
revenue, shared savings, and avoided costs, and a just and 119
reasonable rate of return on such infrastructure modernization. 120
As part of its determination as to whether to allow in an 121
electric distribution utility's electric security plan inclusion 122
of any provision described in division (B) (2) (h) of this 123
section, the commission shall examine the reliability of the 124
electric distribution utility's distribution system and ensure 125
that customers' and the electric distribution utility's 126
expectations are aligned and that the electric distribution 127
utility is placing sufficient emphasis on and dedicating 128
sufficient resources to the reliability of its distribution 129
system. 130

(i) Provisions under which the electric distribution 131
utility may implement economic development, job retention, and 132
energy efficiency programs, which provisions may allocate 133
program costs across all classes of customers of the utility and 134
those of electric distribution utilities in the same holding 135
company system. 136

(C) (1) The burden of proof in the proceeding shall be on 137

the electric distribution utility. The commission shall issue an order under this division for an initial application under this section not later than one hundred fifty days after the application's filing date and, for any subsequent application by the utility under this section, not later than two hundred seventy-five days after the application's filing date. Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. Additionally, if the commission so approves an application that contains a surcharge under division (B) (2) (b) or (c) of this section, the commission shall ensure that the benefits derived for any purpose for which the surcharge is established are reserved and made available to those that bear the surcharge. Otherwise, the commission by order shall disapprove the application.

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

(b) If the utility terminates an application pursuant to division (C) (2) (a) of this section or if the commission disapproves an application under division (C) (1) of this section, the commission shall issue such order as is necessary to continue the provisions, terms, and conditions of the

utility's most recent standard service offer, along with any 169
expected increases or decreases in fuel costs from those 170
contained in that offer, until a subsequent offer is authorized 171
pursuant to this section or section 4928.142 of the Revised 172
Code, respectively. 173

(D) Regarding the rate plan requirement of division (A) of 174
section 4928.141 of the Revised Code, if an electric 175
distribution utility that has a rate plan that extends beyond 176
December 31, 2008, files an application under this section for 177
the purpose of its compliance with division (A) of section 178
4928.141 of the Revised Code, that rate plan and its terms and 179
conditions are hereby incorporated into its proposed electric 180
security plan and shall continue in effect until the date 181
scheduled under the rate plan for its expiration, and that 182
portion of the electric security plan shall not be subject to 183
commission approval or disapproval under division (C) of this 184
section, and the earnings test provided for in division (F) of 185
this section shall not apply until after the expiration of the 186
rate plan. However, that utility may include in its electric 187
security plan under this section, and the commission may 188
approve, modify and approve, or disapprove subject to division 189
(C) of this section, provisions for the incremental recovery or 190
the deferral of any costs that are not being recovered under the 191
rate plan and that the utility incurs during that continuation 192
period to comply with section 4928.141, division (B) of section 193
4928.64, or division (A) of section 4928.66 of the Revised Code. 194

(E) If an electric security plan approved under division 195
(C) of this section, except one withdrawn by the utility as 196
authorized under that division, has a term, exclusive of phase- 197
ins or deferrals, that exceeds three years from the effective 198
date of the plan, the commission shall test the plan in the 199

fourth year, and if applicable, every fourth year thereafter, to 200
determine whether the plan, including its then-existing pricing 201
and all other terms and conditions, including any deferrals and 202
any future recovery of deferrals, continues to be more favorable 203
in the aggregate and during the remaining term of the plan as 204
compared to the expected results that would otherwise apply 205
under section 4928.142 of the Revised Code. The commission shall 206
also determine the prospective effect of the electric security 207
plan to determine if that effect is substantially likely to 208
provide the electric distribution utility with a return on 209
common equity that is significantly in excess of the return on 210
common equity that is likely to be earned by publicly traded 211
companies, including utilities, that face comparable business 212
and financial risk, with such adjustments for capital structure 213
as may be appropriate. The burden of proof for demonstrating 214
that significantly excessive earnings will not occur shall be on 215
the electric distribution utility. If the test results are in 216
the negative or the commission finds that continuation of the 217
electric security plan will result in a return on equity that is 218
significantly in excess of the return on common equity that is 219
likely to be earned by publicly traded companies, including 220
utilities, that will face comparable business and financial 221
risk, with such adjustments for capital structure as may be 222
appropriate, during the balance of the plan, the commission may 223
terminate the electric security plan, but not until it shall 224
have provided interested parties with notice and an opportunity 225
to be heard. The commission may impose such conditions on the 226
plan's termination as it considers reasonable and necessary to 227
accommodate the transition from an approved plan to the more 228
advantageous alternative. In the event of an electric security 229
plan's termination pursuant to this division, the commission 230
shall permit the continued deferral and phase-in of any amounts 231

that occurred prior to that termination and the recovery of 232
those amounts as contemplated under that electric security plan. 233

(F) With regard to the provisions that are included in an 234
electric security plan under this section, the commission shall 235
consider, following the end of each annual period of the plan, 236
if any such adjustments resulted in excessive earnings as 237
measured by whether the earned return on common equity of the 238
electric distribution utility is significantly in excess of the 239
return on common equity that was earned during the same period 240
by publicly traded companies, including utilities, that face 241
comparable business and financial risk, with such adjustments 242
for capital structure as may be appropriate. Consideration also 243
shall be given to the capital requirements of future committed 244
investments in this state. The burden of proof for demonstrating 245
that significantly excessive earnings did not occur shall be on 246
the electric distribution utility. If the commission finds that 247
such adjustments, in the aggregate, did result in significantly 248
excessive earnings, it shall require the electric distribution 249
utility to return to consumers the amount of the excess by 250
prospective adjustments; provided that, upon making such 251
prospective adjustments, the electric distribution utility shall 252
have the right to terminate the plan and immediately file an 253
application pursuant to section 4928.142 of the Revised Code. 254
Upon termination of a plan under this division, rates shall be 255
set on the same basis as specified in division (C)(2)(b) of this 256
section, and the commission shall permit the continued deferral 257
and phase-in of any amounts that occurred prior to that 258
termination and the recovery of those amounts as contemplated 259
under that electric security plan. In making its determination 260
of significantly excessive earnings under this division, the 261
commission shall not consider, directly or indirectly, the 262

revenue, expenses, or earnings of any affiliate or parent 263
company. 264

Sec. 4928.64. (A) (1) As used in this section, "qualifying 265
renewable energy resource" means a renewable energy resource, as 266
defined in section 4928.01 of the Revised Code that has a 267
placed-in-service date on or after January 1, 1998, or with 268
respect to any run-of-the-river hydroelectric facility, an in- 269
service date on or after January 1, 1980; a renewable energy 270
resource created on or after January 1, 1998, by the 271
modification or retrofit of any facility placed in service prior 272
to January 1, 1998; or a mercantile customer-sited renewable 273
energy resource, whether new or existing, that the mercantile 274
customer commits for integration into the electric distribution 275
utility's demand-response, energy efficiency, or peak demand 276
reduction programs as provided under division (A) (2) (c) of 277
section 4928.66 of the Revised Code, including, but not limited 278
to, any of the following: 279

(a) A resource that has the effect of improving the 280
relationship between real and reactive power; 281

(b) A resource that makes efficient use of waste heat or 282
other thermal capabilities owned or controlled by a mercantile 283
customer; 284

(c) Storage technology that allows a mercantile customer 285
more flexibility to modify its demand or load and usage 286
characteristics; 287

(d) Electric generation equipment owned or controlled by a 288
mercantile customer that uses a renewable energy resource. 289

(2) For the purpose of this section and as it considers 290
appropriate, the public utilities commission may classify any 291

new technology as such a qualifying renewable energy resource. 292

(B) (1) By 2027 and thereafter, an electric distribution 293
utility shall provide from qualifying renewable energy 294
resources, including, at its discretion, qualifying renewable 295
energy resources obtained pursuant to an electricity supply 296
contract, a portion of the electricity supply required for its 297
standard service offer under section 4928.141 of the Revised 298
Code, and an electric services company shall provide a portion 299
of its electricity supply for retail consumers in this state 300
from qualifying renewable energy resources, including, at its 301
discretion, qualifying renewable energy resources obtained 302
pursuant to an electricity supply contract. That portion shall 303
equal twelve and one-half per cent of the total number of 304
kilowatt hours of electricity sold by the subject utility or 305
company to any and all retail electric consumers whose electric 306
load centers are served by that utility and are located within 307
the utility's certified territory or, in the case of an electric 308
services company, are served by the company and are located 309
within this state. However, nothing in this section precludes a 310
utility or company from providing a greater percentage. 311

(2) The portion required under division (B) (1) of this 312
section shall be generated from renewable energy resources, 313
including one-half per cent from solar energy resources, in 314
accordance with the following benchmarks, subject to section 315
4928.6620 of the Revised Code: 316

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	317
2010	0.50%	0.010%	318
2011	1%	0.030%	319
			320
			321

2012	1.5%	0.060%	322
2013	2%	0.090%	323
2014	2.5%	0.12%	324
2015	2.5%	0.12%	325
2016	2.5%	0.12%	326
2017	3.5%	0.15%	327
2018	4.5%	0.18%	328
2019	5.5%	0.22%	329
2020	6.5%	0.26%	330
2021	7.5%	0.3%	331
2022	8.5%	0.34%	332
2023	9.5%	0.38%	333
2024	10.5%	0.42%	334
2025	11.5%	0.46%	335
2026 and each calendar year thereafter	12.5%	0.5%.	336 337

(3) The qualifying renewable energy resources implemented 338
by the utility or company shall be met either: 339

(a) Through facilities located in this state; or 340

(b) With resources that can be shown to be deliverable 341
into this state. 342

(C) Beginning in 2021: 343

(1) The commission annually shall review an electric 344
distribution utility's or electric services company's compliance 345
with the ~~most recent applicable~~ benchmark under division (B) (2) 346
of this section for the previous year and, in the course of that 347
review, shall identify any undercompliance or noncompliance of 348
the utility or company that it determines is weather-related, 349
related to equipment or resource shortages for qualifying 350

renewable energy resources as applicable, or is otherwise 351
outside the utility's or company's control. 352

(2) Subject to the cost cap provisions of division (C) (3) 353
of this section, if the commission determines, after notice and 354
opportunity for hearing, and based upon its findings in ~~that the~~ 355
review under division (C) (1) of this section regarding avoidable 356
undercompliance or noncompliance, but subject to division (C) (4) 357
of this section, that the utility or company has failed to 358
comply with ~~any such the benchmark for the previous year~~, the 359
commission shall impose a renewable energy compliance payment on 360
the utility or company. 361

(a) The compliance payment pertaining to the solar energy 362
resource benchmarks under division (B) (2) of this section shall 363
be an amount per megawatt hour of undercompliance or 364
noncompliance in the period under review, as follows: 365

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 366

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 367

~~(iii) Two hundred dollars for 2019 and 2020;~~ 368

~~(iv) (ii) One hundred fifty dollars for 2021 and 2022;~~ 369

(iii) Similarly reduced every two years thereafter through 370
2026 by fifty dollars, to a minimum of fifty dollars. 371

(b) The compliance payment pertaining to the renewable 372
energy resource benchmarks under division (B) (2) of this section 373
shall equal the number of additional renewable energy credits 374
that the electric distribution utility or electric services 375
company would have needed to comply with the applicable 376
benchmark in the period under review times an amount that shall 377
begin at forty-five dollars and shall be adjusted annually by 378

the commission to reflect any change in the consumer price index 379
as defined in section 101.27 of the Revised Code, but shall not 380
be less than forty-five dollars. 381

(c) The compliance payment shall not be passed through by 382
the electric distribution utility or electric services company 383
to consumers. The compliance payment shall be remitted to the 384
commission, for deposit to the credit of the advanced energy 385
fund created under section 4928.61 of the Revised Code. Payment 386
of the compliance payment shall be subject to such collection 387
and enforcement procedures as apply to the collection of a 388
forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the 389
Revised Code. 390

(3) An electric distribution utility or an electric 391
services company need not comply with a benchmark under division 392
(B) (2) of this section to the extent that its reasonably 393
expected cost of that compliance exceeds its reasonably expected 394
cost of otherwise producing or acquiring the requisite 395
electricity by three per cent or more. The cost of compliance 396
shall be calculated as though any exemption from taxes and 397
assessments had not been granted under section 5727.75 of the 398
Revised Code. 399

(4) (a) An electric distribution utility or electric 400
services company may request the commission to make a force 401
majeure determination pursuant to this division regarding all or 402
part of the utility's or company's compliance with any minimum 403
benchmark under division (B) (2) of this section during the 404
period of review occurring pursuant to division (C) (2) of this 405
section. The commission may require the electric distribution 406
utility or electric services company to make solicitations for 407
renewable energy resource credits as part of its default service 408

before the utility's or company's request of force majeure under 409
this division can be made. 410

(b) Within ninety days after the filing of a request by an 411
electric distribution utility or electric services company under 412
division (C)(4)(a) of this section, the commission shall 413
determine if qualifying renewable energy resources are 414
reasonably available in the marketplace in sufficient quantities 415
for the utility or company to comply with the subject minimum 416
benchmark during the review period. In making this 417
determination, the commission shall consider whether the 418
electric distribution utility or electric services company has 419
made a good faith effort to acquire sufficient qualifying 420
renewable energy or, as applicable, solar energy resources to so 421
comply, including, but not limited to, by banking or seeking 422
renewable energy resource credits or by seeking the resources 423
through long-term contracts. Additionally, the commission shall 424
consider the availability of qualifying renewable energy or 425
solar energy resources in this state and other jurisdictions in 426
the PJM interconnection regional transmission organization, 427
L.L.C., or its successor and the midcontinent independent system 428
operator or its successor. 429

(c) If, pursuant to division (C)(4)(b) of this section, 430
the commission determines that qualifying renewable energy or 431
solar energy resources are not reasonably available to permit 432
the electric distribution utility or electric services company 433
to comply, during the period of review, with the subject minimum 434
benchmark prescribed under division (B)(2) of this section, the 435
commission shall modify that compliance obligation of the 436
utility or company as it determines appropriate to accommodate 437
the finding. Commission modification shall not automatically 438
reduce the obligation for the electric distribution utility's or 439

electric services company's compliance in subsequent years. If 440
it modifies the electric distribution utility or electric 441
services company obligation under division (C) (4) (c) of this 442
section, the commission may require the utility or company, if 443
sufficient renewable energy resource credits exist in the 444
marketplace, to acquire additional renewable energy resource 445
credits in subsequent years equivalent to the utility's or 446
company's modified obligation under division (C) (4) (c) of this 447
section. 448

~~(5)~~ (D) The sole penalty for an electric distribution 449
utility's or electric services company's failure to comply with 450
any provision of division (B) (2) of this section shall be the 451
imposition of compliance payments in accordance with division 452
(C) of this section. 453

(E) The commission shall establish a process to provide 454
for at least an annual review of the renewable energy resource 455
market in this state and in the service territories of the 456
regional transmission organizations that manage transmission 457
systems located in this state. The commission shall use the 458
results of this study to identify any needed changes to the 459
amount of the renewable energy compliance payment specified 460
under divisions (C) (2) (a) and (b) of this section. Specifically, 461
the commission may increase the amount to ensure that payment of 462
compliance payments is not used to achieve compliance with this 463
section in lieu of actually acquiring or realizing energy 464
derived from qualifying renewable energy resources. However, if 465
the commission finds that the amount of the compliance payment 466
should be otherwise changed, the commission shall present this 467
finding to the general assembly for legislative enactment. 468

~~(D)~~ (F) The commission annually shall submit to the 469

general assembly in accordance with section 101.68 of the Revised Code a report describing all of the following:

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

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

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

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

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

Sec. 4928.643. (A) Except as provided in division (B) of this section and section 4928.644 of the Revised Code, the baseline for an electric distribution utility's or an electric services company's compliance with the qualified renewable

energy resource ~~requirements~~provisions of section 4928.64 of 499
the Revised Code shall be the average of total kilowatt hours 500
sold by the utility or company in the preceding three calendar 501
years to the following: 502

(1) In the case of an electric distribution utility, any 503
and all retail electric consumers whose electric load centers 504
are served by that utility and are located within the utility's 505
certified territory; 506

(2) In the case of an electric services company, any and 507
all retail electric consumers who are served by the company and 508
are located within this state. 509

(B) Beginning with compliance year 2014, a utility or 510
company may choose for its baseline for compliance with the 511
qualified renewable energy resource ~~requirements~~provisions of 512
section 4928.64 of the Revised Code to be the total kilowatt 513
hours sold to the applicable consumers, as described in division 514
(A) (1) or (2) of this section, in the applicable compliance 515
year. 516

(C) A utility or company that uses the baseline permitted 517
under division (B) of this section may use the baseline 518
described in division (A) of this section in any subsequent 519
compliance year. A utility or company that makes this switch 520
shall use the baseline described in division (A) of this section 521
for at least three consecutive compliance years before again 522
using the baseline permitted under division (B) of this section. 523

Sec. 4928.645. (A) An electric distribution utility or 524
electric services company may use, for the purpose of complying 525
with the ~~requirements~~provisions under divisions (B) (1) and (2) 526
of section 4928.64 of the Revised Code, renewable energy credits 527

any time in the five calendar years following the date of their 528
purchase or acquisition from any entity, including, but not 529
limited to, the following: 530

(1) A mercantile customer; 531

(2) An owner or operator of a hydroelectric generating 532
facility that is located at a dam on a river, or on any water 533
discharged to a river, that is within or bordering this state or 534
within or bordering an adjoining state, or that produces power 535
that can be shown to be deliverable into this state; 536

(3) A seller of compressed natural gas that has been 537
produced from biologically derived methane gas, provided that 538
the seller may only provide renewable energy credits for metered 539
amounts of gas. 540

(B) (1) The public utilities commission shall adopt rules 541
specifying that one unit of credit shall equal one megawatt hour 542
of electricity derived from renewable energy resources, except 543
that, for a generating facility of seventy-five megawatts or 544
greater that is situated within this state and has committed by 545
December 31, 2009, to modify or retrofit its generating unit or 546
units to enable the facility to generate principally from 547
biomass energy by June 30, 2013, each megawatt hour of 548
electricity generated principally from that biomass energy shall 549
equal, in units of credit, the product obtained by multiplying 550
the actual percentage of biomass feedstock heat input used to 551
generate such megawatt hour by the quotient obtained by dividing 552
the then existing unit dollar amount used to determine a 553
renewable energy compliance payment as provided under division 554
(C) (2) (b) of section 4928.64 of the Revised Code by the then 555
existing market value of one renewable energy credit, but such 556
megawatt hour shall not equal less than one unit of credit. 557

Renewable energy resources do not have to be converted to 558
electricity in order to be eligible to receive renewable energy 559
credits. The rules shall specify that, for purposes of 560
converting the quantity of energy derived from biologically 561
derived methane gas to an electricity equivalent, one megawatt 562
hour equals 3,412,142 British thermal units. 563

(2) The rules also shall provide for this state a system 564
of registering renewable energy credits by specifying which of 565
any generally available registries shall be used for that 566
purpose and not by creating a registry. That selected system of 567
registering renewable energy credits shall allow a hydroelectric 568
generating facility to be eligible for obtaining renewable 569
energy credits and shall allow customer-sited projects or 570
actions the broadest opportunities to be eligible for obtaining 571
renewable energy credits. 572

Sec. 4928.65. (A) Not later than January 1, 2015, the 573
public utilities commission shall adopt rules governing the 574
disclosure of the costs to customers of the renewable energy 575
resource, energy efficiency savings, and peak demand reduction 576
~~requirements~~provisions of sections 4928.64 and 4928.66 of the 577
Revised Code. The rules shall include both of the following 578
requirements: 579

(1) That every electric distribution utility list, on all 580
customer bills sent by the utility, including utility 581
consolidated bills that include both electric distribution 582
utility and electric services company charges, the individual 583
customer cost of the utility's compliance with all of the 584
following for the applicable billing period: 585

(a) The renewable energy resource ~~requirements~~provisions 586
under section 4928.64 of the Revised Code, subject to division 587

(B) of this section;	588
(b) The energy efficiency savings requirements <u>provisions</u> under section 4928.66 of the Revised Code;	589 590
(c) The peak demand reduction requirements <u>provisions</u> under section 4928.66 of the Revised Code.	591 592
(2) That every electric services company list, on all customer bills sent by the company, the individual customer cost, subject to division (B) of this section, of the company's compliance with the renewable energy resource requirements <u>provisions</u> under section 4928.64 of the Revised Code for the applicable billing period.	593 594 595 596 597 598
(B) (1) For purposes of division (A) (1) (a) of this section, the cost of compliance with the renewable energy resource requirements <u>provisions</u> shall be calculated by multiplying the individual customer's monthly usage by the combined weighted average of renewable-energy-credit costs, including solar- renewable-energy-credit costs, paid by all electric distribution utilities, as listed in the commission's most recently available alternative energy portfolio standard report.	599 600 601 602 603 604 605 606
(2) For purposes of division (A) (2) of this section, the cost of compliance with the renewable energy resource requirements <u>provisions</u> shall be calculated by multiplying the individual customer's monthly usage by the combined weighted average of renewable-energy-credit costs, including solar- renewable-energy-credit costs, paid by all electric services companies, as listed in the commission's most recently available alternative energy portfolio standard report.	607 608 609 610 611 612 613 614
(C) The costs required to be listed under division (A) (1) of this section shall be listed on each customer's monthly bill	615 616

as three distinct line items. The cost required to be listed 617
under division (A) (2) of this section shall be listed on each 618
customer's monthly bill as a distinct line item. 619

Sec. 4928.66. (A) (1) (a) Beginning in 2009, an electric 620
distribution utility shall implement energy efficiency programs 621
that achieve energy savings equivalent to at least three-tenths 622
of one per cent of the total, annual average, and normalized 623
kilowatt-hour sales of the electric distribution utility during 624
the preceding three calendar years to customers in this state. 625
An energy efficiency program may include a combined heat and 626
power system placed into service or retrofitted on or after the 627
effective date of the amendment of this section by S.B. 315 of 628
the 129th general assembly, September 10, 2012, or a waste 629
energy recovery system placed into service or retrofitted on or 630
after September 10, 2012, except that a waste energy recovery 631
system described in division (A) (38) (b) of section 4928.01 of 632
the Revised Code may be included only if it was placed into 633
service between January 1, 2002, and December 31, 2004. For a 634
waste energy recovery or combined heat and power system, the 635
savings shall be as estimated by the public utilities 636
commission. The savings requirement, using such a three-year 637
average, shall increase to an additional five-tenths of one per 638
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 639
of one per cent in 2012, nine-tenths of one per cent in 2013, 640
and one per cent in 2014. In 2015 and 2016, an electric 641
distribution utility shall achieve energy savings equal to the 642
result of subtracting the cumulative energy savings achieved 643
since 2009 from the product of multiplying the baseline for 644
energy savings, described in division (A) (2) (a) of this section, 645
by four and two-tenths of one per cent. If the result is zero or 646
less for the year for which the calculation is being made, the 647

utility shall not be required to achieve additional energy 648
savings for that year, but may achieve additional energy savings 649
for that year. Thereafter, the annual savings requirements shall 650
be, for years 2017, 2018, 2019, ~~and 2020~~, 2021, 2022, 2023, 651
2024, and 2025, one per cent of the baseline, and two per cent 652
~~each year thereafter~~ for years 2026 and 2027, achieving 653
cumulative energy savings in excess of ~~twenty-two~~ seventeen per 654
cent by the end of 2027. For purposes of a waste energy recovery 655
or combined heat and power system, an electric distribution 656
utility shall not apply more than the total annual percentage of 657
the electric distribution utility's industrial-customer load, 658
relative to the electric distribution utility's total load, to 659
the annual energy savings requirement. 660

(b) Beginning in 2009, an electric distribution utility 661
shall implement peak demand reduction programs designed to 662
achieve a one per cent reduction in peak demand in 2009 and an 663
additional seventy-five hundredths of one per cent reduction 664
each year through 2014. In 2015 and 2016, an electric 665
distribution utility shall achieve a reduction in peak demand 666
equal to the result of subtracting the cumulative peak demand 667
reductions achieved since 2009 from the product of multiplying 668
the baseline for peak demand reduction, described in division 669
(A) (2) (a) of this section, by four and seventy-five hundredths 670
of one per cent. If the result is zero or less for the year for 671
which the calculation is being made, the utility shall not be 672
required to achieve an additional reduction in peak demand for 673
that year, but may achieve an additional reduction in peak 674
demand for that year. In 2017 and each year thereafter through 675
2020, the utility shall achieve an additional seventy-five 676
hundredths of one per cent reduction in peak demand. 677

(c) Subject to section 4928.6620 of the Revised Code, 678

noncompliance with the provisions of divisions (A) (1) (a) and (b) 679
of this section shall be subject to forfeitures under division 680
(C) of this section only for the requirements for years 2016, 681
2020, 2021, 2022, 2023, 2024, 2025, 2026, and 2027, as 682
applicable. The sole penalty for an electric distribution 683
utility's failure to comply with any provision of divisions (A) 684
(1) (a) and (b) of this section shall be the assessment of 685
forfeitures in accordance with division (C) of this section. 686

(2) For the purposes of divisions (A) (1) (a) and (b) of 687
this section: 688

(a) The baseline for energy savings under division (A) (1) 689
(a) of this section shall be the average of the total kilowatt 690
hours the electric distribution utility sold in the preceding 691
three calendar years. The baseline for a peak demand reduction 692
under division (A) (1) (b) of this section shall be the average 693
peak demand on the utility in the preceding three calendar 694
years, except that the commission may reduce either baseline to 695
adjust for new economic growth in the utility's certified 696
territory. Neither baseline shall include the load and usage of 697
any of the following customers: 698

(i) Beginning January 1, 2017, a customer for which a 699
reasonable arrangement has been approved under section 4905.31 700
of the Revised Code; 701

(ii) A customer that has opted out of the utility's 702
portfolio plan under section 4928.6611 of the Revised Code; 703

(iii) A customer that has opted out of the utility's 704
portfolio plan under Section 8 of S.B. 310 of the 130th general 705
assembly. 706

(b) The commission may amend the benchmarks set forth in 707

division (A) (1) (a) or (b) of this section if, after application 708
by the electric distribution utility, the commission determines 709
that the amendment is necessary because the utility cannot 710
reasonably achieve the benchmarks due to regulatory, economic, 711
or technological reasons beyond its reasonable control. 712

(c) Compliance with divisions (A) (1) (a) and (b) of this 713
section shall be measured by including the effects of all 714
demand-response programs for mercantile customers of the subject 715
electric distribution utility, all waste energy recovery systems 716
and all combined heat and power systems, and all such mercantile 717
customer-sited energy efficiency, including waste energy 718
recovery and combined heat and power, and peak demand reduction 719
programs, adjusted upward by the appropriate loss factors. Any 720
mechanism designed to recover the cost of energy efficiency, 721
including waste energy recovery and combined heat and power, and 722
peak demand reduction programs under divisions (A) (1) (a) and (b) 723
of this section may exempt mercantile customers that commit 724
their demand-response or other customer-sited capabilities, 725
whether existing or new, for integration into the electric 726
distribution utility's demand-response, energy efficiency, 727
including waste energy recovery and combined heat and power, or 728
peak demand reduction programs, if the commission determines 729
that that exemption reasonably encourages such customers to 730
commit those capabilities to those programs. If a mercantile 731
customer makes such existing or new demand-response, energy 732
efficiency, including waste energy recovery and combined heat 733
and power, or peak demand reduction capability available to an 734
electric distribution utility pursuant to division (A) (2) (c) of 735
this section, the electric utility's baseline under division (A) 736
(2) (a) of this section shall be adjusted to exclude the effects 737
of all such demand-response, energy efficiency, including waste 738

energy recovery and combined heat and power, or peak demand 739
reduction programs that may have existed during the period used 740
to establish the baseline. The baseline also shall be normalized 741
for changes in numbers of customers, sales, weather, peak 742
demand, and other appropriate factors so that the compliance 743
measurement is not unduly influenced by factors outside the 744
control of the electric distribution utility. 745

(d) (i) Programs implemented by a utility may include the 746
following: 747

(I) Demand-response programs; 748

(II) Smart grid investment programs, provided that such 749
programs are demonstrated to be cost-beneficial; 750

(III) Customer-sited programs, including waste energy 751
recovery and combined heat and power systems; 752

(IV) Transmission and distribution infrastructure 753
improvements that reduce line losses; 754

(V) Energy efficiency savings and peak demand reduction 755
that are achieved, in whole or in part, as a result of funding 756
provided from the universal service fund established by section 757
4928.51 of the Revised Code to benefit low-income customers 758
through programs that include, but are not limited to, energy 759
audits, the installation of energy efficiency insulation, 760
appliances, and windows, and other weatherization measures. 761

(ii) No energy efficiency or peak demand reduction 762
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 763
section shall qualify for shared savings. 764

(iii) Division (A) (2) (c) of this section shall be applied 765
to include facilitating efforts by a mercantile customer or 766

group of those customers to offer customer-sited demand- 767
response, energy efficiency, including waste energy recovery and 768
combined heat and power, or peak demand reduction capabilities 769
to the electric distribution utility as part of a reasonable 770
arrangement submitted to the commission pursuant to section 771
4905.31 of the Revised Code. 772

(e) No programs or improvements described in division (A) 773
(2) (d) of this section shall conflict with any statewide 774
building code adopted by the board of building standards. 775

(B) In accordance with rules it shall adopt, the public 776
utilities commission shall produce and docket at the commission 777
an annual report containing the results of its verification of 778
the annual levels of energy efficiency and of peak demand 779
reductions achieved by each electric distribution utility 780
pursuant to division (A) of this section. A copy of the report 781
shall be provided to the consumers' counsel. 782

(C) If the commission determines, after notice and 783
opportunity for hearing and based upon its report under division 784
(B) of this section, that an electric distribution utility has 785
failed to comply with an energy efficiency or peak demand 786
reduction requirement ~~of~~ for years 2016, 2020, 2021, 2022, 2023, 787
2024, 2025, 2026, or 2027, as applicable, under division (A) of 788
this section, the commission shall assess a forfeiture on the 789
utility as provided under sections 4905.55 to 4905.60 and 790
4905.64 of the Revised Code, either in the amount, per day per 791
undercompliance or noncompliance, relative to the period of the 792
report, equal to that prescribed for noncompliances under 793
section 4905.54 of the Revised Code, or in an amount equal to 794
the then existing market value of one renewable energy credit 795
per megawatt hour of undercompliance or noncompliance. Revenue 796

from any forfeiture assessed under this division shall be 797
deposited to the credit of the advanced energy fund created 798
under section 4928.61 of the Revised Code. 799

(D) The commission may establish rules regarding the 800
content of an application by an electric distribution utility 801
for commission approval of a revenue decoupling mechanism under 802
this division. Such an application shall not be considered an 803
application to increase rates and may be included as part of a 804
proposal to establish, continue, or expand energy efficiency or 805
conservation programs. The commission by order may approve an 806
application under this division if it determines both that the 807
revenue decoupling mechanism provides for the recovery of 808
revenue that otherwise may be forgone by the utility as a result 809
of or in connection with the implementation by the electric 810
distribution utility of any energy efficiency or energy 811
conservation programs and reasonably aligns the interests of the 812
utility and of its customers in favor of those programs. 813

(E) The commission additionally shall adopt rules that 814
require an electric distribution utility to provide a customer 815
upon request with two years' consumption data in an accessible 816
form. 817

Sec. 4928.6610. As used in sections 4928.6611 to 4928.6616 818
of the Revised Code: 819

(A) "Customer" means ~~any~~ either of the following: 820

(1) A mercantile customer of an electric distribution 821
utility; 822

(2) Any customer of an electric distribution utility to 823
which either of the following applies: 824

~~(1)~~ (a) The customer receives service above the primary 825

voltage level as determined by the utility's tariff 826
classification. 827

~~(2)~~ (b) The customer is a commercial or industrial 828
customer to which both of the following apply: 829

~~(a)~~ (i) The customer receives electricity through a meter 830
of an end user or through more than one meter at a single 831
location in a quantity that exceeds forty-five million kilowatt 832
hours of electricity for the preceding calendar year. 833

~~(b)~~ (ii) The customer has made a written request for 834
registration as a self-assessing purchaser pursuant to section 835
5727.81 of the Revised Code. 836

(B) "Energy intensity" means the amount of energy, from 837
electricity, used or consumed per unit of production. 838

(C) "Portfolio plan" means the comprehensive energy 839
efficiency and peak-demand reduction program portfolio plan 840
required under rules adopted by the public utilities commission 841
and codified in Chapter 4901:1-39 of the Administrative Code or 842
hereafter recodified or amended. 843

Sec. 4928.6620. Every electric distribution utility and 844
electric services company shall submit an annual report for the 845
prior calendar year to the public utilities commission not later 846
than the first day of July of each year. The report shall detail 847
the utility's or company's status of compliance with the 848
provisions of sections 4928.64 and 4928.66 of the Revised Code, 849
as applicable. The commission shall modify its rules in 850
accordance with the reporting requirement, including the filing 851
date, set forth in this section. 852

Sec. 5727.75. (A) For purposes of this section: 853

(1) "Qualified energy project" means an energy project 854
certified by the director of development services pursuant to 855
this section. 856

(2) "Energy project" means a project to provide electric 857
power through the construction, installation, and use of an 858
energy facility. 859

(3) "Alternative energy zone" means a county declared as 860
such by the board of county commissioners under division (E)(1) 861
(b) or (c) of this section. 862

(4) "Full-time equivalent employee" means the total number 863
of employee-hours for which compensation was paid to individuals 864
employed at a qualified energy project for services performed at 865
the project during the calendar year divided by two thousand 866
eighty hours. 867

(5) "Solar energy project" means an energy project 868
composed of an energy facility using solar panels to generate 869
electricity. 870

(B)(1) Tangible personal property of a qualified energy 871
project using renewable energy resources is exempt from taxation 872
for tax years 2011 through 2021 if all of the following 873
conditions are satisfied: 874

(a) On or before December 31, 2020, the owner or a lessee 875
pursuant to a sale and leaseback transaction of the project 876
submits an application to the power siting board for a 877
certificate under section 4906.20 of the Revised Code, or if 878
that section does not apply, submits an application for any 879
approval, consent, permit, or certificate or satisfies any 880
condition required by a public agency or political subdivision 881
of this state for the construction or initial operation of an 882

energy project. 883

(b) Construction or installation of the energy facility 884
begins on or after January 1, 2009, and before January 1, 2021. 885
For the purposes of this division, construction begins on the 886
earlier of the date of application for a certificate or other 887
approval or permit described in division (B)(1)(a) of this 888
section, or the date the contract for the construction or 889
installation of the energy facility is entered into. 890

(c) For a qualified energy project with a nameplate 891
capacity of five megawatts or greater, a board of county 892
commissioners of a county in which property of the project is 893
located has adopted a resolution under division (E)(1)(b) or (c) 894
of this section to approve the application submitted under 895
division (E) of this section to exempt the property located in 896
that county from taxation. A board's adoption of a resolution 897
rejecting an application or its failure to adopt a resolution 898
approving the application does not affect the tax-exempt status 899
of the qualified energy project's property that is located in 900
another county. 901

(2) If tangible personal property of a qualified energy 902
project using renewable energy resources was exempt from 903
taxation under this section beginning in any of tax years 2011 904
through 2021, and the certification under division (E)(2) of 905
this section has not been revoked, the tangible personal 906
property of the qualified energy project is exempt from taxation 907
for tax year 2022 and all ensuing tax years if the property was 908
placed into service before January 1, 2022, as certified in the 909
construction progress report required under division (F)(2) of 910
this section. Tangible personal property that has not been 911
placed into service before that date is taxable property subject 912

to taxation. An energy project for which certification has been 913
revoked is ineligible for further exemption under this section. 914
Revocation does not affect the tax-exempt status of the 915
project's tangible personal property for the tax year in which 916
revocation occurs or any prior tax year. 917

(C) Tangible personal property of a qualified energy 918
project using clean coal technology, advanced nuclear 919
technology, or cogeneration technology is exempt from taxation 920
for the first tax year that the property would be listed for 921
taxation and all subsequent years if all of the following 922
circumstances are met: 923

(1) The property was placed into service before January 1, 924
2021. Tangible personal property that has not been placed into 925
service before that date is taxable property subject to 926
taxation. 927

(2) For such a qualified energy project with a nameplate 928
capacity of five megawatts or greater, a board of county 929
commissioners of a county in which property of the qualified 930
energy project is located has adopted a resolution under 931
division (E) (1) (b) or (c) of this section to approve the 932
application submitted under division (E) of this section to 933
exempt the property located in that county from taxation. A 934
board's adoption of a resolution rejecting the application or 935
its failure to adopt a resolution approving the application does 936
not affect the tax-exempt status of the qualified energy 937
project's property that is located in another county. 938

(3) The certification for the qualified energy project 939
issued under division (E) (2) of this section has not been 940
revoked. An energy project for which certification has been 941
revoked is ineligible for exemption under this section. 942

Revocation does not affect the tax-exempt status of the 943
project's tangible personal property for the tax year in which 944
revocation occurs or any prior tax year. 945

(D) Except as otherwise provided in this section, real 946
property of a qualified energy project is exempt from taxation 947
for any tax year for which the tangible personal property of the 948
qualified energy project is exempted under this section. 949

(E) (1) (a) A person may apply to the director of 950
development services for certification of an energy project as a 951
qualified energy project on or before the following dates: 952

(i) December 31, 2020, for an energy project using 953
renewable energy resources; 954

(ii) December 31, 2017, for an energy project using clean 955
coal technology, advanced nuclear technology, or cogeneration 956
technology. 957

(b) The director shall forward a copy of each application 958
for certification of an energy project with a nameplate capacity 959
of five megawatts or greater to the board of county 960
commissioners of each county in which the project is located and 961
to each taxing unit with territory located in each of the 962
affected counties. Any board that receives from the director a 963
copy of an application submitted under this division shall adopt 964
a resolution approving or rejecting the application unless it 965
has adopted a resolution under division (E) (1) (c) of this 966
section. A resolution adopted under division (E) (1) (b) or (c) of 967
this section may require an annual service payment to be made in 968
addition to the service payment required under division (G) of 969
this section. The sum of the service payment required in the 970
resolution and the service payment required under division (G) 971

of this section shall not exceed nine thousand dollars per 972
megawatt of nameplate capacity located in the county. The 973
resolution shall specify the time and manner in which the 974
payments required by the resolution shall be paid to the county 975
treasurer. The county treasurer shall deposit the payment to the 976
credit of the county's general fund to be used for any purpose 977
for which money credited to that fund may be used. 978

The board shall send copies of the resolution by certified 979
mail to the owner of the facility and the director within thirty 980
days after receipt of the application, or a longer period of 981
time if authorized by the director. 982

(c) A board of county commissioners may adopt a resolution 983
declaring the county to be an alternative energy zone and 984
declaring all applications submitted to the director of 985
development services under this division after the adoption of 986
the resolution, and prior to its repeal, to be approved by the 987
board. 988

All tangible personal property and real property of an 989
energy project with a nameplate capacity of five megawatts or 990
greater is taxable if it is located in a county in which the 991
board of county commissioners adopted a resolution rejecting the 992
application submitted under this division or failed to adopt a 993
resolution approving the application under division (E) (1) (b) or 994
(c) of this section. 995

(2) The director shall certify an energy project if all of 996
the following circumstances exist: 997

(a) The application was timely submitted. 998

(b) For an energy project with a nameplate capacity of 999
five megawatts or greater, a board of county commissioners of at 1000

least one county in which the project is located has adopted a 1001
resolution approving the application under division (E) (1) (b) or 1002
(c) of this section. 1003

(c) No portion of the project's facility was used to 1004
supply electricity before December 31, 2009. 1005

(3) The director shall deny a certification application if 1006
the director determines the person has failed to comply with any 1007
requirement under this section. The director may revoke a 1008
certification if the director determines the person, or 1009
subsequent owner or lessee pursuant to a sale and leaseback 1010
transaction of the qualified energy project, has failed to 1011
comply with any requirement under this section. Upon 1012
certification or revocation, the director shall notify the 1013
person, owner, or lessee, the tax commissioner, and the county 1014
auditor of a county in which the project is located of the 1015
certification or revocation. Notice shall be provided in a 1016
manner convenient to the director. 1017

(F) The owner or a lessee pursuant to a sale and leaseback 1018
transaction of a qualified energy project shall do each of the 1019
following: 1020

(1) Comply with all applicable regulations; 1021

(2) File with the director of development services a 1022
certified construction progress report before the first day of 1023
March of each year during the energy facility's construction or 1024
installation indicating the percentage of the project completed, 1025
and the project's nameplate capacity, as of the preceding 1026
thirty-first day of December. Unless otherwise instructed by the 1027
director of development services, the owner or lessee of an 1028
energy project shall file a report with the director on or 1029

before the first day of March each year after completion of the 1030
energy facility's construction or installation indicating the 1031
project's nameplate capacity as of the preceding thirty-first 1032
day of December. Not later than sixty days after June 17, 2010, 1033
the owner or lessee of an energy project, the construction of 1034
which was completed before June 17, 2010, shall file a 1035
certificate indicating the project's nameplate capacity. 1036

(3) File with the director of development services, in a 1037
manner prescribed by the director, a report of the total number 1038
of full-time equivalent employees, and the total number of full- 1039
time equivalent employees domiciled in Ohio, who are employed in 1040
the construction or installation of the energy facility; 1041

(4) For energy projects with a nameplate capacity of five 1042
megawatts or greater, repair all roads, bridges, and culverts 1043
affected by construction as reasonably required to restore them 1044
to their preconstruction condition, as determined by the county 1045
engineer in consultation with the local jurisdiction responsible 1046
for the roads, bridges, and culverts. In the event that the 1047
county engineer deems any road, bridge, or culvert to be 1048
inadequate to support the construction or decommissioning of the 1049
energy facility, the road, bridge, or culvert shall be rebuilt 1050
or reinforced to the specifications established by the county 1051
engineer prior to the construction or decommissioning of the 1052
facility. The owner or lessee of the facility shall post a bond 1053
in an amount established by the county engineer and to be held 1054
by the board of county commissioners to ensure funding for 1055
repairs of roads, bridges, and culverts affected during the 1056
construction. The bond shall be released by the board not later 1057
than one year after the date the repairs are completed. The 1058
energy facility owner or lessee pursuant to a sale and leaseback 1059
transaction shall post a bond, as may be required by the Ohio 1060

power siting board in the certificate authorizing commencement 1061
of construction issued pursuant to section 4906.10 of the 1062
Revised Code, to ensure funding for repairs to roads, bridges, 1063
and culverts resulting from decommissioning of the facility. The 1064
energy facility owner or lessee and the county engineer may 1065
enter into an agreement regarding specific transportation plans, 1066
reinforcements, modifications, use and repair of roads, 1067
financial security to be provided, and any other relevant issue. 1068

(5) Provide or facilitate training for fire and emergency 1069
responders for response to emergency situations related to the 1070
energy project and, for energy projects with a nameplate 1071
capacity of five megawatts or greater, at the person's expense, 1072
equip the fire and emergency responders with proper equipment as 1073
reasonably required to enable them to respond to such emergency 1074
situations; 1075

(6) Maintain a ratio of Ohio-domiciled full-time 1076
equivalent employees employed in the construction or 1077
installation of the energy project to total full-time equivalent 1078
employees employed in the construction or installation of the 1079
energy project of not less than eighty per cent in the case of a 1080
solar energy project, and not less than fifty per cent in the 1081
case of any other energy project. In the case of an energy 1082
project for which certification from the power siting board is 1083
required under section 4906.20 of the Revised Code, the number 1084
of full-time equivalent employees employed in the construction 1085
or installation of the energy project equals the number actually 1086
employed or the number projected to be employed in the 1087
certificate application, if such projection is required under 1088
regulations adopted pursuant to section 4906.03 of the Revised 1089
Code, whichever is greater. For all other energy projects, the 1090
number of full-time equivalent employees employed in the 1091

construction or installation of the energy project equals the 1092
number actually employed or the number projected to be employed 1093
by the director of development services, whichever is greater. 1094
To estimate the number of employees to be employed in the 1095
construction or installation of an energy project, the director 1096
shall use a generally accepted job-estimating model in use for 1097
renewable energy projects, including but not limited to the job 1098
and economic development impact model. The director may adjust 1099
an estimate produced by a model to account for variables not 1100
accounted for by the model. 1101

(7) For energy projects with a nameplate capacity in 1102
excess of two megawatts, establish a relationship with a member 1103
of the university system of Ohio as defined in section 3345.011 1104
of the Revised Code or with a person offering an apprenticeship 1105
program registered with the employment and training 1106
administration within the United States department of labor or 1107
with the apprenticeship council created by section 4139.02 of 1108
the Revised Code, to educate and train individuals for careers 1109
in the wind or solar energy industry. The relationship may 1110
include endowments, cooperative programs, internships, 1111
apprenticeships, research and development projects, and 1112
curriculum development. 1113

(8) Offer to sell power or renewable energy credits from 1114
the energy project to electric distribution utilities or 1115
electric service companies subject to renewable energy resource 1116
~~requirements~~ provisions under section 4928.64 of the Revised 1117
Code that have issued requests for proposal for such power or 1118
renewable energy credits. If no electric distribution utility or 1119
electric service company issues a request for proposal on or 1120
before December 31, 2010, or accepts an offer for power or 1121
renewable energy credits within forty-five days after the offer 1122

is submitted, power or renewable energy credits from the energy 1123
project may be sold to other persons. Division (F)(8) of this 1124
section does not apply if: 1125

(a) The owner or lessee is a rural electric company or a 1126
municipal power agency as defined in section 3734.058 of the 1127
Revised Code. 1128

(b) The owner or lessee is a person that, before 1129
completion of the energy project, contracted for the sale of 1130
power or renewable energy credits with a rural electric company 1131
or a municipal power agency. 1132

(c) The owner or lessee contracts for the sale of power or 1133
renewable energy credits from the energy project before June 17, 1134
2010. 1135

(9) Make annual service payments as required by division 1136
(G) of this section and as may be required in a resolution 1137
adopted by a board of county commissioners under division (E) of 1138
this section. 1139

(G) The owner or a lessee pursuant to a sale and leaseback 1140
transaction of a qualified energy project shall make annual 1141
service payments in lieu of taxes to the county treasurer on or 1142
before the final dates for payments of taxes on public utility 1143
personal property on the real and public utility personal 1144
property tax list for each tax year for which property of the 1145
energy project is exempt from taxation under this section. The 1146
county treasurer shall allocate the payment on the basis of the 1147
project's physical location. Upon receipt of a payment, or if 1148
timely payment has not been received, the county treasurer shall 1149
certify such receipt or non-receipt to the director of 1150
development services and tax commissioner in a form determined 1151

by the director and commissioner, respectively. Each payment 1152
shall be in the following amount: 1153

(1) In the case of a solar energy project, seven thousand 1154
dollars per megawatt of nameplate capacity located in the county 1155
as of December 31, 2010, for tax year 2011, as of December 31, 1156
2011, for tax year 2012, as of December 31, 2012, for tax year 1157
2013, as of December 31, 2013, for tax year 2014, as of December 1158
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1159
year 2016, and as of December 31, 2016, for tax year 2017 and 1160
each tax year thereafter; 1161

(2) In the case of any other energy project using 1162
renewable energy resources, the following: 1163

(a) If the project maintains during the construction or 1164
installation of the energy facility a ratio of Ohio-domiciled 1165
full-time equivalent employees to total full-time equivalent 1166
employees of not less than seventy-five per cent, six thousand 1167
dollars per megawatt of nameplate capacity located in the county 1168
as of the thirty-first day of December of the preceding tax 1169
year; 1170

(b) If the project maintains during the construction or 1171
installation of the energy facility a ratio of Ohio-domiciled 1172
full-time equivalent employees to total full-time equivalent 1173
employees of less than seventy-five per cent but not less than 1174
sixty per cent, seven thousand dollars per megawatt of nameplate 1175
capacity located in the county as of the thirty-first day of 1176
December of the preceding tax year; 1177

(c) If the project maintains during the construction or 1178
installation of the energy facility a ratio of Ohio-domiciled 1179
full-time equivalent employees to total full-time equivalent 1180

employees of less than sixty per cent but not less than fifty 1181
per cent, eight thousand dollars per megawatt of nameplate 1182
capacity located in the county as of the thirty-first day of 1183
December of the preceding tax year. 1184

(3) In the case of an energy project using clean coal 1185
technology, advanced nuclear technology, or cogeneration 1186
technology, the following: 1187

(a) If the project maintains during the construction or 1188
installation of the energy facility a ratio of Ohio-domiciled 1189
full-time equivalent employees to total full-time equivalent 1190
employees of not less than seventy-five per cent, six thousand 1191
dollars per megawatt of nameplate capacity located in the county 1192
as of the thirty-first day of December of the preceding tax 1193
year; 1194

(b) If the project maintains during the construction or 1195
installation of the energy facility a ratio of Ohio-domiciled 1196
full-time equivalent employees to total full-time equivalent 1197
employees of less than seventy-five per cent but not less than 1198
sixty per cent, seven thousand dollars per megawatt of nameplate 1199
capacity located in the county as of the thirty-first day of 1200
December of the preceding tax year; 1201

(c) If the project maintains during the construction or 1202
installation of the energy facility a ratio of Ohio-domiciled 1203
full-time equivalent employees to total full-time equivalent 1204
employees of less than sixty per cent but not less than fifty 1205
per cent, eight thousand dollars per megawatt of nameplate 1206
capacity located in the county as of the thirty-first day of 1207
December of the preceding tax year. 1208

(H) The director of development services in consultation 1209

with the tax commissioner shall adopt rules pursuant to Chapter 1210
119. of the Revised Code to implement and enforce this section. 1211

Section 2. That existing sections 4928.143, 4928.64, 1212
4928.643, 4928.645, 4928.65, 4928.66, 4928.6610, and 5727.75 of 1213
the Revised Code are hereby repealed. 1214

Section 3. That Section 6 of Sub. S.B. 310 of the 130th 1215
General Assembly be amended to read as follows: 1216

Sec. 6. (A) If an electric distribution utility has a 1217
portfolio plan that is in effect on the effective date of this 1218
section, the utility shall do either of the following, at its 1219
sole discretion: 1220

(1) Continue to implement the portfolio plan with no 1221
amendments to the plan, for the duration that the Public 1222
Utilities Commission originally approved, subject to divisions 1223
(D) and (E) of this section; 1224

(2) Seek an amendment of the portfolio plan under division 1225
(B) of this section. 1226

(B) (1) An electric distribution utility that seeks to 1227
amend its portfolio plan under division (A) (2) of this section 1228
shall file an application with the Commission to amend the plan 1229
not later than thirty days after ~~the effective date of this~~ 1230
~~section~~ September 12, 2014. The Commission shall review the 1231
application in accordance with its rules as if the application 1232
were for a new portfolio plan. The Commission shall review and 1233
approve, or modify and approve, the application not later than 1234
sixty days after the date that the application is filed. Any 1235
portfolio plan amended under this division shall take effect on 1236
January 1, 2015, and expire on December 31, 2016. If the 1237
Commission fails to review and approve, or modify and approve, 1238

the application on or before January 1, 2015, the plan shall be 1239
deemed approved as amended in the application and shall take 1240
effect on January 1, 2015, and expire on December 31, 2016. 1241

(2) Section 4928.66 of the Revised Code, as amended by 1242
~~this act~~ Sub. S.B. 310 of the 130th General Assembly, shall 1243
apply to an electric distribution utility that applies to amend 1244
its portfolio plan under division (B) of this section. 1245

(C) If an electric distribution utility fails to file an 1246
application to amend its portfolio plan under division (B) of 1247
this section within the required thirty-day period, the electric 1248
distribution utility shall proceed in accordance with division 1249
(A) (1) of this section. 1250

(D) If an electric distribution utility implements its 1251
portfolio plan under division (A) (1) of this section for the 1252
plan's original duration and if the plan expires before December 1253
31, 2016, the Commission shall automatically extend the plan 1254
through December 31, 2016, with no amendments to the plan. 1255

(E) (1) The provisions of section 4928.66 of the Revised 1256
Code, as it existed prior to ~~the effective date of this section~~ 1257
September 12, 2014, shall apply to an electric distribution 1258
utility that has a portfolio plan that is implemented under 1259
division (A) (1) of this section for either of the following time 1260
periods: 1261

(a) The plan's original duration; 1262

(b) The plan's original duration and then, until December 1263
31, 2016, if the plan is extended under division (D) of this 1264
section. 1265

(2) Beginning January 1, 2017, the provisions of section 1266
4928.66 of the Revised Code as amended by ~~this act~~ Sub. S.B. 310 1267

of the 130th General Assembly shall apply to the electric 1268
distribution utility through the date that is the day before the 1269
provisions of that section, as amended by H.B. 554 of the 131st 1270
General Assembly, take effect. 1271

(3) The provisions of section 4928.66 of the Revised Code, 1272
as amended by H.B. 554 of the 131st General Assembly, shall 1273
apply to the electric distribution utility beginning on the 1274
effective date of the amendments to that section by that act. 1275

Section 4. That existing Section 6 of Sub. S.B. 310 of the 1276
130th General Assembly is hereby repealed. 1277

Section 5. (A) In 2017, the Public Utilities Commission 1278
shall review an electric distribution utility's or electric 1279
services company's compliance with the benchmarks for 2016 under 1280
division (B) (2) of section 4928.64 of the Revised Code as that 1281
division existed prior to the effective date of this section, 1282
and in the course of that review, shall identify any 1283
undercompliance or noncompliance of the utility or company that 1284
it determines is weather-related, related to equipment or 1285
resource shortages for qualifying renewable energy resources as 1286
applicable, or is otherwise outside the utility's or company's 1287
control. 1288

(B) Subject to the cost cap provisions of division (C) (3) 1289
of section 4928.64 of the Revised Code, if the commission 1290
determines, after notice and opportunity for hearing, and based 1291
upon its findings in the review under division (A) of this 1292
section regarding avoidable undercompliance or noncompliance, 1293
but subject to the force-majeure provisions of division (C) (4) 1294
(a) of section 4928.64 of the Revised Code, that the utility or 1295
company has failed to comply with the benchmarks for 2016, the 1296
commission shall impose a renewable energy compliance payment on 1297

the utility or company. 1298

(1) The compliance payment pertaining to the solar energy 1299
resource benchmark for 2016 shall be three hundred dollars per 1300
megawatt hour of undercompliance or noncompliance in the period 1301
under review. 1302

(2) The compliance payment pertaining to the renewable 1303
energy resource benchmark for 2016 shall be assessed in 1304
accordance with division (C) (2) (b) of section 4928.64 of the 1305
Revised Code. 1306

(C) Division (C) (2) (c) of section 4928.64 of the Revised 1307
Code applies to compliance payments imposed under this section. 1308

Section 6. The amendments to section 4928.6610 of the 1309
Revised Code by this act shall take effect January 1, 2019. 1310