

As Reported by the House Alternative Energy Committee

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Sub. H. B. No. 113

Representatives Foley, Blessing

**Cosponsors: Representatives Celeste, Skindell, Morgan, Harris, Evans,
Snitchler, Pillich, Mecklenborg, Murray, Phillips, Combs, Grossman,
Harwood, Newcomb, McGregor, Chandler, Oelslager, Yates, Ujvagi,
Weddington, Stewart, Yuko, Stebelton, Adams, J., Bacon, Hagan**

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A B I L L

To amend sections 133.06, 133.20, 3313.372, 3313.46, 1
and 4928.62 and to enact section 3313.377 of the 2
Revised Code to authorize school boards, for 3
on-site renewable energy generation measures and 4
in the same manner as for energy conservation 5
measures, to enter into installment contracts 6
subject to specified terms of payment, to provide 7
that energy conservation installment contracts are 8
subject to those same terms, and to establish a 9
two-tiered, three-year renewable energy schools 10
pilot program that creates a process for schools 11
to obtain a supply of electricity generated from 12
wind, geothermal, or solar resources. 13

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

Section 1. That sections 133.06, 133.20, 3313.372, 3313.46, 14
and 4928.62 be amended and section 3313.377 of the Revised Code be 15
enacted to read as follows: 16

Sec. 133.06. (A) A school district shall not incur, without a
vote of the electors, net indebtedness that exceeds an amount
equal to one-tenth of one per cent of its tax valuation, except as
provided in divisions (G) and (H) of this section and in division
(C) of section 3313.372 of the Revised Code, or as prescribed in
section 3318.052 of the Revised Code, or as provided in division
(J) of this section.

(B) Except as provided in divisions (E), (F), and (I) of this
section, a school district shall not incur net indebtedness that
exceeds an amount equal to nine per cent of its tax valuation.

(C) A school district shall not submit to a vote of the
electors the question of the issuance of securities in an amount
that will make the district's net indebtedness after the issuance
of the securities exceed an amount equal to four per cent of its
tax valuation, unless the superintendent of public instruction,
acting under policies adopted by the state board of education, and
the tax commissioner, acting under written policies of the
commissioner, consent to the submission. A request for the
consents shall be made at least one hundred five days prior to the
election at which the question is to be submitted.

The superintendent of public instruction shall certify to the
district the superintendent's and the tax commissioner's decisions
within thirty days after receipt of the request for consents.

If the electors do not approve the issuance of securities at
the election for which the superintendent of public instruction
and tax commissioner consented to the submission of the question,
the school district may submit the same question to the electors
on the date that the next special election may be held under
section 3501.01 of the Revised Code without submitting a new
request for consent. If the school district seeks to submit the
same question at any other subsequent election, the district shall

first submit a new request for consent in accordance with this 48
division. 49

(D) In calculating the net indebtedness of a school district, 50
none of the following shall be considered: 51

(1) Securities issued to acquire school buses and other 52
equipment used in transporting pupils or issued pursuant to 53
division (D) of section 133.10 of the Revised Code; 54

(2) Securities issued under division (F) of this section, 55
under section 133.301 of the Revised Code, and, to the extent in 56
excess of the limitation stated in division (B) of this section, 57
under division (E) of this section; 58

(3) Indebtedness resulting from the dissolution of a joint 59
vocational school district under section 3311.217 of the Revised 60
Code, evidenced by outstanding securities of that joint vocational 61
school district; 62

(4) Loans, evidenced by any securities, received under 63
sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the 64
Revised Code; 65

(5) Debt incurred under section 3313.374 of the Revised Code; 66

(6) Debt incurred pursuant to division (B)(5) of section 67
3313.37 of the Revised Code to acquire computers and related 68
hardware; 69

(7) Debt incurred under section 3318.042 of the Revised Code. 70

(E) A school district may become a special needs district as 71
to certain securities as provided in division (E) of this section. 72

(1) A board of education, by resolution, may declare its 73
school district to be a special needs district by determining both 74
of the following: 75

(a) The student population is not being adequately serviced 76
by the existing permanent improvements of the district. 77

(b) The district cannot obtain sufficient funds by the 78
issuance of securities within the limitation of division (B) of 79
this section to provide additional or improved needed permanent 80
improvements in time to meet the needs. 81

(2) The board of education shall certify a copy of that 82
resolution to the superintendent of public instruction with a 83
statistical report showing all of the following: 84

(a) A history of and a projection of the growth of the 85
student population; 86

(b) The history of and a projection of the growth of the tax 87
valuation; 88

(c) The projected needs; 89

(d) The estimated cost of permanent improvements proposed to 90
meet such projected needs. 91

(3) The superintendent of public instruction shall certify 92
the district as an approved special needs district if the 93
superintendent finds both of the following: 94

(a) The district does not have available sufficient 95
additional funds from state or federal sources to meet the 96
projected needs. 97

(b) The projection of the potential average growth of tax 98
valuation during the next five years, according to the information 99
certified to the superintendent and any other information the 100
superintendent obtains, indicates a likelihood of potential 101
average growth of tax valuation of the district during the next 102
five years of an average of not less than three per cent per year. 103
The findings and certification of the superintendent shall be 104
conclusive. 105

(4) An approved special needs district may incur net 106
indebtedness by the issuance of securities in accordance with the 107

provisions of this chapter in an amount that does not exceed an 108
amount equal to the greater of the following: 109

(a) Nine per cent of the sum of its tax valuation plus an 110
amount that is the product of multiplying that tax valuation by 111
the percentage by which the tax valuation has increased over the 112
tax valuation on the first day of the sixtieth month preceding the 113
month in which its board determines to submit to the electors the 114
question of issuing the proposed securities; 115

(b) Nine per cent of the sum of its tax valuation plus an 116
amount that is the product of multiplying that tax valuation by 117
the percentage, determined by the superintendent of public 118
instruction, by which that tax valuation is projected to increase 119
during the next ten years. 120

(F) A school district may issue securities for emergency 121
purposes, in a principal amount that does not exceed an amount 122
equal to three per cent of its tax valuation, as provided in this 123
division. 124

(1) A board of education, by resolution, may declare an 125
emergency if it determines both of the following: 126

(a) School buildings or other necessary school facilities in 127
the district have been wholly or partially destroyed, or condemned 128
by a constituted public authority, or that such buildings or 129
facilities are partially constructed, or so constructed or planned 130
as to require additions and improvements to them before the 131
buildings or facilities are usable for their intended purpose, or 132
that corrections to permanent improvements are necessary to remove 133
or prevent health or safety hazards. 134

(b) Existing fiscal and net indebtedness limitations make 135
adequate replacement, additions, or improvements impossible. 136

(2) Upon the declaration of an emergency, the board of 137
education may, by resolution, submit to the electors of the 138

district pursuant to section 133.18 of the Revised Code the 139
question of issuing securities for the purpose of paying the cost, 140
in excess of any insurance or condemnation proceeds received by 141
the district, of permanent improvements to respond to the 142
emergency need. 143

(3) The procedures for the election shall be as provided in 144
section 133.18 of the Revised Code, except that: 145

(a) The form of the ballot shall describe the emergency 146
existing, refer to this division as the authority under which the 147
emergency is declared, and state that the amount of the proposed 148
securities exceeds the limitations prescribed by division (B) of 149
this section; 150

(b) The resolution required by division (B) of section 133.18 151
of the Revised Code shall be certified to the county auditor and 152
the board of elections at least seventy-five days prior to the 153
election; 154

(c) The county auditor shall advise and, not later than 155
sixty-five days before the election, confirm that advice by 156
certification to, the board of education of the information 157
required by division (C) of section 133.18 of the Revised Code; 158

(d) The board of education shall then certify its resolution 159
and the information required by division (D) of section 133.18 of 160
the Revised Code to the board of elections not less than sixty 161
days prior to the election. 162

(4) Notwithstanding division (B) of section 133.21 of the 163
Revised Code, the first principal payment of securities issued 164
under this division may be set at any date not later than sixty 165
months after the earliest possible principal payment otherwise 166
provided for in that division. 167

(G)(1) The board of education may contract with an architect, 168
professional engineer, or other person experienced in the design 169

and implementation of energy conservation measures, as defined in 170
section 3313.372 of the Revised Code, for an analysis and 171
recommendations pertaining to installations, modifications of 172
installations, or remodeling that would significantly reduce 173
energy consumption in buildings owned by the district. The report 174
shall include estimates of all costs of such installations, 175
modifications, or remodeling, including costs of design, 176
engineering, installation, maintenance, repairs, and debt service, 177
and estimates of the amounts by which energy consumption and 178
resultant operational and maintenance costs, as defined by the 179
Ohio school facilities commission, would be reduced. 180

If the board finds after receiving the report that the amount 181
of money the district would spend on such installations, 182
modifications, or remodeling is not likely to exceed the amount of 183
money it would save in energy and resultant operational and 184
maintenance costs over the ensuing fifteen years, the board may 185
submit to the commission a copy of its findings and a request for 186
approval to incur indebtedness to finance the making or 187
modification of installations or the remodeling of buildings for 188
the purpose of significantly reducing energy consumption. 189

If the commission determines that the board's findings are 190
reasonable, it shall approve the board's request. Upon receipt of 191
the commission's approval, the district may issue securities 192
without a vote of the electors in a principal amount not to exceed 193
nine-tenths of one per cent of its tax valuation for the purpose 194
of making such installations, modifications, or remodeling, but 195
the total net indebtedness of the district without a vote of the 196
electors incurred under this and all other sections of the Revised 197
Code, except section 3318.052 of the Revised Code, shall not 198
exceed one per cent of the district's tax valuation. 199

So long as any securities issued under division (G)(1) of 200
this section remain outstanding, the board of education shall 201

monitor the energy consumption and resultant operational and 202
maintenance costs of buildings in which installations or 203
modifications have been made or remodeling has been done pursuant 204
to division (G)(1) of this section and shall maintain and annually 205
update a report documenting the reductions in energy consumption 206
and resultant operational and maintenance cost savings 207
attributable to such installations, modifications, or remodeling. 208
The report shall be certified by an architect or engineer 209
independent of any person that provided goods or services to the 210
board in connection with the energy conservation measures that are 211
the subject of the report. The resultant operational and 212
maintenance cost savings shall be certified by the school district 213
treasurer. The report shall be made available to the commission 214
upon request. 215

(2) If the board determines that the amount of money the 216
district would spend on renewable energy generation measures as 217
defined in section 3313.372 of the Revised Code is not likely to 218
exceed the amount of money it would save in energy and resultant 219
operational and maintenance costs over the ensuing thirty years, 220
the board may choose one of the following options: 221

(a) Elect not to incur indebtedness to finance renewable 222
energy generation measures; 223

(b) Submit to the commission a request for approval to incur 224
indebtedness to finance renewable energy generation measures. 225

If the board elects to submit a request and the commission 226
determines that the request is reasonable, the commission shall 227
approve the board's request. Upon receipt of the commission's 228
approval, the district may issue securities without a vote of the 229
electors in a principal amount not to exceed nine-tenths of one 230
per cent of its tax valuation for the purpose of renewable energy 231
generation measures, but the total net indebtedness of the 232
district without a vote of the electors incurred under this and 233

all other sections of the Revised Code, except section 3318.052 of 234
the Revised Code, shall not exceed one per cent of the district's 235
valuation. 236

(H) With the consent of the superintendent of public 237
instruction, a school district may incur without a vote of the 238
electors net indebtedness that exceeds the amounts stated in 239
divisions (A) and (G) of this section for the purpose of paying 240
costs of permanent improvements, if and to the extent that both of 241
the following conditions are satisfied: 242

(1) The fiscal officer of the school district estimates that 243
receipts of the school district from payments made under or 244
pursuant to agreements entered into pursuant to section 725.02, 245
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 246
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 247
Code, or distributions under division (C) of section 5709.43 of 248
the Revised Code, or any combination thereof, are, after 249
accounting for any appropriate coverage requirements, sufficient 250
in time and amount, and are committed by the proceedings, to pay 251
the debt charges on the securities issued to evidence that 252
indebtedness and payable from those receipts, and the taxing 253
authority of the district confirms the fiscal officer's estimate, 254
which confirmation is approved by the superintendent of public 255
instruction; 256

(2) The fiscal officer of the school district certifies, and 257
the taxing authority of the district confirms, that the district, 258
at the time of the certification and confirmation, reasonably 259
expects to have sufficient revenue available for the purpose of 260
operating such permanent improvements for their intended purpose 261
upon acquisition or completion thereof, and the superintendent of 262
public instruction approves the taxing authority's confirmation. 263

The maximum maturity of securities issued under division (H) 264
of this section shall be the lesser of twenty years or the maximum 265

maturity calculated under section 133.20 of the Revised Code. 266

(I) A school district may incur net indebtedness by the 267
issuance of securities in accordance with the provisions of this 268
chapter in excess of the limit specified in division (B) or (C) of 269
this section when necessary to raise the school district portion 270
of the basic project cost and any additional funds necessary to 271
participate in a project under Chapter 3318. of the Revised Code, 272
including the cost of items designated by the Ohio school 273
facilities commission as required locally funded initiatives and 274
the cost for site acquisition. The school facilities commission 275
shall notify the superintendent of public instruction whenever a 276
school district will exceed either limit pursuant to this 277
division. 278

(J) A school district whose portion of the basic project cost 279
of its classroom facilities project under sections 3318.01 to 280
3318.20 of the Revised Code is greater than or equal to one 281
hundred million dollars may incur without a vote of the electors 282
net indebtedness in an amount up to two per cent of its tax 283
valuation through the issuance of general obligation securities in 284
order to generate all or part of the amount of its portion of the 285
basic project cost if the controlling board has approved the 286
school facilities commission's conditional approval of the project 287
under section 3318.04 of the Revised Code. The school district 288
board and the Ohio school facilities commission shall include the 289
dedication of the proceeds of such securities in the agreement 290
entered into under section 3318.08 of the Revised Code. No state 291
moneys shall be released for a project to which this section 292
applies until the proceeds of any bonds issued under this section 293
that are dedicated for the payment of the school district portion 294
of the project are first deposited into the school district's 295
project construction fund. 296

Sec. 133.20. (A) This section applies to bonds that are 297
general obligation Chapter 133. securities. If the bonds are 298
payable as to principal by provision for annual installments, the 299
period of limitations on their last maturity, referred to as their 300
maximum maturity, shall be measured from a date twelve months 301
prior to the first date on which provision for payment of 302
principal is made. If the bonds are payable as to principal by 303
provision for semiannual installments, the period of limitations 304
on their last maturity shall be measured from a date six months 305
prior to the first date on which provision for payment of 306
principal is made. 307

(B) Bonds issued for the following permanent improvements or 308
for permanent improvements for the following purposes shall have 309
maximum maturities not exceeding the number of years stated: 310

(1) Fifty years: 311

(a) The clearance and preparation of real property for 312
redevelopment as an urban redevelopment project; 313

(b) Acquiring, constructing, widening, relocating, enlarging, 314
extending, and improving a publicly owned railroad or line of 315
railway or a light or heavy rail rapid transit system, including 316
related bridges, overpasses, underpasses, and tunnels, but not 317
including rolling stock or equipment; 318

(c) Pursuant to section 307.675 of the Revised Code, 319
constructing or repairing a bridge using long life expectancy 320
material for the bridge deck, and purchasing, installing, and 321
maintaining any performance equipment to monitor the physical 322
condition of a bridge so constructed or repaired. Additionally, 323
the average maturity of the bonds shall not exceed the expected 324
useful life of the bridge deck as determined by the county 325
engineer under that section. 326

(2) Forty years:	327
(a) General waterworks or water system permanent improvements, including buildings, water mains, or other structures and facilities in connection therewith;	328 329 330
(b) Sewers or sewage treatment or disposal works or facilities, including fireproof buildings or other structures in connection therewith;	331 332 333
(c) Storm water drainage, surface water, and flood prevention facilities.	334 335
(3) Thirty-five years:	336
(a) An arena, a convention center, or a combination of an arena and convention center under section 307.695 of the Revised Code;	337 338 339
(b) Sports facilities.	340
(4) Thirty years:	341
(a) Municipal recreation, excluding recreational equipment;	342
(b) Urban redevelopment projects;	343
(c) Acquisition of real property;	344
(d) Street or alley lighting purposes or relocating overhead wires, cables, and appurtenant equipment underground;	345 346
<u>(e) Renewable energy generation measures as authorized by section 133.06 of the Revised Code.</u>	347 348
(5) Twenty years: constructing, reconstructing, widening, opening, improving, grading, draining, paving, extending, or changing the line of roads, highways, expressways, freeways, streets, sidewalks, alleys, or curbs and gutters, and related bridges, viaducts, overpasses, underpasses, grade crossing eliminations, service and access highways, and tunnels.	349 350 351 352 353 354
(6) Fifteen years:	355

(a) Resurfacing roads, highways, streets, or alleys;	356
(b) Alarm, telegraph, or other communications systems for police or fire departments or other emergency services;	357 358
(c) Passenger buses used for mass transportation;	359
(d) Energy conservation measures as authorized by section 133.06 of the Revised Code.	360 361
(7) Ten years:	362
(a) Water meters;	363
(b) Fire department apparatus and equipment;	364
(c) Road rollers and other road construction and servicing vehicles;	365 366
(d) Furniture, equipment, and furnishings;	367
(e) Landscape planting and other site improvements;	368
(f) Playground, athletic, and recreational equipment and apparatus;	369 370
(g) Energy conservation measures as authorized by section 505.264 of the Revised Code.	371 372
(8) Five years: New motor vehicles other than those described in any other division of this section and those for which provision is made in other provisions of the Revised Code.	373 374 375
(C) Bonds issued for any permanent improvements not within the categories set forth in division (B) of this section shall have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify. Bonds issued for energy conservation measures under section 307.041 of the Revised Code	376 377 378 379 380 381 382 383 384

shall have maximum maturities not exceeding the lesser of the 385
average life of the energy conservation measures as detailed in 386
the energy conservation report prepared under that section or 387
thirty years. 388

(D) Securities issued under section 505.265 of the Revised 389
Code shall mature not later than December 31, 2035. 390

(E) A securities issue for one purpose may include permanent 391
improvements within two or more categories under divisions (B) and 392
(C) of this section. The maximum maturity of such a bond issue 393
shall not exceed the average number of years of life or period of 394
usefulness of the permanent improvements as measured by the 395
weighted average of the amounts expended or proposed to be 396
expended for the categories of permanent improvements. 397

Sec. 3313.372. (A) As used in this section, ~~"energy:~~ 398

(1) "Energy conservation measure" means an installation or 399
modification of an installation in, or remodeling of, a building, 400
to reduce energy consumption. It includes: 401

~~(1)~~(a) Insulation of the building structure and systems 402
within the building; 403

~~(2)~~(b) Storm windows and doors, multiglazed windows and 404
doors, heat absorbing or heat reflective glazed and coated window 405
and door systems, additional glazing, reductions in glass area, 406
and other window and door system modifications that reduce energy 407
consumption; 408

~~(3)~~(c) Automatic energy control systems; 409

~~(4)~~(d) Heating, ventilating, or air conditioning system 410
modifications or replacements; 411

~~(5)~~(e) Caulking and weatherstripping; 412

~~(6)~~(f) Replacement or modification of lighting fixtures to 413

increase the energy efficiency of the system without increasing 414
the overall illumination of a facility, unless such increase in 415
illumination is necessary to conform to the applicable state or 416
local building code for the proposed lighting system; 417

~~(7)(g)~~ Energy recovery systems; 418

~~(8)(h)~~ Cogeneration systems or other systems that produce or 419
generate steam or forms of energy such as heat, as well as 420
electricity, for use ~~primarily within a building or complex of~~ 421
~~buildings~~ on the premises or in conjunction with a net metering 422
system; 423

~~(9)(i)~~ Any other modification, installation, or remodeling 424
approved by the Ohio school facilities commission as an energy 425
conservation measure. 426

(2) "Renewable energy generation measure" means an 427
installation or modification of an installation in, or remodeling 428
of, a building, or installation of equipment on, in, or proximate 429
to a building, to generate electricity from renewable energy 430
resources as defined in section 4928.01 of the Revised Code. 431

(B) A board of education of a city, exempted village, local, 432
or joint vocational school district may enter into an installment 433
payment contract for the purchase and installation of energy 434
conservation measures or renewable energy generation measures. The 435
provisions of such installment payment contracts dealing with 436
interest charges and financing terms shall not be subject to the 437
competitive bidding requirements of section 3313.46 of the Revised 438
Code, and shall be on the following terms: 439

(1) ~~Not~~ In the case of the purchase and installation of 440
energy conservation measures, not less than one-fifteenth of the 441
costs thereof shall be paid within two years from the date of 442
purchase. The remaining balance of the costs thereof shall be paid 443
within fifteen years from the date of purchase. 444

(2) In the case of the purchase and installation of renewable energy generation measures, not less than ~~one-fifteenth~~ ~~one-thirtieth~~ of the costs thereof shall be paid within two years from the date of purchase. The 445
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~~(2) The remaining balance of the costs thereof shall be paid within ~~fifteen~~ thirty years from the date of purchase.~~ 449
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An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures or purchase and installation of renewable energy generation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section. An installment payment contract entered into under this chapter may provide for the seller to retain title to renewable energy generation equipment for part or all of the term of the contract. 451
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(C) The board may issue the notes of the school district signed by the president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. In the resolution authorizing the notes, the board may provide, without the vote of the electors of the district, for annually levying and collecting taxes in amounts sufficient to pay the interest on and retire the notes, except that the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation. 462
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Revenues derived from local taxes or otherwise, for the purpose of 477
conserving or generating energy or for defraying the current 478
operating expenses of the district, may be applied to the payment 479
of interest and the retirement of such notes. The notes may be 480
sold at private sale or given to the contractor under the 481
installment payment contract authorized by division (B) of this 482
section. 483

(D) Debt incurred under this section shall not be included in 484
the calculation of the net indebtedness of a school district under 485
section 133.06 of the Revised Code. 486

(E)(1) No school district board shall enter into an 487
installment payment contract under division (B) of this section 488
for the purchase and installation of energy conservation measures 489
unless it first obtains a report of the costs of the energy 490
conservation measures and the savings thereof as described under 491
division (G)(1) of section 133.06 of the Revised Code as a 492
requirement for issuing energy securities, makes a finding that 493
the amount spent on such measures is not likely to exceed the 494
amount of money it would save in energy costs and resultant 495
operational and maintenance costs as described in that division, 496
except that that finding shall cover the ensuing fifteen years, 497
and the Ohio school facilities commission determines that the 498
district board's findings are reasonable and approves the contract 499
as described in that division. 500

The district board shall monitor the savings and maintain a 501
report of those savings, which shall be available to the 502
commission in the same manner as required by division (G) of 503
section 133.06 of the Revised Code in the case of energy 504
securities. 505

(2) No school district board shall enter into an installment 506
payment contract under division (B) of this section for the 507
purchase and installation of renewable energy generation measures 508

unless the commission, as required by division (G)(2) of section 509
133.06 of the Revised Code, determines that the board's request to 510
enter into the contract is reasonable and approves the contract as 511
described in division (B) of this section. 512

Sec. 3313.377. (A) As used in this section, "renewable energy 513
system" means a system providing solar-sourced electricity or 514
electricity produced from wind energy or geothermal energy. 515

(B)(1) There is hereby established the renewable energy 516
schools pilot program. Under the pilot program, within three years 517
after the effective date of this section, school districts in the 518
state with student enrollment of five thousand or more shall 519
install one or more renewable energy systems on district property 520
in accordance with the following: 521

(a) School districts with student enrollment of five thousand 522
to ten thousand students shall install a renewable energy system 523
equal to a minimum total of two hundred fifty kilowatts for the 524
district. 525

(b) School districts with student enrollment of more than ten 526
thousand students shall install a renewable energy system equal to 527
a minimum total of five hundred kilowatts for the district. 528

To meet this requirement, a renewable energy system may be 529
installed on or proximate to schools or other buildings or 530
facilities belonging to the district. The board of education of 531
each district participating in the pilot program shall designate 532
the particular schools, buildings, or other facilities that shall 533
install renewable energy systems. 534

(2) For use in the schools' curriculum, each district 535
participating in the pilot program shall set up a renewable energy 536
educational installation or demonstration module at every school 537
at which a renewable energy system is installed. Provision for 538

such installation or module shall be included as a condition of 539
the contract the district enters into pursuant to division (C) of 540
this section. If the district installs a renewable energy system 541
on a district building or facility other than a school, then the 542
district shall determine the location for the installation or 543
module. 544

(3)(a) In order to meet the electricity requirement of 545
division (B)(1) of this section, the board shall submit a request 546
for proposals to be published in a newspaper of general 547
circulation in the district once each week for a period of at 548
least two consecutive weeks prior to the date specified by the 549
board for receiving proposals. The request for proposal shall 550
include a general description of the district's proposed contract 551
to install renewable energy systems at one or more schools in the 552
district. In addition, the proposal shall indicate whether the 553
district intends to meet the electricity requirement of division 554
(B)(1) of this section through direct ownership of a renewable 555
energy system pursuant to an installment payment contract under 556
section 3313.372 of the Revised Code or through hosting a system 557
through a third-party provider contract pursuant to division (C) 558
of this section. Respondents to the proposal shall be among those 559
listed as eligible renewable energy installers by the Ohio energy 560
office within the department of development for the advanced 561
energy program and shall describe how their proposal meets the 562
electricity requirement of division (B)(1) of this section in a 563
manner that would be economic for the district regarding the 564
reasonably forecasted retail rate of electricity payable by the 565
district over a thirty-year period. 566

(b) When selecting a proposal for the district's pilot 567
program contract, the district shall take into consideration the 568
amount of the system components that would be manufactured in the 569
state and give preference to the proposal that includes the most 570

components manufactured in the state. 571

(c) If, within ninety days, no proposals have been received 572
that allow the district to enter into a contract so that 573
compliance with the electricity requirement of this section would 574
be economic as described in division (B)(3)(a) of this section, 575
with the result that the district is unable to comply with the 576
electricity requirement in division (B)(1) of this section, the 577
district may comply as close as possible to the requirement of 578
division (B)(1) of this section or may withdraw the request for 579
proposal and elect not to participate in the program. 580

(C)(1) To comply with division (B) of this section, the board 581
of education of a district participating in the pilot program 582
pursuant to this section shall provide for the installation, 583
operation, and maintenance of a renewable energy system on the 584
property of each designated school, building, or other facility. 585
The board may provide for such system either by its direct 586
ownership of the system or by hosting the system pursuant to a 587
contract with a third-party provider, other than the school, that 588
shall own the system and install, operate, and maintain the 589
system. In the case of direct ownership of the system, the board 590
may enter into an installment payment contract for renewable 591
energy generation measures pursuant to section 3313.372 of the 592
Revised Code. In the case of a board hosting the system pursuant 593
to a contract with a third-party provider, the board shall enter 594
into a power purchase agreement with the third-party provider to 595
supply the designated school, building, or other facility with the 596
electricity generated by the renewable energy system installed at 597
the school, building, or other facility. 598

(2) No board shall enter into a contract pursuant to this 599
section if the contract is in force for a period that is longer 600
than the period for which a renewable energy system installed in 601
the district is under written warranty of the manufacturer or 602

distributor of the system. 603

(3) If a board enters into a contract pursuant to this section, the contract shall include a provision for the termination of the contract. 604
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(4) If a board enters into a contract with a third-party provider pursuant to this section, the contract shall include a provision describing the terms under which a district may purchase the renewable energy system from the third-party provider. 607
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(D) No school district shall purchase renewable energy resource credits to meet the electricity requirement of division (B)(1) of this section. 611
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(E) Not later than the thirtieth day of June in the years 2010, 2011, and 2012, each third-party provider that has contracted with a district pursuant to division (C) of this section shall submit to the Ohio energy office within the department of development an annual status report of its participation in the pilot program. Not later than the thirty-first day of December in the years 2010, 2011, and 2012, the office shall submit a report that provides the status of the pilot program to the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate. At a minimum the report shall include the following: 614
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(1) The number of school districts in the state that are participating in the pilot program; 626
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(2) The number of renewable energy systems installed within each district; 628
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(3) The total nameplate generating capacity of the renewable energy systems installed within each district; 630
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(4) Each district's estimated energy savings for the report 632

year. 633

The office may include in its report recommendations 634
regarding the pilot program, including recommendations as to 635
whether the pilot program should be expanded to permit more 636
districts to participate. 637

The general assembly shall conduct an evaluation of the pilot 638
program at the end of the three-year period. When conducting the 639
evaluation, the general assembly shall consider the office's 640
annual reports and the recommendations, if any, made by the 641
office. 642

Sec. 3313.46. (A) In addition to any other law governing the 643
bidding for contracts by the board of education of any school 644
district, when any such board determines to build, repair, 645
enlarge, improve, or demolish any school building, the cost of 646
which will exceed twenty-five thousand dollars, except in cases of 647
urgent necessity, or for the security and protection of school 648
property, and except as otherwise provided in division (D) of 649
section 713.23 and in section 125.04 of the Revised Code, all of 650
the following shall apply: 651

(1) The board shall cause to be prepared the plans, 652
specifications, and related information as required in divisions 653
(A), (B), and (D) of section 153.01 of the Revised Code unless the 654
board determines that other information is sufficient to inform 655
any bidders of the board's requirements. However, if the board 656
determines that such other information is sufficient for bidding a 657
project, the board shall not engage in the construction of any 658
such project involving the practice of professional engineering, 659
professional surveying, or architecture, for which plans, 660
specifications, and estimates have not been made by, and the 661
construction thereof inspected by, a licensed professional 662
engineer, licensed professional surveyor, or registered architect. 663

(2) The board shall advertise for bids once each week for a 664
period of not less than two consecutive weeks in a newspaper of 665
general circulation in the district before the date specified by 666
the board for receiving bids. The board may also cause notice to 667
be inserted in trade papers or other publications designated by it 668
or to be distributed by electronic means, including posting the 669
notice on the board's internet web site. If the board posts the 670
notice on its web site, it may eliminate the second notice 671
otherwise required to be published in a newspaper of general 672
circulation within the school district, provided that the first 673
notice published in such newspaper meets all of the following 674
requirements: 675

(a) It is published at least two weeks before the opening of 676
bids. 677

(b) It includes a statement that the notice is posted on the 678
board of education's internet web site. 679

(c) It includes the internet address of the board's internet 680
web site. 681

(d) It includes instructions describing how the notice may be 682
accessed on the board's internet web site. 683

(3) Unless the board extends the time for the opening of bids 684
they shall be opened at the time and place specified by the board 685
in the advertisement for the bids. 686

(4) Each bid shall contain the name of every person 687
interested therein. Each bid shall meet the requirements of 688
section 153.54 of the Revised Code. 689

(5) When both labor and materials are embraced in the work 690
bid for, the board may require that each be separately stated in 691
the bid, with the price thereof, or may require that bids be 692
submitted without such separation. 693

(6) None but the lowest responsible bid shall be accepted. 694
The board may reject all the bids, or accept any bid for both 695
labor and material for such improvement or repair, which is the 696
lowest in the aggregate. In all other respects, the award of 697
contracts for improvement or repair, but not for purchases made 698
under section 3327.08 of the Revised Code, shall be pursuant to 699
section 153.12 of the Revised Code. 700

(7) The contract shall be between the board and the bidders. 701
The board shall pay the contract price for the work pursuant to 702
sections 153.13 and 153.14 of the Revised Code. The board shall 703
approve and retain the estimates referred to in section 153.13 of 704
the Revised Code and make them available to the auditor of state 705
upon request. 706

(8) When two or more bids are equal, in the whole, or in any 707
part thereof, and are lower than any others, either may be 708
accepted, but in no case shall the work be divided between such 709
bidders. 710

(9) When there is reason to believe there is collusion or 711
combination among the bidders, or any number of them, the bids of 712
those concerned therein shall be rejected. 713

(B) Division (A) of this section does not apply to the board 714
of education of any school district in any of the following 715
situations: 716

(1) The acquisition of educational materials used in 717
teaching. 718

(2) If the board determines and declares by resolution 719
adopted by two-thirds of all its members that any item is 720
available and can be acquired only from a single source. 721

(3) If the board declares by resolution adopted by two-thirds 722
of all its members that division (A) of this section does not 723
apply to any installation, modification, or remodeling ~~involved in~~ 724

any of either of the following: 725

(a) An energy conservation measure undertaken through an 726
installment payment contract under section 3313.372 of the Revised 727
Code or undertaken pursuant to division (G)(1) of section 133.06 728
of the Revised Code; 729

(b) A renewable energy generation measure, including a 730
renewable energy system under section 3313.377 of the Revised 731
Code, undertaken through an installment payment contract under 732
section 3313.372 of the Revised Code or undertaken pursuant to 733
division (G)(2) of section 133.06 of the Revised Code. 734

(4) The acquisition of computer software for instructional 735
purposes and computer hardware for instructional purposes pursuant 736
to division (B)(4) of section 3313.37 of the Revised Code. 737

(C) No resolution adopted pursuant to division (B)(2) or (3) 738
of this section shall have any effect on whether sections 153.12 739
to 153.14 and 153.54 of the Revised Code apply to the board of 740
education of any school district with regard to any item. 741

Sec. 4928.62. (A) There is hereby created the advanced energy 742
program, which shall be administered by the director of 743
development. Under the program, the director may authorize the use 744
of moneys in the advanced energy fund for financial, technical, 745
and related assistance for advanced energy projects in this state 746
or for economic development assistance, in furtherance of the 747
purposes set forth in section 4928.63 of the Revised Code. To the 748
extent feasible given approved applications for assistance, the 749
assistance shall be distributed among the certified territories of 750
electric distribution utilities and participating electric 751
cooperatives, and among the service areas of participating 752
municipal electric utilities, in amounts proportionate to the 753
remittances of each utility and cooperative under divisions (B)(1) 754
and (3) of section 4928.61 of the Revised Code. 755

The director shall not authorize financial assistance for an advanced energy project under the program unless the director first determines that the project will create new jobs or preserve existing jobs in this state or use innovative technologies or materials.

(B) In carrying out sections 4928.61 to 4928.63 of the Revised Code, the director may do all of the following to further the public interest in advanced energy projects and economic development:

(1) Award grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives;

(2) Acquire in the name of the director any property of any kind or character in accordance with this section, by purchase, purchase at foreclosure, or exchange, on such terms and in such manner as the director considers proper;

(3) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 4928.61 to 4928.63 of the Revised Code;

(4) Employ or enter into contracts with financial consultants, marketing consultants, consulting engineers, architects, managers, construction experts, attorneys, technical monitors, energy evaluators, or other employees or agents as the director considers necessary, and fix their compensation;

(5) Adopt rules prescribing the application procedures for financial assistance under the advanced energy program; the terms and conditions of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives; criteria pertaining to the eligibility of participating lending institutions; and any other matters necessary for the implementation of the program;

(6) Do all things necessary and appropriate for the operation 787
of the program. 788

(C) The department of development may hold ownership to any 789
unclaimed energy efficiency and renewable energy emission 790
allowances provided for in Chapter 3745-14 of the Administrative 791
Code or otherwise, that result from advanced energy projects that 792
receive funding from the advanced energy fund, and it may use the 793
allowances to further the public interest in advanced energy 794
projects or for economic development. 795

(D) Financial statements, financial data, and trade secrets 796
submitted to or received by the director from an applicant or 797
recipient of financial assistance under sections 4928.61 to 798
4928.63 of the Revised Code, or any information taken from those 799
statements, data, or trade secrets for any purpose, are not public 800
records for the purpose of section 149.43 of the Revised Code. 801

(E) Nothing in the amendments of sections 4928.61, 4928.62, 802
and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th 803
general assembly shall affect any pending or effected assistance, 804
pending or effected purchases or exchanges of property made, or 805
pending or effected contracts or agreements entered into pursuant 806
to division (A) or (B) of this section as the section existed 807
prior to the effective date of those amendments, January 4, 2007, 808
or shall affect the exemption provided under division (C) of this 809
section as the section existed prior to that effective date. 810

(F) Any assistance a school district receives for an advanced 811
energy project, including a geothermal heating, ventilating, and 812
air conditioning system, and renewable energy generation measures 813
under sections 3313.372 and 3313.377 of the Revised Code, shall be 814
in addition to any assistance provided under Chapter 3318. of the 815
Revised Code ~~and~~. Any assistance for an advanced energy project 816
under this division shall not be included as part of the district 817
or state portion of the basic project cost under ~~that chapter~~ 818

Chapter 3318. of the Revised Code. 819

Section 2. That existing sections 133.06, 133.20, 3313.372, 820
3313.46, and 4928.62 of the Revised Code are hereby repealed. 821