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Senator Widener

Cosponsors: Senators Goodman, Jones, Wagoner, Fedor, Harris, Miller, D.,

Miller, R., Morano, Turner, Wilson, Strahorn

Representatives Bolon, Book, Bubp, Celeste, Domenick, Driehaus, Evans,

Fende, Garland, Garrison, Gerberry, Harris, Harwood, Hite, Koziura, Letson,

McClain, Murray, Newcomb, O'Farrell, Otterman, Ruhl, Szollosi, Walter,

Williams, B., Yuko

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A B I L L

To amend sections 717.25, 1710.01, 1710.02, 1710.06, 1
1710.07, 4928.01, 4928.64, 5709.53, 5713.30, 2
5713.34, 5727.01, 5727.02, 5727.06, 5727.11, 3
5727.111, 5727.15, 5727.30, and 5739.02 and to 4
enact sections 1710.061, 4935.10, and 5727.75 of 5
the Revised Code to exempt qualifying energy 6
facilities from property taxation upon county 7
approval, to require payments in lieu of taxes on 8
the basis of each megawatt of production capacity 9
of such facilities, to expand special improvement 10
district energy improvement projects and the 11
municipal solar energy revolving loan program law 12
to include alternative energy, to address the 13
treatment of energy efficiency savings and 14
reductions in demand regarding certain energy 15
projects, to prohibit the use of the exemption to 16
determine the cost of compliance for the state's 17
alternative energy portfolio standard, to clarify 18

the sales and use tax treatment of related energy 19
conversion equipment purchases, to specify that 20
operators of such facilities are subject to the 21
commercial activity tax, to require the Public 22
Utilities Commission to study reactive power in 23
the state, and to declare an emergency. 24

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

Section 1. That sections 717.25, 1710.01, 1710.02, 1710.06, 25
1710.07, 4928.01, 4928.64, 5709.53, 5713.30, 5713.34, 5727.01, 26
5727.02, 5727.06, 5727.11, 5727.111, 5727.15, 5727.30, and 5739.02 27
be amended and sections 1710.061, 4935.10, and 5727.75 of the 28
Revised Code be enacted to read as follows: 29

Sec. 717.25. (A) As used in this section: 30

(1) "Customer-generated energy project" means a wind, 31
biomass, or gasification facility for the generation of 32
electricity that meets either of the following requirements: 33

(a) The facility is designed to have a generating capacity of 34
two hundred fifty kilowatts of electricity or less. 35

(b) The facility is: 36

(i) Designed to have a generating capacity of more than two 37
hundred fifty kilowatts of electricity; 38

(ii) Operated in parallel with electric transmission and 39
distribution facilities serving the real property at the site of 40
the customer-generated energy project; 41

(iii) Intended primarily to offset part or all of the 42
facility owner's requirements for electricity at the site of the 43
customer-generated energy project and is located on the facility 44
owner's real property; and 45

(iv) Not producing energy for direct sale by the facility 46
owner to the public. 47

(2) "Electric distribution utility" and "mercantile customer" 48
have the same meanings as in section 4928.01 of the Revised Code. 49

(3) "Reduction in demand" has the same meaning as in section 50
1710.01 of the Revised Code. 51

(B) The legislative authority of a municipal corporation may 52
establish a low-cost ~~solar panel~~ alternative energy revolving loan 53
program to assist ~~residents of~~ owners of real property within the 54
municipal corporation ~~to install solar panels at their residences.~~ 55
~~If~~ with installing and implementing either of the following on 56
their real property: 57

(1) Alternative energy technologies limited to solar 58
photovoltaic projects, solar thermal energy projects, geothermal 59
energy projects, and customer-generated energy projects; 60

(2) Energy efficiency technologies, products, and activities 61
that reduce or support the reduction of energy consumption, allow 62
for the reduction in demand, or support the production of clean, 63
renewable energy. 64

(C) If the legislative authority decides to establish such a 65
program, the legislative authority shall adopt an ordinance that 66
provides for the following: 67

~~(A)~~(1) Creation in the municipal treasury of a ~~residential~~ 68
~~solar panel~~ alternative energy revolving loan fund; 69

~~(B)~~(2) A source of money, such as gifts, bond issues, real 70
property assessments, or federal subsidies, to seed the 71
~~residential solar panel~~ alternative energy revolving loan fund; 72

~~(C)~~(3) Facilities for making loans from the ~~residential solar~~ 73
~~panel~~ alternative energy revolving loan fund, including an 74
explanation of how ~~residents of~~ owners of real property within the 75

municipal corporation may qualify for loans from the fund, a 76
description of the ~~solar panels~~ alternative energy and energy 77
efficiency technologies and related equipment for which a loan can 78
be made from the fund, authorization of a municipal agency to 79
process applications for loans and otherwise to administer the 80
low-cost ~~solar panel~~ alternative energy revolving loan program, a 81
procedure whereby loans can be applied for, criteria for reviewing 82
and accepting or denying applications for loans, criteria for 83
determining the appropriate amount of a loan, the interest rate to 84
be charged, the repayment schedule, and other terms and conditions 85
of a loan, and procedures for collecting loans that are not repaid 86
according to the repayment schedule; 87

~~(D)~~(4) A specification that repayments of loans from the 88
~~residential solar panel~~ alternative energy revolving loan fund may 89
be made in installments and, at the option of the ~~resident~~ real 90
property owner repaying the loan, the installments may be paid and 91
collected as if they were special assessments paid and collected 92
in the manner specified in Chapter 727. of the Revised Code and as 93
specified in the ordinance; 94

~~(E)~~(5) A specification that repayments of loans from the 95
~~residential solar panel~~ alternative energy revolving loan fund are 96
to be credited to the fund, that the money in the fund is to be 97
invested pending its being lent out, and that investment earnings 98
on the money in the fund ~~is~~ are to be credited to the fund; and 99

~~(F)~~(6) Other matters necessary and proper for efficient 100
operation of the low-cost ~~solar panel~~ alternative energy revolving 101
loan program as a means of encouraging use of ~~renewable~~ 102
alternative energy and energy efficiency technologies. 103

The interest rate charged on a loan from the ~~residential~~ 104
~~solar panel~~ alternative energy revolving loan fund shall be below 105
prevailing market rates. The legislative authority may specify the 106
interest rate in the ordinance or may, after establishing a 107

standard in the ordinance whereby the interest rate can be 108
specified, delegate authority to specify the interest rate to the 109
administrator of loans from the ~~residential solar panel~~ 110
alternative energy revolving loan fund. 111

The ~~residential solar panel~~ alternative energy revolving loan 112
fund shall be seeded with sufficient money to enable loans to be 113
made until the fund accumulates sufficient reserves through 114
investment and repayment of loans for revolving operation. 115

(D) Except as provided in division (E) of this section, an 116
electric distribution utility may count toward its compliance with 117
the energy efficiency and peak demand reduction requirements of 118
section 4928.66 of the Revised Code any energy efficiency savings 119
or any reduction in demand that is produced by projects utilizing 120
alternative energy technologies or energy efficiency technologies, 121
products, and activities that are located in its certified 122
territory and for which a loan has been made under this section. 123

(E) A mercantile customer that realizes energy efficiency 124
savings or reduction in demand produced by alternative energy 125
technologies or energy efficiency technologies, products, or 126
activities that it owns and for which a loan has been made under 127
this section may elect to commit the savings or reduction to the 128
electric distribution utility in exchange for an exemption from an 129
energy efficiency cost recovery mechanism permitted under section 130
4928.66 of the Revised Code, approved by the public utilities 131
commission. 132

(F) The legislative authority shall submit a quarterly report 133
to the electric distribution utility that includes, but is not 134
limited to, both of the following: 135

(1) The number and a description of each new and ongoing 136
project utilizing alternative energy technologies or energy 137
efficiency technologies, products, or activities located in the 138

utility's certified territory that produces energy efficiency 139
savings or reduction in demand and for which a loan has been made 140
under this section; 141

(2) Any additional information that the electric distribution 142
utility needs in order to obtain credit under section 4928.66 of 143
the Revised Code for energy efficiency savings or reduction in 144
demand from such projects. 145

Sec. 1710.01. As used in this chapter: 146

(A) "Special improvement district" means a special 147
improvement district organized under this chapter. 148

(B) "Church" means a fellowship of believers, congregation, 149
society, corporation, convention, or association that is formed 150
primarily or exclusively for religious purposes and that is not 151
formed for the private profit of any person. 152

(C) "Church property" means property that is described as 153
being exempt from taxation under division (A)(2) of section 154
5709.07 of the Revised Code and that the county auditor has 155
entered on the exempt list compiled under section 5713.07 of the 156
Revised Code. 157

(D) "Municipal executive" means the mayor, city manager, or 158
other chief executive officer of the municipal corporation in 159
which a special improvement district is located. 160

(E) "Participating political subdivision" means the municipal 161
corporation or township, or each of the municipal corporations or 162
townships, that has territory within the boundaries of a special 163
improvement district created under this chapter. 164

(F) "Legislative authority of a participating political 165
subdivision" means, with reference to a township, the board of 166
township trustees. 167

(G) "Public improvement" means the planning, design, 168

construction, reconstruction, enlargement, or alteration of any 169
facility or improvement, including the acquisition of land, for 170
which a special assessment may be levied under Chapter 727. of the 171
Revised Code, and includes any special energy improvement project. 172

(H) "Public service" means any service that can be provided 173
by a municipal corporation or any service for which a special 174
assessment may be levied under Chapter 727. of the Revised Code. 175

(I) "Special energy improvement project" means any property, 176
device, structure, or equipment necessary for the acquisition, 177
installation, equipping, and improvement of any real or personal 178
property used for the purpose of creating a solar ~~photo-voltaic~~ 179
photovoltaic project ~~or~~, a solar thermal energy project, a 180
geothermal energy project, a customer-generated energy project, or 181
an energy efficiency improvement, whether such real or personal 182
property is publicly or privately owned. 183

(J) "Existing qualified nonprofit corporation" means a 184
nonprofit corporation that existed before the creation of the 185
corresponding district under this chapter, that is composed of 186
members located within or adjacent to the district, that has 187
established a police department under section 1702.80 of the 188
Revised Code, and that is organized for purposes that include 189
acquisition of real property within an area specified by its 190
articles for the subsequent transfer of such property to its 191
members exclusively for charitable, scientific, literary, or 192
educational purposes, or holding and maintaining and leasing such 193
property; planning for and assisting in the development of its 194
members; providing for the relief of the poor and distressed or 195
underprivileged in the area and adjacent areas; combating 196
community deterioration and lessening the burdens of government; 197
providing or assisting others in providing housing for low- or 198
moderate-income persons; and assisting its members by the 199
provision of public safety and security services, parking 200

facilities, transit service, landscaping, and parks. 201

(K) "Energy efficiency improvement" means energy efficiency 202
technologies, products, and activities that reduce or support the 203
reduction of energy consumption, allow for the reduction in 204
demand, or support the production of clean, renewable energy and 205
that are or will be permanently fixed to real property. 206

(L) "Customer-generated energy project" means a wind, 207
biomass, or gasification facility for the production of 208
electricity that meets either of the following requirements: 209

(1) The facility is designed to have a generating capacity of 210
two hundred fifty kilowatts of electricity or less. 211

(2) The facility is: 212

(a) Designed to have a generating capacity of more than two 213
hundred fifty kilowatts of electricity; 214

(b) Operated in parallel with electric transmission and 215
distribution facilities serving the real property at the site of 216
the customer-generated energy project; 217

(c) Intended primarily to offset part or all of the facility 218
owner's requirements for electricity at the site of the 219
customer-generated energy project and is located on the facility 220
owner's real property; and 221

(d) Not producing energy for direct sale by the facility 222
owner to the public. 223

(M) "Reduction in demand" means a change in customer behavior 224
or a change in customer-owned or operated assets that reduces or 225
has the capability to reduce the demand for electricity as a 226
result of price signals or other incentives. 227

(N) "Electric distribution utility" and "mercantile customer" 228
have the same meanings as in section 4928.01 of the Revised Code. 229

Sec. 1710.02. (A) A special improvement district may be 230
created within the boundaries of any one municipal corporation, 231
any one township, or any combination of contiguous municipal 232
corporations and townships for the purpose of developing and 233
implementing plans for public improvements and public services 234
that benefit the district. A district may be created by petition 235
of the owners of real property within the proposed district, or by 236
an existing qualified nonprofit corporation. If the district is 237
created by an existing qualified nonprofit corporation, the 238
purposes for which the district is created may be supplemental to 239
the other purposes for which the corporation is organized. All 240
territory in a special improvement district shall be contiguous; 241
except that the territory in a special improvement district may be 242
noncontiguous if at least one special energy improvement project 243
is designated for each parcel of real property included within the 244
special improvement district. Additional territory may be added to 245
a special improvement district created under this chapter for the 246
purpose of developing and implementing plans for special energy 247
improvement projects if at least one special energy improvement 248
project is designated for each parcel of real property included 249
within such additional territory and the addition of territory is 250
authorized by the initial plan proposed under division (F) of this 251
section or a plan adopted by the board of directors of the special 252
improvement district under section 1710.06 of the Revised Code. 253

The district shall be governed by the board of trustees of a 254
nonprofit corporation. This board shall be known as the board of 255
directors of the special improvement district. No special 256
improvement district shall include any church property, or 257
property of the federal or state government or a county, township, 258
or municipal corporation, unless the church or the county, 259
township, or municipal corporation specifically requests in 260
writing that the property be included within the district, or 261

unless the church is a member of the existing qualified nonprofit 262
corporation creating the district at the time the district is 263
created. More than one district may be created within a 264
participating political subdivision, but no real property may be 265
included within more than one district unless the owner of the 266
property files a written consent with the clerk of the legislative 267
authority, the township fiscal officer, or the village clerk, as 268
appropriate. The area of each district shall be contiguous; except 269
that the area of a special improvement district may be 270
noncontiguous if all parcels of real property included within such 271
area contain at least one special energy improvement thereon. 272

(B) Except as provided in division (C) of this section, a 273
district created under this chapter is not a political 274
subdivision. A district created under this chapter shall be 275
considered a public agency under section 102.01 and a public 276
authority under section 4115.03 of the Revised Code. Each member 277
of the board of directors of a district, each member's designee or 278
proxy, and each officer and employee of a district shall be 279
considered a public official or employee under section 102.01 of 280
the Revised Code and a public official and public servant under 281
section 2921.42 of the Revised Code. Districts created under this 282
chapter are not subject to section 121.251 of the Revised Code. 283
Districts created under this chapter are subject to sections 284
121.22 and 121.23 of the Revised Code. 285

(C) Each district created under this chapter shall be 286
considered a political subdivision for purposes of section 4905.34 287
of the Revised Code. 288

Membership on the board of directors of the district shall 289
not be considered as holding a public office. Directors and their 290
designees shall be entitled to the immunities provided by Chapter 291
1702. and to the same immunity as an employee under division 292
(A)(6) of section 2744.03 of the Revised Code, except that 293

directors and their designees shall not be entitled to the 294
indemnification provided in section 2744.07 of the Revised Code 295
unless the director or designee is an employee or official of a 296
participating political subdivision of the district and is acting 297
within the scope of the director's or designee's employment or 298
official responsibilities. 299

District officers and district members and directors and 300
their designees or proxies shall not be required to file a 301
statement with the Ohio ethics commission under section 102.02 of 302
the Revised Code. All records of the district shall be treated as 303
public records under section 149.43 of the Revised Code, except 304
that records of organizations contracting with a district shall 305
not be considered to be public records under section 149.43 or 306
section 149.431 of the Revised Code solely by reason of any 307
contract with a district. 308

(D) Except as otherwise provided in this section, the 309
nonprofit corporation that governs a district shall be organized 310
in the manner described in Chapter 1702. of the Revised Code. 311
Except in the case of a district created by an existing qualified 312
nonprofit corporation, the corporation's articles of incorporation 313
are required to be approved, as provided in division (E) of this 314
section, by resolution of the legislative authority of each 315
participating political subdivision of the district. A copy of 316
that resolution shall be filed along with the articles of 317
incorporation in the secretary of state's office. 318

In addition to meeting the requirements for articles of 319
incorporation set forth in Chapter 1702. of the Revised Code, the 320
articles of incorporation for the nonprofit corporation governing 321
a district formed under this chapter shall provide all the 322
following: 323

(1) The name for the district, which shall include the name 324
of each participating political subdivision of the district; 325

(2) A description of the territory within the district, which 326
may be all or part of each participating political subdivision. 327
The description shall be specific enough to enable real property 328
owners to determine if their property is located within the 329
district. 330

(3) A description of the procedure by which the articles of 331
incorporation may be amended. The procedure shall include 332
receiving approval of the amendment, by resolution, from the 333
legislative authority of each participating political subdivision 334
and filing the approved amendment and resolution with the 335
secretary of state. 336

(4) The reasons for creating the district, plus an 337
explanation of how the district will be conducive to the public 338
health, safety, peace, convenience, and welfare of the district. 339

(E) The articles of incorporation for a nonprofit corporation 340
governing a district created under this chapter and amendments to 341
them shall be submitted to the municipal executive, if any, and 342
the legislative authority of each municipal corporation or 343
township in which the proposed district is to be located. Except 344
in the case of a district created by an existing qualified 345
nonprofit corporation, the articles or amendments shall be 346
accompanied by a petition signed either by the owners of at least 347
sixty per cent of the front footage of all real property located 348
in the proposed district that abuts upon any street, alley, public 349
road, place, boulevard, parkway, park entrance, easement, or other 350
existing public improvement within the proposed district, 351
excluding church property or property owned by the state, county, 352
township, municipal, or federal government, unless a church, 353
county, township, or municipal corporation has specifically 354
requested in writing that the property be included in the 355
district, or by the owners of at least seventy-five per cent of 356
the area of all real property located within the proposed 357

district, excluding church property or property owned by the 358
state, county, township, municipal, or federal government, unless 359
a church, county, township, or municipal corporation has 360
specifically requested in writing that the property be included in 361
the district. Pursuant to Section 20 of Article VIII, Ohio 362
Constitution, the petition required under this division may be for 363
the purpose of developing and implementing plans for special 364
energy improvement projects, and, in such case, is determined to 365
be in furtherance of the purposes set forth in Section 20 of 366
Article VIII, Ohio Constitution. If a special improvement district 367
is being created under this chapter for the purpose of developing 368
and implementing plans for special energy improvement projects, 369
the petition required under this division shall be signed by one 370
hundred per cent of the owners of the area of all real property 371
located within the proposed special improvement district, at least 372
one special energy improvement project shall be designated for 373
each parcel of real property within the special improvement 374
district, and the special improvement district may include any 375
number of parcels of real property as determined by the 376
legislative authority of each participating political subdivision 377
in which the proposed special improvement district is to be 378
located. For purposes of determining compliance with these 379
requirements, the area of the district, or the front footage and 380
ownership of property, shall be as shown in the most current 381
records available at the county recorder's office and the county 382
engineer's office sixty days prior to the date on which the 383
petition is filed. 384

Each municipal corporation or township with which the 385
petition is filed has sixty days to approve or disapprove, by 386
resolution, the petition, including the articles of incorporation. 387
In the case of a district created by an existing qualified 388
nonprofit corporation, each municipal corporation or township has 389
sixty days to approve or disapprove the creation of the district 390

after the corporation submits the articles of incorporation or 391
amendments thereto. This chapter does not prohibit or restrict the 392
rights of municipal corporations under Article XVIII of the Ohio 393
Constitution or the right of the municipal legislative authority 394
to impose reasonable conditions in a resolution of approval. The 395
acquisition, installation, equipping, and improvement of a special 396
energy improvement project under this chapter shall not supersede 397
any local zoning, environmental, or similar law or regulation. 398

(F) Persons proposing creation and operation of the district 399
may propose an initial plan for public services or public 400
improvements that benefit all or any part of the district. Any 401
initial plan shall be submitted as part of the petition proposing 402
creation of the district or, in the case of a district created by 403
an existing qualified nonprofit corporation, shall be submitted 404
with the articles of incorporation or amendments thereto. 405

An initial plan may include provisions for the following: 406

(1) Creation and operation of the district and of the 407
nonprofit corporation to govern the district under this chapter; 408

(2) Hiring employees and professional services; 409

(3) Contracting for insurance; 410

(4) Purchasing or leasing office space and office equipment; 411

(5) Other actions necessary initially to form, operate, or 412
organize the district and the nonprofit corporation to govern the 413
district; 414

(6) A plan for public improvements or public services that 415
benefit all or part of the district, which plan shall comply with 416
the requirements of division (A) of section 1710.06 of the Revised 417
Code and may include, but is not limited to, any of the permissive 418
provisions described in the fourth sentence of that division or 419
listed in divisions (A)(1) to ~~(6)~~(7) of that section; 420

(7) If the special improvement district is being created 421
under this chapter for the purpose of developing and implementing 422
plans for special energy improvement projects, provision for the 423
addition of territory to the special improvement district. 424

After the initial plan is approved by all municipal 425
corporations and townships to which it is submitted for approval 426
and the district is created, each participating subdivision shall 427
levy a special assessment within its boundaries to pay for the 428
costs of the initial plan. The levy shall be for no more than ten 429
years from the date of the approval of the initial plan; except 430
that if the proceeds of the levy are to be used to pay the costs 431
of a special energy improvement project, the levy of a special 432
assessment shall be for no more than ~~twenty-five~~ thirty years from 433
the date of approval of the initial plan. In the event that 434
additional territory is added to a special improvement district, 435
the special assessment to be levied with respect to such 436
additional territory shall commence not earlier than the date such 437
territory is added and shall be for no more than ~~twenty-five~~ 438
thirty years from such date. For purposes of levying an assessment 439
for this initial plan, the services or improvements included in 440
the initial plan shall be deemed a special benefit to property 441
owners within the district. 442

(G) Each nonprofit corporation governing a district under 443
this chapter may do the following: 444

(1) Exercise all powers of nonprofit corporations granted 445
under Chapter 1702. of the Revised Code that do not conflict with 446
this chapter; 447

(2) Develop, adopt, revise, implement, and repeal plans for 448
public improvements and public services for all or any part of the 449
district; 450

(3) Contract with any person, political subdivision as 451

defined in section 2744.01 of the Revised Code, or state agency as 452
defined in section 1.60 of the Revised Code to develop and 453
implement plans for public improvements or public services within 454
the district; 455

(4) Contract and pay for insurance for the district and for 456
directors, officers, agents, contractors, employees, or members of 457
the district for any consequences of the implementation of any 458
plan adopted by the district or any actions of the district. 459

The board of directors of a special improvement district may, 460
acting as agent and on behalf of a participating political 461
subdivision, sell, transfer, lease, or convey any special energy 462
improvement project owned by the participating political 463
subdivision upon a determination by the legislative authority 464
thereof that the project is not required to be owned exclusively 465
by the participating political subdivision for its purposes, for 466
uses determined by the legislative authority thereof as those that 467
will promote the welfare of the people of such participating 468
political subdivision; to improve the quality of life and the 469
general and economic well-being of the people of the participating 470
political subdivision; better ensure the public health, safety, 471
and welfare; protect water and other natural resources; provide 472
for the conservation and preservation of natural and open areas 473
and farmlands, including by making urban areas more desirable or 474
suitable for development and revitalization; control, prevent, 475
minimize, clean up, or mediate certain contamination of or 476
pollution from lands in the state and water contamination or 477
pollution; or provide for safe and natural areas and resources. 478
The legislative authority of each participating political 479
subdivision shall specify the consideration for such sale, 480
transfer, lease, or conveyance and any other terms thereof. Any 481
determinations made by a legislative authority of a participating 482
political subdivision under this division shall be conclusive. 483

Any sale, transfer, lease, or conveyance of a special energy 484
improvement project by a participating political subdivision or 485
the board of directors of the special improvement district may be 486
made without advertising, receipt of bids, or other competitive 487
bidding procedures applicable to the participating political 488
subdivision or the special improvement district under Chapter 153. 489
or 735. or section 1710.11 of the Revised Code or other 490
representative provisions of the Revised Code. 491

Sec. 1710.06. (A) The board of directors of a special 492
improvement district may develop and adopt one or more written 493
plans for public improvements or public services that benefit all 494
or any part of the district. Each plan shall set forth the 495
specific public improvements or public services that are to be 496
provided, identify the area in which they will be provided, and 497
specify the method of assessment to be used. Each plan for public 498
improvements or public services shall indicate the period of time 499
the assessments are to be levied for the improvements and services 500
and, if public services are included in the plan, the period of 501
time the services are to remain in effect. Plans for public 502
improvements may include the planning, design, construction, 503
reconstruction, enlargement, or alteration of any public 504
improvements and the acquisition of land for the improvements. 505
Plans for public improvements or public services may also include, 506
but are not limited to, provisions for the following: 507

(1) Creating and operating the district and the nonprofit 508
corporation under this chapter, including hiring employees and 509
professional services, contracting for insurance, and purchasing 510
or leasing office space and office equipment and other 511
requirements of the district; 512

(2) Planning, designing, and implementing a public 513
improvements or public services plan, including hiring 514

architectural, engineering, legal, appraisal, insurance, 515
consulting, energy auditing, and planning services, and, for 516
public services, managing, protecting, and maintaining public and 517
private facilities, including public improvements; 518

(3) Conducting court proceedings to carry out this chapter; 519

(4) Paying damages resulting from the provision of public 520
improvements or public services and implementing the plans; 521

(5) Paying the costs of issuing, paying interest on, and 522
redeeming notes and bonds issued for funding public improvements 523
and public services plans; ~~and~~ 524

(6) Sale, lease, lease with an option to purchase, conveyance 525
of other interests in, or other contracts for the acquisition, 526
construction, maintenance, repair, furnishing, equipping, 527
operation, or improvement of any special energy improvement 528
project by the special improvement district, between a 529
participating political subdivision and the special improvement 530
district, and between the special improvement district and any 531
owner of real property in the special improvement district on 532
which a special energy improvement project has been acquired, 533
installed, equipped, or improved; and 534

(7) Aggregating the renewable energy credits generated by one 535
or more special energy improvement projects within a special 536
improvement district, upon the consent of the owners of the 537
credits and for the purpose of negotiating and completing the sale 538
of such credits. 539

(B) Once the board of directors of the special improvement 540
district adopts a plan, it shall submit the plan to the 541
legislative authority of each participating political subdivision 542
and the municipal executive of each municipal corporation in which 543
the district is located, if any. The legislative authorities and 544
municipal executives shall review the plan and, within sixty days 545

after receiving it, may submit their comments and recommendations 546
about it to the district. After reviewing these comments and 547
recommendations, the board of directors may amend the plan. It may 548
then submit the plan, amended or otherwise, in the form of a 549
petition to members of the district whose property may be assessed 550
for the plan. Once the petition is signed by those members who own 551
at least sixty per cent of the front footage of property that is 552
to be assessed and that abuts upon a street, alley, public road, 553
place, boulevard, parkway, park entrance, easement, or other 554
public improvement, or those members who own at least seventy-five 555
per cent of the area to be assessed for the improvement or 556
service, the petition may be submitted to each legislative 557
authority for approval. If the special improvement district was 558
created for the purpose of developing and implementing plans for 559
special energy improvement projects, the petition required under 560
this division shall be signed by one hundred per cent of the 561
owners of the area of all real property located within the area to 562
be assessed for the special energy improvement project. 563

Each legislative authority shall, by resolution, approve or 564
reject the petition within sixty days after receiving it. If the 565
petition is approved by the legislative authority of each 566
participating political subdivision, the plan contained in the 567
petition shall be effective at the earliest date on which a 568
nonemergency resolution of the legislative authority with the 569
latest effective date may become effective. A plan may not be 570
resubmitted to the legislative authorities and municipal 571
executives more than three times in any twelve-month period. 572

(C) Each participating political subdivision shall levy, by 573
special assessment upon specially benefited property located 574
within the district, the costs of any public improvements or 575
public services plan contained in a petition approved by the 576
participating political subdivisions under this section or 577

division (F) of section 1710.02 of the Revised Code. The levy 578
shall be made in accordance with the procedures set forth in 579
Chapter 727. of the Revised Code, except that: 580

(1) The assessment for each improvements or services plan may 581
be levied by any one or any combination of the methods of 582
assessment listed in section 727.01 of the Revised Code, provided 583
that the assessment is uniformly applied. 584

(2) For the purpose of levying an assessment, the board of 585
directors may combine one or more improvements or services plans 586
or parts of plans and levy a single assessment against specially 587
benefited property. 588

(3) For purposes of special assessments levied by a township 589
pursuant to this chapter, references in Chapter 727. of the 590
Revised Code to the municipal corporation shall be deemed to refer 591
to the township, and references to the legislative authority of 592
the municipal corporation shall be deemed to refer to the board of 593
township trustees. 594

Church property or property owned by a political subdivision, 595
including any participating political subdivision in which a 596
special improvement district is located, shall be included in and 597
be subject to special assessments made pursuant to a plan adopted 598
under this section or division (F) of section 1710.02 of the 599
Revised Code, if the church or political subdivision has 600
specifically requested in writing that its property be included 601
within the special improvement district and the church or 602
political subdivision is a member of the district or, in the case 603
of a district created by an existing qualified nonprofit 604
corporation, if the church is a member of the corporation. 605

(D) All rights and privileges of property owners who are 606
assessed under Chapter 727. of the Revised Code shall be granted 607
to property owners assessed under this chapter, including those 608

rights and privileges specified in sections 727.15 to 727.17 and 609
727.18 to 727.22 of the Revised Code and the right to notice of 610
the resolution of necessity and the filing of the estimated 611
assessment under section 727.13 of the Revised Code. Property 612
owners assessed for public services under this chapter shall have 613
the same rights and privileges as property owners assessed for 614
public improvements under this chapter. 615

Sec. 1710.061. (A) Except as provided in division (B) of this 616
section, an electric distribution utility may count toward its 617
compliance with the energy efficiency and peak demand reduction 618
requirements of section 4928.66 of the Revised Code any efficiency 619
savings or reduction in demand produced by a special energy 620
improvement project located in its certified territory. 621

(B) A mercantile customer that realizes energy efficiency 622
savings or reduction in demand produced by a special energy 623
improvement project that it owns may elect to commit the savings 624
or reduction to the electric distribution utility in exchange for 625
an exemption from an energy efficiency cost recovery mechanism 626
permitted under section 4928.66 of the Revised Code, approved by 627
the public utilities commission. 628

(C) The board of directors of a special improvement district 629
shall submit a quarterly report to the electric distribution 630
utility that includes, but is not limited to, both of the 631
following: 632

(1) The total number and a description of each new and 633
ongoing special energy improvement project located within the 634
special improvement district that produces energy efficiency 635
savings or reduction in demand; 636

(2) Any additional information that the electric distribution 637
utility needs in order to obtain credit under section 4928.66 of 638
the Revised Code for energy efficiency savings or reduction in 639

demand from such projects. 640

Sec. 1710.07. The cost of any public improvements or public 641
services plan of a special improvement district may include, but 642
is not limited to, the following: 643

(A) The cost of creating and operating the district under 644
this chapter, including creating and operating a nonprofit 645
organization organized under this chapter, hiring employees and 646
professional services, contracting for insurance, and purchasing 647
or leasing office space or office equipment; 648

(B) The cost of planning, designing, and implementing the 649
public improvements or public services plan, including payment of 650
architectural, engineering, legal, appraisal, insurance, 651
consulting, energy auditing, and planning fees and expenses, and, 652
for public services, the management, protection, and maintenance 653
costs of public or private facilities; 654

(C) Any court costs incurred by the district in implementing 655
the public improvements or public services plan; 656

(D) Any damages resulting from implementing the public 657
improvements or public services plan; 658

(E) The costs of issuing, paying interest on, and redeeming 659
notes and bonds issued for funding the public improvements or 660
public services plan; and 661

(F) The costs associated with the sale, lease, lease with an 662
option to purchase, conveyance of other interests in, or other 663
contracts for the acquisition, construction, maintenance, repair, 664
furnishing, equipping, operation, or improvement of any special 665
energy improvement project by the district, between a 666
participating political subdivision and the special improvement 667
district, or between the special improvement district and any 668
owner of real property in the special improvement district on 669

which a special energy improvement project has been acquired, 670
installed, equipped, or improved. 671

Sec. 4928.01. (A) As used in this chapter: 672

(1) "Ancillary service" means any function necessary to the 673
provision of electric transmission or distribution service to a 674
retail customer and includes, but is not limited to, scheduling, 675
system control, and dispatch services; reactive supply from 676
generation resources and voltage control service; reactive supply 677
from transmission resources service; regulation service; frequency 678
response service; energy imbalance service; operating 679
reserve-spinning reserve service; operating reserve-supplemental 680
reserve service; load following; back-up supply service; 681
real-power loss replacement service; dynamic scheduling; system 682
black start capability; and network stability service. 683

(2) "Billing and collection agent" means a fully independent 684
agent, not affiliated with or otherwise controlled by an electric 685
utility, electric services company, electric cooperative, or 686
governmental aggregator subject to certification under section 687
4928.08 of the Revised Code, to the extent that the agent is under 688
contract with such utility, company, cooperative, or aggregator 689
solely to provide billing and collection for retail electric 690
service on behalf of the utility company, cooperative, or 691
aggregator. 692

(3) "Certified territory" means the certified territory 693
established for an electric supplier under sections 4933.81 to 694
4933.90 of the Revised Code. 695

(4) "Competitive retail electric service" means a component 696
of retail electric service that is competitive as provided under 697
division (B) of this section. 698

(5) "Electric cooperative" means a not-for-profit electric 699

light company that both is or has been financed in whole or in 700
part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 701
7 U.S.C. 901, and owns or operates facilities in this state to 702
generate, transmit, or distribute electricity, or a not-for-profit 703
successor of such company. 704

(6) "Electric distribution utility" means an electric utility 705
that supplies at least retail electric distribution service. 706

(7) "Electric light company" has the same meaning as in 707
section 4905.03 of the Revised Code and includes an electric 708
services company, but excludes any self-generator to the extent 709
that it consumes electricity it so produces, sells that 710
electricity for resale, or obtains electricity from a generating 711
facility it hosts on its premises. 712

(8) "Electric load center" has the same meaning as in section 713
4933.81 of the Revised Code. 714

(9) "Electric services company" means an electric light 715
company that is engaged on a for-profit or not-for-profit basis in 716
the business of supplying or arranging for the supply of only a 717
competitive retail electric service in this state. "Electric 718
services company" includes a power marketer, power broker, 719
aggregator, or independent power producer but excludes an electric 720
cooperative, municipal electric utility, governmental aggregator, 721
or billing and collection agent. 722

(10) "Electric supplier" has the same meaning as in section 723
4933.81 of the Revised Code. 724

(11) "Electric utility" means an electric light company that 725
has a certified territory and is engaged on a for-profit basis 726
either in the business of supplying a noncompetitive retail 727
electric service in this state or in the businesses of supplying 728
both a noncompetitive and a competitive retail electric service in 729
this state. "Electric utility" excludes a municipal electric 730

utility or a billing and collection agent. 731

(12) "Firm electric service" means electric service other 732
than nonfirm electric service. 733

(13) "Governmental aggregator" means a legislative authority 734
of a municipal corporation, a board of township trustees, or a 735
board of county commissioners acting as an aggregator for the 736
provision of a competitive retail electric service under authority 737
conferred under section 4928.20 of the Revised Code. 738

(14) A person acts "knowingly," regardless of the person's 739
purpose, when the person is aware that the person's conduct will 740
probably cause a certain result or will probably be of a certain 741
nature. A person has knowledge of circumstances when the person is 742
aware that such circumstances probably exist. 743

(15) "Level of funding for low-income customer energy 744
efficiency programs provided through electric utility rates" means 745
the level of funds specifically included in an electric utility's 746
rates on October 5, 1999, pursuant to an order of the public 747
utilities commission issued under Chapter 4905. or 4909. of the 748
Revised Code and in effect on October 4, 1999, for the purpose of 749
improving the energy efficiency of housing for the utility's 750
low-income customers. The term excludes the level of any such 751
funds committed to a specific nonprofit organization or 752
organizations pursuant to a stipulation or contract. 753

(16) "Low-income customer assistance programs" means the 754
percentage of income payment plan program, the home energy 755
assistance program, the home weatherization assistance program, 756
and the targeted energy efficiency and weatherization program. 757

(17) "Market development period" for an electric utility 758
means the period of time beginning on the starting date of 759
competitive retail electric service and ending on the applicable 760
date for that utility as specified in section 4928.40 of the 761

Revised Code, irrespective of whether the utility applies to 762
receive transition revenues under this chapter. 763

(18) "Market power" means the ability to impose on customers 764
a sustained price for a product or service above the price that 765
would prevail in a competitive market. 766

(19) "Mercantile customer" means a commercial or industrial 767
customer if the electricity consumed is for nonresidential use and 768
the customer consumes more than seven hundred thousand kilowatt 769
hours per year or is part of a national account involving multiple 770
facilities in one or more states. 771

(20) "Municipal electric utility" means a municipal 772
corporation that owns or operates facilities to generate, 773
transmit, or distribute electricity. 774

(21) "Noncompetitive retail electric service" means a 775
component of retail electric service that is noncompetitive as 776
provided under division (B) of this section. 777

(22) "Nonfirm electric service" means electric service 778
provided pursuant to a schedule filed under section 4905.30 of the 779
Revised Code or pursuant to an arrangement under section 4905.31 780
of the Revised Code, which schedule or arrangement includes 781
conditions that may require the customer to curtail or interrupt 782
electric usage during nonemergency circumstances upon notification 783
by an electric utility. 784

(23) "Percentage of income payment plan arrears" means funds 785
eligible for collection through the percentage of income payment 786
plan rider, but uncollected as of July 1, 2000. 787

(24) "Person" has the same meaning as in section 1.59 of the 788
Revised Code. 789

(25) "Advanced energy project" means any technologies, 790
products, activities, or management practices or strategies that 791

facilitate the generation or use of electricity or energy and that 792
reduce or support the reduction of energy consumption or support 793
the production of clean, renewable energy for industrial, 794
distribution, commercial, institutional, governmental, research, 795
not-for-profit, or residential energy users, including, but not 796
limited to, advanced energy resources and renewable energy 797
resources. "Advanced energy project" also includes any project 798
described in division (A), (B), or (C) of section 4928.621 of the 799
Revised Code. 800

(26) "Regulatory assets" means the unamortized net regulatory 801
assets that are capitalized or deferred on the regulatory books of 802
the electric utility, pursuant to an order or practice of the 803
public utilities commission or pursuant to generally accepted 804
accounting principles as a result of a prior commission 805
rate-making decision, and that would otherwise have been charged 806
to expense as incurred or would not have been capitalized or 807
otherwise deferred for future regulatory consideration absent 808
commission action. "Regulatory assets" includes, but is not 809
limited to, all deferred demand-side management costs; all 810
deferred percentage of income payment plan arrears; 811
post-in-service capitalized charges and assets recognized in 812
connection with statement of financial accounting standards no. 813
109 (receivables from customers for income taxes); future nuclear 814
decommissioning costs and fuel disposal costs as those costs have 815
been determined by the commission in the electric utility's most 816
recent rate or accounting application proceeding addressing such 817
costs; the undepreciated costs of safety and radiation control 818
equipment on nuclear generating plants owned or leased by an 819
electric utility; and fuel costs currently deferred pursuant to 820
the terms of one or more settlement agreements approved by the 821
commission. 822

(27) "Retail electric service" means any service involved in 823

supplying or arranging for the supply of electricity to ultimate 824
consumers in this state, from the point of generation to the point 825
of consumption. For the purposes of this chapter, retail electric 826
service includes one or more of the following "service 827
components": generation service, aggregation service, power 828
marketing service, power brokerage service, transmission service, 829
distribution service, ancillary service, metering service, and 830
billing and collection service. 831

(28) "Starting date of competitive retail electric service" 832
means January 1, 2001. 833

(29) "Customer-generator" means a user of a net metering 834
system. 835

(30) "Net metering" means measuring the difference in an 836
applicable billing period between the electricity supplied by an 837
electric service provider and the electricity generated by a 838
customer-generator that is fed back to the electric service 839
provider. 840

(31) "Net metering system" means a facility for the 841
production of electrical energy that does all of the following: 842

(a) Uses as its fuel either solar, wind, biomass, landfill 843
gas, or hydropower, or uses a microturbine or a fuel cell; 844

(b) Is located on a customer-generator's premises; 845

(c) Operates in parallel with the electric utility's 846
transmission and distribution facilities; 847

(d) Is intended primarily to offset part or all of the 848
customer-generator's requirements for electricity. 849

(32) "Self-generator" means an entity in this state that owns 850
or hosts on its premises an electric generation facility that 851
produces electricity primarily for the owner's consumption and 852
that may provide any such excess electricity to another entity, 853

whether the facility is installed or operated by the owner or by 854
an agent under a contract. 855

(33) "Rate plan" means the standard service offer in effect 856
on the effective date of the amendment of this section by S.B. 221 857
of the 127th general assembly, July 31, 2008. 858

(34) "Advanced energy resource" means any of the following: 859

(a) Any method or any modification or replacement of any 860
property, process, device, structure, or equipment that increases 861
the generation output of an electric generating facility to the 862
extent such efficiency is achieved without additional carbon 863
dioxide emissions by that facility; 864

(b) Any distributed generation system consisting of customer 865
cogeneration of electricity and thermal output simultaneously, 866
~~primarily to meet the energy needs of the customer's facilities;~~ 867

(c) Clean coal technology that includes a carbon-based 868
product that is chemically altered before combustion to 869
demonstrate a reduction, as expressed as ash, in emissions of 870
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 871
sulfur trioxide in accordance with the American society of testing 872
and materials standard D1757A or a reduction of metal oxide 873
emissions in accordance with standard D5142 of that society, or 874
clean coal technology that includes the design capability to 875
control or prevent the emission of carbon dioxide, which design 876
capability the commission shall adopt by rule and shall be based 877
on economically feasible best available technology or, in the 878
absence of a determined best available technology, shall be of the 879
highest level of economically feasible design capability for which 880
there exists generally accepted scientific opinion; 881

(d) Advanced nuclear energy technology consisting of 882
generation III technology as defined by the nuclear regulatory 883
commission; other, later technology; or significant improvements 884

to existing facilities; 885

(e) Any fuel cell used in the generation of electricity, 886
including, but not limited to, a proton exchange membrane fuel 887
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 888
solid oxide fuel cell; 889

(f) Advanced solid waste or construction and demolition 890
debris conversion technology, including, but not limited to, 891
advanced stoker technology, and advanced fluidized bed 892
gasification technology, that results in measurable greenhouse gas 893
emissions reductions as calculated pursuant to the United States 894
environmental protection agency's waste reduction model (WARM). 895

(g) Demand-side management and any energy efficiency 896
improvement; 897

(h) Methane gas emitted from an operating or abandoned coal 898
mine. 899

(35) "Renewable energy resource" means solar photovoltaic or 900
solar thermal energy, wind energy, power produced by a 901
hydroelectric facility, geothermal energy, fuel derived from solid 902
wastes, as defined in section 3734.01 of the Revised Code, through 903
fractionation, biological decomposition, or other process that 904
does not principally involve combustion, biomass energy, 905
biologically derived methane gas, or energy derived from 906
nontreated by-products of the pulping process or wood 907
manufacturing process, including bark, wood chips, sawdust, and 908
lignin in spent pulping liquors. "Renewable energy resource" 909
includes, but is not limited to, any fuel cell used in the 910
generation of electricity, including, but not limited to, a proton 911
exchange membrane fuel cell, phosphoric acid fuel cell, molten 912
carbonate fuel cell, or solid oxide fuel cell; wind turbine 913
located in the state's territorial waters of Lake Erie; storage 914
facility that will promote the better utilization of a renewable 915

energy resource that primarily generates off peak; or distributed 916
generation system used by a customer to generate electricity from 917
any such energy. As used in division (A)(35) of this section, 918
"hydroelectric facility" means a hydroelectric generating facility 919
that is located at a dam on a river, or on any water discharged to 920
a river, that is within or bordering this state or within or 921
bordering an adjoining state and meets all of the following 922
standards: 923

(a) The facility provides for river flows that are not 924
detrimental for fish, wildlife, and water quality, including 925
seasonal flow fluctuations as defined by the applicable licensing 926
agency for the facility. 927

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

(c) The facility complies with mandatory prescriptions 935
regarding fish passage as required by the federal energy 936
regulatory commission license issued for the project, regarding 937
fish protection for riverine, anadromous, and ~~catadromus~~ 938
catadromous fish. 939

(d) The facility complies with the recommendations of the 940
Ohio environmental protection agency and with the terms of its 941
federal energy regulatory commission license regarding watershed 942
protection, mitigation, or enhancement, to the extent of each 943
agency's respective jurisdiction over the facility. 944

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

amended. 947

(f) The facility does not harm cultural resources of the 948
area. This can be shown through compliance with the terms of its 949
federal energy regulatory commission license or, if the facility 950
is not regulated by that commission, through development of a plan 951
approved by the Ohio historic preservation office, to the extent 952
it has jurisdiction over the facility. 953

(g) The facility complies with the terms of its federal 954
energy regulatory commission license or exemption that are related 955
to recreational access, accommodation, and facilities or, if the 956
facility is not regulated by that commission, the facility 957
complies with similar requirements as are recommended by resource 958
agencies, to the extent they have jurisdiction over the facility; 959
and the facility provides access to water to the public without 960
fee or charge. 961

(h) The facility is not recommended for removal by any 962
federal agency or agency of any state, to the extent the 963
particular agency has jurisdiction over the facility. 964

(B) For the purposes of this chapter, a retail electric 965
service component shall be deemed a competitive retail electric 966
service if the service component is competitive pursuant to a 967
declaration by a provision of the Revised Code or pursuant to an 968
order of the public utilities commission authorized under division 969
(A) of section 4928.04 of the Revised Code. Otherwise, the service 970
component shall be deemed a noncompetitive retail electric 971
service. 972

Sec. 4928.64. (A)(1) As used in sections 4928.64 and 4928.65 973
of the Revised Code, "alternative energy resource" means an 974
advanced energy resource or renewable energy resource, as defined 975
in section 4928.01 of the Revised Code that has a 976
placed-in-service date of January 1, 1998, or after; a renewable 977

energy resource created on or after January 1, 1998, by the 978
modification or retrofit of any facility placed in service prior 979
to January 1, 1998; or a mercantile customer-sited advanced energy 980
resource or renewable energy resource, whether new or existing, 981
that the mercantile customer commits for integration into the 982
electric distribution utility's demand-response, energy 983
efficiency, or peak demand reduction programs as provided under 984
division (A)(2)(c) of section 4928.66 of the Revised Code, 985
including, but not limited to, any of the following: 986

(a) A resource that has the effect of improving the 987
relationship between real and reactive power; 988

(b) A resource that makes efficient use of waste heat or 989
other thermal capabilities owned or controlled by a mercantile 990
customer; 991

(c) Storage technology that allows a mercantile customer more 992
flexibility to modify its demand or load and usage 993
characteristics; 994

(d) Electric generation equipment owned or controlled by a 995
mercantile customer that uses an advanced energy resource or 996
renewable energy resource; 997

(e) Any advanced energy resource or renewable energy resource 998
of the mercantile customer that can be utilized effectively as 999
part of any advanced energy resource plan of an electric 1000
distribution utility and would otherwise qualify as an alternative 1001
energy resource if it were utilized directly by an electric 1002
distribution utility. 1003

(2) For the purpose of this section and as it considers 1004
appropriate, the public utilities commission may classify any new 1005
technology as such an advanced energy resource or a renewable 1006
energy resource. 1007

(B) By 2025 and thereafter, an electric distribution utility shall provide from alternative energy resources, including, at its discretion, alternative energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall provide a portion of its electricity supply for retail consumers in this state from alternative energy resources, including, at its discretion, alternative energy resources obtained pursuant to an electricity supply contract. That portion shall equal twenty-five per cent of the total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state. However, nothing in this section precludes a utility or company from providing a greater percentage. The baseline for a utility's or company's compliance with the alternative energy resource requirements of this section shall be the average of such total kilowatt hours it sold in the preceding three calendar years, except that the commission may reduce a utility's or company's baseline to adjust for new economic growth in the utility's certified territory or, in the case of an electric services company, in the company's service area in this state.

Of the alternative energy resources implemented by the subject utility or company by 2025 and thereafter:

(1) Half may be generated from advanced energy resources;

(2) At least half shall be generated from renewable energy resources, including one-half per cent from solar energy resources, in accordance with the following benchmarks:

| | | | |
|----------------|------------------|--------------|------|
| By end of year | Renewable energy | Solar energy | 1039 |
|----------------|------------------|--------------|------|

| | resources | resources | |
|---|-----------|-----------|------|
| 2009 | 0.25% | 0.004% | 1040 |
| 2010 | 0.50% | 0.010% | 1041 |
| 2011 | 1% | 0.030% | 1042 |
| 2012 | 1.5% | 0.060% | 1043 |
| 2013 | 2% | 0.090% | 1044 |
| 2014 | 2.5% | 0.12% | 1045 |
| 2015 | 3.5% | 0.15% | 1046 |
| 2016 | 4.5% | 0.18% | 1047 |
| 2017 | 5.5% | 0.22% | 1048 |
| 2018 | 6.5% | 0.26% | 1049 |
| 2019 | 7.5% | 0.3% | 1050 |
| 2020 | 8.5% | 0.34% | 1051 |
| 2021 | 9.5% | 0.38% | 1052 |
| 2022 | 10.5% | 0.42% | 1053 |
| 2023 | 11.5% | 0.46% | 1054 |
| 2024 and each calendar year thereafter | 12.5% | 0.5% | 1055 |

(3) At least one-half of the renewable energy resources 1056
implemented by the utility or company shall be met through 1057
facilities located in this state; the remainder shall be met with 1058
resources that can be shown to be deliverable into this state. 1059

(C)(1) The commission annually shall review an electric 1060
distribution utility's or electric services company's compliance 1061
with the most recent applicable benchmark under division (B)(2) of 1062
this section and, in the course of that review, shall identify any 1063
undercompliance or noncompliance of the utility or company that it 1064
determines is weather-related, related to equipment or resource 1065
shortages for advanced energy or renewable energy resources as 1066
applicable, or is otherwise outside the utility's or company's 1067
control. 1068

(2) Subject to the cost cap provisions of division (C)(3) of 1069

this section, if the commission determines, after notice and 1070
opportunity for hearing, and based upon its findings in that 1071
review regarding avoidable undercompliance or noncompliance, but 1072
subject to division (C)(4) of this section, that the utility or 1073
company has failed to comply with any such benchmark, the 1074
commission shall impose a renewable energy compliance payment on 1075
the utility or company. 1076

(a) The compliance payment pertaining to the solar energy 1077
resource benchmarks under division (B)(2) of this section shall be 1078
an amount per megawatt hour of undercompliance or noncompliance in 1079
the period under review, starting at four hundred fifty dollars 1080
for 2009, four hundred dollars for 2010 and 2011, and similarly 1081
reduced every two years thereafter through 2024 by fifty dollars, 1082
to a minimum of fifty dollars. 1083

(b) The compliance payment pertaining to the renewable energy 1084
resource benchmarks under division (B)(2) of this section shall 1085
equal the number of additional renewable energy credits that the 1086
electric distribution utility or electric services company would 1087
have needed to comply with the applicable benchmark in the period 1088
under review times an amount that shall begin at forty-five 1089
dollars and shall be adjusted annually by the commission to 1090
reflect any change in the consumer price index as defined in 1091
section 101.27 of the Revised Code, but shall not be less than 1092
forty-five dollars. 1093

(c) The compliance payment shall not be passed through by the 1094
electric distribution utility or electric services company to 1095
consumers. The compliance payment shall be remitted to the 1096
commission, for deposit to the credit of the advanced energy fund 1097
created under section 4928.61 of the Revised Code. Payment of the 1098
compliance payment shall be subject to such collection and 1099
enforcement procedures as apply to the collection of a forfeiture 1100
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 1101

(3) An electric distribution utility or an electric services company need not comply with a benchmark under division (B)(1) or (2) of this section to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three per cent or more. The cost of compliance shall be calculated as though any exemption from taxes and assessments had not been granted under section 5727.75 of the Revised Code.

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

(b) Within ninety days after the filing of a request by an electric distribution utility or electric services company under division (C)(4)(a) of this section, the commission shall determine if renewable energy resources are reasonably available in the marketplace in sufficient quantities for the utility or company to comply with the subject minimum benchmark during the review period. In making this determination, the commission shall consider whether the electric distribution utility or electric services company has made a good faith effort to acquire sufficient renewable energy or, as applicable, solar energy resources to so comply, including, but not limited to, by banking or seeking renewable energy resource credits or by seeking the resources through long-term contracts. Additionally, the

commission shall consider the availability of renewable energy or 1134
solar energy resources in this state and other jurisdictions in 1135
the PJM interconnection regional transmission organization or its 1136
successor and the midwest system operator or its successor. 1137

(c) If, pursuant to division (C)(4)(b) of this section, the 1138
commission determines that renewable energy or solar energy 1139
resources are not reasonably available to permit the electric 1140
distribution utility or electric services company to comply, 1141
during the period of review, with the subject minimum benchmark 1142
prescribed under division (B)(2) of this section, the commission 1143
shall modify that compliance obligation of the utility or company 1144
as it determines appropriate to accommodate the finding. 1145
Commission modification shall not automatically reduce the 1146
obligation for the electric distribution utility's or electric 1147
services company's compliance in subsequent years. If it modifies 1148
the electric distribution utility or electric services company 1149
obligation under division (C)(4)(c) of this section, the 1150
commission may require the utility or company, if sufficient 1151
renewable energy resource credits exist in the marketplace, to 1152
acquire additional renewable energy resource credits in subsequent 1153
years equivalent to the utility's or company's modified obligation 1154
under division (C)(4)(c) of this section. 1155

(5) The commission shall establish a process to provide for 1156
at least an annual review of the alternative energy resource 1157
market in this state and in the service territories of the 1158
regional transmission organizations that manage transmission 1159
systems located in this state. The commission shall use the 1160
results of this study to identify any needed changes to the amount 1161
of the renewable energy compliance payment specified under 1162
divisions (C)(2)(a) and (b) of this section. Specifically, the 1163
commission may increase the amount to ensure that payment of 1164
compliance payments is not used to achieve compliance with this 1165

section in lieu of actually acquiring or realizing energy derived 1166
from renewable energy resources. However, if the commission finds 1167
that the amount of the compliance payment should be otherwise 1168
changed, the commission shall present this finding to the general 1169
assembly for legislative enactment. 1170

(D)(1) The commission annually shall submit to the general 1171
assembly in accordance with section 101.68 of the Revised Code a 1172
report describing the compliance of electric distribution 1173
utilities and electric services companies with division (B) of 1174
this section and any strategy for utility and company compliance 1175
or for encouraging the use of alternative energy resources in 1176
supplying this state's electricity needs in a manner that 1177
considers available technology, costs, job creation, and economic 1178
impacts. The commission shall allow and consider public comments 1179
on the report prior to its submission to the general assembly. 1180
Nothing in the report shall be binding on any person, including 1181
any utility or company for the purpose of its compliance with any 1182
benchmark under division (B) of this section, or the enforcement 1183
of that provision under division (C) of this section. 1184

(2) The governor, in consultation with the commission 1185
chairperson, shall appoint an alternative energy advisory 1186
committee. The committee shall examine available technology for 1187
and related timetables, goals, and costs of the alternative energy 1188
resource requirements under division (B) of this section and shall 1189
submit to the commission a semiannual report of its 1190
recommendations. 1191

(E) All costs incurred by an electric distribution utility in 1192
complying with the requirements of this section shall be 1193
bypassable by any consumer that has exercised choice of supplier 1194
under section 4928.03 of the Revised Code. 1195

Sec. 4935.10. The public utilities commission shall conduct a 1196

study to review the condition of reactive power in the state. The 1197
commission shall issue a report of its findings to the general 1198
assembly not later than one year after the effective date of this 1199
section. 1200

Sec. 5709.53. (A) A solar, wind, or hydrothermal energy 1201
system on which construction or installation is completed during 1202
the period from the effective date of this section through 1203
December 31, 1985, that meets the guidelines established under 1204
division (B) of section 1551.20 of the Revised Code is exempt from 1205
real property taxation. 1206

(B) Any fixture or other real property included in an energy 1207
facility with an aggregate nameplate capacity of two hundred fifty 1208
kilowatts or less is exempt from taxation if construction or 1209
installation is completed on or after January 1, 2010. 1210

As used in division (B) of this section, "energy facility" 1211
and "nameplate capacity" have the same meanings as in section 1212
5727.01 of the Revised Code. 1213

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 1214
5715.01 of the Revised Code: 1215

(A) "Land devoted exclusively to agricultural use" means: 1216

(1) Tracts, lots, or parcels of land totaling not less than 1217
ten acres that, during the three calendar years prior to the year 1218
in which application is filed under section 5713.31 of the Revised 1219
Code, and through the last day of May of such year, were devoted 1220
exclusively to commercial animal or poultry husbandry, 1221
aquaculture, apiculture, the production for a commercial purpose 1222
of timber, field crops, tobacco, fruits, vegetables, nursery 1223
stock, ornamental trees, sod, or flowers, or the growth of timber 1224
for a noncommercial purpose, if the land on which the timber is 1225
grown is contiguous to or part of a parcel of land under common 1226

ownership that is otherwise devoted exclusively to agricultural 1227
use, or were devoted to and qualified for payments or other 1228
compensation under a land retirement or conservation program under 1229
an agreement with an agency of the federal government; 1230

(2) Tracts, lots, or parcels of land totaling less than ten 1231
acres that, during the three calendar years prior to the year in 1232
which application is filed under section 5713.31 of the Revised 1233
Code and through the last day of May of such year, were devoted 1234
exclusively to commercial animal or poultry husbandry, 1235
aquaculture, apiculture, the production for a commercial purpose 1236
of field crops, tobacco, fruits, vegetables, timber, nursery 1237
stock, ornamental trees, sod, or flowers where such activities 1238
produced an average yearly gross income of at least twenty-five 1239
hundred dollars during such three-year period or where there is 1240
evidence of an anticipated gross income of such amount from such 1241
activities during the tax year in which application is made, or 1242
were devoted to and qualified for payments or other compensation 1243
under a land retirement or conservation program under an agreement 1244
with an agency of the federal government; 1245

(3) A tract, lot, or parcel of land taxed under sections 1246
5713.22 to 5713.26 of the Revised Code is not land devoted 1247
exclusively to agricultural use; 1248

(4) Tracts, lots, or parcels of land, or portions thereof 1249
that, during the previous three consecutive calendar years have 1250
been designated as land devoted exclusively to agricultural use, 1251
but such land has been lying idle or fallow for up to one year and 1252
no action has occurred to such land that is either inconsistent 1253
with the return of it to agricultural production or converts the 1254
land devoted exclusively to agricultural use as defined in this 1255
section. Such land shall remain designated as land devoted 1256
exclusively to agricultural use provided that beyond one year, but 1257
less than three years, the landowner proves good cause as 1258

determined by the board of revision. 1259

"Land devoted exclusively to agricultural use" includes 1260
tracts, lots, or parcels of land or portions thereof that are used 1261
for conservation practices, provided that the tracts, lots, or 1262
parcels of land or portions thereof comprise twenty-five per cent 1263
or less of the total of the tracts, lots, or parcels of land that 1264
satisfy the criteria established in division (A)(1), (2), or (4) 1265
of this section together with the tracts, lots, or parcels of land 1266
or portions thereof that are used for conservation practices. 1267

(B) "Conversion of land devoted exclusively to agricultural 1268
use" means any of the following: 1269

(1) The failure of the owner of land devoted exclusively to 1270
agricultural use during the next preceding calendar year to file a 1271
renewal application under section 5713.31 of the Revised Code 1272
without good cause as determined by the board of revision; 1273

(2) The failure of the new owner of such land to file an 1274
initial application under that section without good cause as 1275
determined by the board of revision; 1276

(3) The failure of such land or portion thereof to qualify as 1277
land devoted exclusively to agricultural use for the current 1278
calendar year as requested by an application filed under such 1279
section; 1280

(4) The failure of the owner of the land described in 1281
division (A)(4) of this section to act on such land in a manner 1282
that is consistent with the return of the land to agricultural 1283
production after three years. 1284

The construction or installation of an energy facility, as 1285
defined in section 5727.01 of the Revised Code, on a portion of a 1286
tract, lot, or parcel of land devoted exclusively to agricultural 1287
use shall not cause the remaining portion of the tract, lot, or 1288
parcel to be regarded as a conversion of land devoted exclusively 1289

to agricultural use if the remaining portion of the tract, lot, or 1290
parcel continues to be devoted exclusively to agricultural use. 1291

(C) "Tax savings" means the difference between the dollar 1292
amount of real property taxes levied in any year on land valued 1293
and assessed in accordance with its current agricultural use value 1294
and the dollar amount of real property taxes that would have been 1295
levied upon such land if it had been valued and assessed for such 1296
year in accordance with Section 2 of Article XII, Ohio 1297
Constitution. 1298

(D) "Owner" includes, but is not limited to, any person 1299
owning a fee simple, fee tail, or life estate or a buyer on a land 1300
installment contract. 1301

(E) "Conservation practices" are practices used to abate soil 1302
erosion as required in the management of the farming operation, 1303
and include, but are not limited to, the installation, 1304
construction, development, planting, or use of grass waterways, 1305
terraces, diversions, filter strips, field borders, windbreaks, 1306
riparian buffers, wetlands, ponds, and cover crops for that 1307
purpose. 1308

(F) "Wetlands" has the same meaning as in section 6111.02 of 1309
the Revised Code. 1310

Sec. 5713.34. (A)(1) Upon the conversion of all or any 1311
portion of a tract, lot, or parcel of land devoted exclusively to 1312
agricultural use a portion of the tax savings upon such converted 1313
land shall be recouped as provided for by Section 36, Article II, 1314
Ohio Constitution by levying a charge on such land in an amount 1315
equal to the amount of the tax savings on the converted land 1316
during the three tax years immediately preceding the year in which 1317
the conversion occurs. The charge shall constitute a lien of the 1318
state upon such converted land as of the first day of January of 1319
the tax year in which the charge is levied and shall continue 1320

until discharged as provided by law. 1321

(2) Upon the conversion of an adequately described portion of 1322
a tract, lot, or parcel of land, the county auditor shall divide 1323
any numbered permanent parcel into economic units and value each 1324
unit individually for the purpose of levying the charge under 1325
division (A)(1) of this section against only the converted 1326
portion. 1327

(3) A charge shall not be levied under this section for the 1328
conversion of a portion of a tract, lot, or parcel of land devoted 1329
exclusively to agricultural use if the conversion is incident to 1330
the construction or installation of an energy facility, as defined 1331
in section 5727.01 of the Revised Code, and if the remaining 1332
portion of the tract, lot, or parcel continues to be devoted 1333
exclusively to agricultural use. 1334

(B) Except as otherwise provided in division (C) or (D) of 1335
this section, a public entity that acquires by any means and 1336
converts land devoted exclusively to agricultural use and a 1337
private entity granted the power of eminent domain that acquires 1338
by any means and converts land devoted exclusively to agricultural 1339
use shall pay the charge levied by division (A) of this section 1340
and shall not, directly or indirectly, transfer the charge to the 1341
person from whom the land is acquired. A person injured by a 1342
violation of this division may recover, in a civil action, any 1343
damages resulting from the violation. 1344

(C) The charge levied by division (A)(1) of this section does 1345
not apply to the conversion of land acquired by a public entity by 1346
means other than eminent domain and thereafter used exclusively 1347
for a public purpose that leaves the land principally undeveloped 1348
when either of the following conditions applies: 1349

(1) In the case of land so acquired and converted by a park 1350
district created under Chapter 1545. of the Revised Code, the land 1351

is located within the boundaries of the park district. 1352

(2) In the case of land so acquired and converted by a public 1353
entity other than a park district created under Chapter 1545. of 1354
the Revised Code, the land is located within the boundaries of any 1355
city, local, exempted village, or joint vocational school district 1356
that is wholly or partially located within the boundaries of the 1357
public entity that so acquired and converted the land. 1358

If all or any portion of a tract, lot, or parcel of such land 1359
is later developed or otherwise converted to a purpose other than 1360
one of the purposes enumerated under division (E)(1) of this 1361
section, the charge levied by division (A)(1) of this section 1362
shall be levied against such developed or converted land as 1363
otherwise required by that division. 1364

The county auditor of the county in which the land is located 1365
shall determine annually whether all or any portion of a tract, 1366
lot, or parcel of land formerly converted to a purpose enumerated 1367
under division (E)(1) of this section has been developed in such a 1368
way or converted to such a purpose as to require the charge levied 1369
by division (A)(1) of this section to be levied against the land 1370
so developed or converted. 1371

(D) Division (B) of this section does not apply to a public 1372
entity that acquires by means other than eminent domain and 1373
converts land devoted exclusively to agricultural use to use for 1374
public, active or passive, outdoor education, recreation, or 1375
similar open space uses when either of the following conditions 1376
applies: 1377

(1) In the case of land so acquired and converted by a park 1378
district created under Chapter 1545. of the Revised Code, the land 1379
is located outside the boundaries of the park district. 1380

(2) In the case of land so acquired and converted by a public 1381
entity other than a park district created under Chapter 1545. of 1382

the Revised Code, the land is located outside the boundaries of 1383
any city, local, exempted village, or joint vocational school 1384
district that is wholly or partially located within the boundaries 1385
of the public entity that so acquired and converted the land. 1386

(E) As used in divisions (C) and (D) of this section: 1387

(1) "Principally undeveloped" means a parcel of real property 1388
that is used for public, active or passive, outdoor education, 1389
recreation, or similar open space uses and contains only the 1390
structures, roadways, and other facilities that are necessary for 1391
such uses. 1392

(2) "Public entity" means any political subdivision of this 1393
state or any agency or instrumentality of a political subdivision. 1394

Sec. 5727.01. As used in this chapter: 1395

(A) "Public utility" means each person referred to as a 1396
telephone company, telegraph company, electric company, natural 1397
gas company, pipe-line company, water-works company, water 1398
transportation company, heating company, rural electric company, 1399
railroad company, ~~or~~ combined company, or energy company. 1400

(B) "Gross receipts" means the entire receipts for business 1401
done by any person from operations as a public utility, or 1402
incidental thereto, or in connection therewith, including any 1403
receipts received under Chapter 4928. of the Revised Code. The 1404
gross receipts for business done by an incorporated company 1405
engaged in operation as a public utility includes the entire 1406
receipts for business done by such company under the exercise of 1407
its corporate powers, whether from the operation as a public 1408
utility or from any other business. 1409

(C) "Rural electric company" means any nonprofit corporation, 1410
organization, association, or cooperative engaged in the business 1411
of supplying electricity to its members or persons owning an 1412

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| interest therein in an area the major portion of which is rural. | 1413 |
| <u>"Rural electric company" excludes an energy company.</u> | 1414 |
| (D) Any person: | 1415 |
| (1) Is a telegraph company when engaged in the business of transmitting telegraphic messages to, from, through, or in this state; | 1416 1417 1418 |
| (2) Is a telephone company when primarily engaged in the business of providing local exchange telephone service, excluding cellular radio service, in this state; | 1419 1420 1421 |
| (3) Is an electric company when engaged in the business of generating, transmitting, or distributing electricity within this state for use by others, but excludes a rural electric company <u>or an energy company</u> ; | 1422 1423 1424 1425 |
| (4) Is a natural gas company when engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within this state, excluding a person that is a governmental aggregator or retail natural gas supplier as defined in section 4929.01 of the Revised Code; | 1426 1427 1428 1429 1430 |
| (5) Is a pipe-line company when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partially within this state; | 1431 1432 1433 |
| (6) Is a water-works company when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state; | 1434 1435 1436 |
| (7) Is a water transportation company when engaged in the transportation of passengers or property, by boat or other watercraft, over any waterway, whether natural or artificial, from one point within this state to another point within this state, or between points within this state and points without this state; | 1437 1438 1439 1440 1441 |
| (8) Is a heating company when engaged in the business of | 1442 |

supplying water, steam, or air through pipes or tubing to 1443
consumers within this state for heating purposes; 1444

(9) Is a railroad company when engaged in the business of 1445
owning or operating a railroad either wholly or partially within 1446
this state on rights-of-way acquired and held exclusively by such 1447
company, or otherwise, and includes a passenger, street, suburban, 1448
or interurban railroad company; 1449

(10) Is an energy company when engaged in the business of 1450
generating, transmitting, or distributing electricity within this 1451
state for use by others solely from an energy facility with an 1452
aggregate nameplate capacity in excess of two hundred fifty 1453
kilowatts. 1454

As used in division (D)(2) of this section, "local exchange 1455
telephone service" means making available or furnishing access and 1456
a dial tone to all persons within a local calling area for use in 1457
originating and receiving voice grade communications over a 1458
switched network operated by the provider of the service within 1459
the area and for gaining access to other telecommunication 1460
services. 1461

(E) "Taxable property" means the property required by section 1462
5727.06 of the Revised Code to be assessed by the tax 1463
commissioner, but does not include either of the following: 1464

(1) An item of tangible personal property that for the period 1465
subsequent to the effective date of an air, water, or noise 1466
pollution control certificate and continuing so long as the 1467
certificate is in force, has been certified as part of the 1468
pollution control facility with respect to which the certificate 1469
has been issued; 1470

(2) An item of tangible personal property that during the 1471
construction of a plant or facility and until the item is first 1472
capable of operation, whether actually used in operation or not, 1473

is incorporated in or being held exclusively for incorporation in 1474
that plant or facility. 1475

Notwithstanding section 5701.03 of the Revised Code, for tax 1476
year 2006 and thereafter, "taxable property" includes patterns, 1477
jigs, dies, and drawings of an electric company or a combined 1478
company for use in the activity of an electric company. 1479

(F) "Taxing district" means a municipal corporation ~~of~~ or 1480
township, or part thereof, in which the aggregate rate of taxation 1481
is uniform. 1482

(G) "Telecommunications service" has the same meaning as in 1483
division (AA) of section 5739.01 of the Revised Code. 1484

(H) "Interexchange telecommunications company" means a person 1485
that is engaged in the business of transmitting telephonic 1486
messages to, from, through, or in this state, but that is not a 1487
telephone company. 1488

(I) "Sale and leaseback transaction" means a transaction in 1489
which a public utility or interexchange telecommunications company 1490
sells any tangible personal property to a person other than a 1491
public utility or interexchange telecommunications company and 1492
leases that property back from the buyer. 1493

(J) "Production equipment" means all taxable steam, nuclear, 1494
hydraulic, renewable resource, clean coal technology, and other 1495
production plant equipment used to generate electricity. For tax 1496
years prior to 2001, "production equipment" includes taxable 1497
station equipment that is located at a production plant. 1498

(K) "Tax year" means the year for which property or gross 1499
receipts are subject to assessment under this chapter. This 1500
division does not limit the tax commissioner's ability to assess 1501
and value property or gross receipts outside the tax year. 1502

(L) "Combined company" means any person engaged in the 1503

activity of an electric company or rural electric company that is 1504
also engaged in the activity of a heating company or a natural gas 1505
company, or any combination thereof. 1506

(M) "Public utility property lessor" means any person, other 1507
than a public utility or an interexchange telecommunications 1508
company, that leases personal property, other than in a sale and 1509
leaseback transaction, to a public utility, other than a railroad, 1510
water transportation, telephone, or telegraph company if the 1511
property would be taxable property if owned by the public utility. 1512
A public utility property lessor is subject to this chapter only 1513
for the purposes of reporting and paying tax on taxable property 1514
it leases to a public utility other than a telephone or telegraph 1515
company. A public utility property lessor that leases property to 1516
a public utility other than a telephone or telegraph company is 1517
not a public utility, but it shall report its property and be 1518
assessed in the same manner as the utility to which it leases the 1519
property. 1520

(N) "Energy resource" means any of the following: 1521

(1) "Renewable energy resource" as defined in section 4928.01 1522
of the Revised Code; 1523

(2) "Clean coal technology" as described in division 1524
(A)(34)(c) of section 4928.01 of the Revised Code; 1525

(3) "Advanced nuclear technology" as described in division 1526
(A)(34)(d) of section 4928.01 of the Revised Code; 1527

(4) "Cogeneration technology" as described in division 1528
(A)(34)(b) of section 4928.01 of the Revised Code. 1529

(O) "Energy conversion equipment" means tangible personal 1530
property connected to a wind turbine tower, connected to and 1531
behind solar radiation collector areas and designed to convert the 1532
radiant energy of the sun into electricity or heat, or connected 1533
to any other property used to generate electricity from an energy 1534

resource, through which electricity is transferred to controls, 1535
transformers, or power electronics and to the transmission 1536
interconnection point. 1537

"Energy conversion equipment" includes, but is not limited 1538
to, inverters, batteries, switch gears, wiring, collection lines, 1539
substations, ancillary tangible personal property, or any lines 1540
and associated tangible personal property located between 1541
substations and the transmission interconnection point. 1542

(P) "Energy facility" means one or more interconnected wind 1543
turbines, solar panels, or other tangible personal property used 1544
to generate electricity from an energy resource owned by the same 1545
person, including: 1546

(1) All interconnection equipment, devices, and related 1547
apparatus connected to such tangible personal property; 1548

(2) All cables, equipment, devices, and related apparatus 1549
that connect the generators to an electricity grid or to a 1550
building or facility that directly consumes the electricity 1551
produced, that facilitate the transmission of electrical energy 1552
from the generators to the grid, building, or facility, and, where 1553
applicable, that transform voltage before ultimate delivery of 1554
electricity to the grid, building, or facility. 1555

"Energy facility" includes buildings, structures, 1556
improvements, or fixtures exclusively used to house, support, or 1557
stabilize tangible personal property constituting the facility or 1558
that are otherwise necessary for the operation of that property; 1559
and so much of the land on which such tangible personal property 1560
is situated as is required for operation of the facility and is 1561
not devoted to some other use, not to exceed, in the case of wind 1562
turbines, one-half acre for each wind turbine, and regardless of 1563
whether the land is owned by the owner or lessee of the tangible 1564
personal property or by another person. 1565

(O) "Nameplate capacity" means the original interconnected maximum rated alternating current output of a generator or other electric production equipment under specific conditions designated by the manufacturer, expressed in the number of kilowatts or megawatts. 1566
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Sec. 5727.02. As used in this chapter, "public utility," 1571
"electric company," "natural gas company," "pipe-line company," 1572
"water-works company," "water transportation company" or "heating 1573
company" does not include any of the following: 1574

(A)(1) Except as provided in division (A)(2) of this section, 1575
any person that is engaged in some other primary business to which 1576
the supplying of electricity, heat, natural gas, water, water 1577
transportation, steam, or air to others is incidental. ~~As used in~~ 1578
~~division (A) of this section and in section 5727.031 of the~~ 1579
~~Revised Code, "supplying of electricity" means generating,~~ 1580
~~transmitting, or distributing electricity.~~ 1581

(2) For tax year 2009 and each tax year thereafter, a person 1582
that is engaged in some other primary business to which the 1583
supplying of electricity to others is incidental shall be treated 1584
as an "electric company" and a "public utility" for purposes of 1585
this chapter solely to the extent required by section 5727.031 of 1586
the Revised Code. 1587

(3) For purposes of division (A) of this section and section 1588
5727.031 of the Revised Code: 1589

(a) "Supplying of electricity" means generating, 1590
transmitting, or distributing electricity. 1591

(b) A person that leases to others energy facilities with an 1592
aggregate nameplate capacity in this state of two hundred fifty 1593
kilowatts or less per lease is not supplying electricity to 1594
others. 1595

(c) A person that owns, or leases from another person, energy facilities with an aggregate nameplate capacity in this state of two hundred fifty kilowatts or less is not supplying electricity to others, regardless of whether the owner or lessee engages in net metering as defined in section 4928.01 of the Revised Code. 1596
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(d) A political subdivision of this state that owns an energy facility is not supplying electricity to others regardless of the nameplate capacity of the facility if the primary purpose of the facility is to supply electricity for the political subdivision's own use. As used in this division, "political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. 1601
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(B) Any person that supplies electricity, natural gas, water, water transportation, steam, or air to its tenants, whether for a separate charge or otherwise; 1609
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(C) Any person whose primary business in this state consists of producing, refining, or marketing petroleum or its products. 1612
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(D) Any person whose primary business in this state consists of producing or gathering natural gas rather than supplying or distributing natural gas to consumers. 1614
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Sec. 5727.06. (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility, interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner: 1617
1618
1619
1620

(1) For tax years before tax year 2006: 1621

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 1622
1623
1624
1625

(b) In the case of a water transportation company, all 1626
tangible personal property, except watercraft, owned or operated 1627
by the water transportation company in this state on the 1628
thirty-first day of December of the preceding year and all 1629
watercraft owned or operated by the water transportation company 1630
in this state during the preceding calendar year; 1631

(c) In the case of all other public utilities and 1632
interexchange telecommunications companies, all tangible personal 1633
property that on the thirty-first day of December of the preceding 1634
year was both located in this state and: 1635

(i) Owned by the public utility or interexchange 1636
telecommunications company; or 1637

(ii) Leased by the public utility or interexchange 1638
telecommunications company under a sale and leaseback transaction. 1639

(2) For tax years 2006, 2007, and 2008: 1640

(a) In the case of a railroad company, all real property used 1641
in railroad operations and tangible personal property owned or 1642
operated by the railroad company in this state on the thirty-first 1643
day of December of the preceding year; 1644

(b) In the case of a water transportation company, all 1645
tangible personal property, except watercraft, owned or operated 1646
by the water transportation company in this state on the 1647
thirty-first day of December of the preceding year and all 1648
watercraft owned or operated by the water transportation company 1649
in this state during the preceding calendar year; 1650

(c) In the case of all other public utilities except 1651
telephone and telegraph companies, all tangible personal property 1652
that on the thirty-first day of December of the preceding year was 1653
both located in this state and either owned by the public utility 1654
or leased by the public utility under a sale and leaseback 1655
transaction. 1656

- (3) For tax year 2009 and each tax year thereafter: 1657
- (a) In the case of a railroad company, all real property used 1658
in railroad operations and tangible personal property owned or 1659
operated by the railroad company in this state on the thirty-first 1660
day of December of the preceding year; 1661
- (b) In the case of a water transportation company, all 1662
tangible personal property, except watercraft, owned or operated 1663
by the water transportation company in this state on the 1664
thirty-first day of December of the preceding year and all 1665
watercraft owned or operated by the water transportation company 1666
in this state during the preceding calendar year; 1667
- (c) In the case of all other public utilities except 1668
telephone and telegraph companies, all tangible personal property 1669
that on the thirty-first day of December of the preceding year was 1670
both located in this state and either owned by the public utility 1671
or leased by the public utility under a sale and leaseback 1672
transaction, and that is not exempted from taxation under section 1673
5727.75 of the Revised Code; 1674
- (d) In the case of a public utility property lessor, all 1675
personal property that on the thirty-first day of December of the 1676
preceding year was both located in this state and leased, in other 1677
than a sale and leaseback transaction, to a public utility other 1678
than a railroad, telephone, telegraph, or water transportation 1679
company. The assessment rate used under section 5727.111 of the 1680
Revised Code shall be based on the assessment rate that would 1681
apply if the public utility owned the property, and that is not 1682
exempted from taxation under section 5727.75 of the Revised Code. 1683
- (4) For tax years 2005 and 2006, in the case of telephone, 1684
telegraph, or interexchange telecommunications companies, all 1685
tangible personal property that on the thirty-first day of 1686
December of the preceding year was both located in this state and 1687

either owned by the telephone, telegraph, or interexchange 1688
telecommunications company or leased by the telephone, telegraph, 1689
or interexchange telecommunications company under a sale and 1690
leaseback transaction. 1691

(5)(a) For tax year 2007 and thereafter, in the case of 1692
telephone, telegraph, or interexchange telecommunications 1693
companies, all tangible personal property shall be listed and 1694
assessed for taxation under Chapter 5711. of the Revised Code, but 1695
the tangible personal property shall be valued in accordance with 1696
this chapter using the composite annual allowances and other 1697
valuation procedures prescribed under section 5727.11 of the 1698
Revised Code by the tax commissioner for such property for tax 1699
year 2006, notwithstanding any section of Chapter 5711. of the 1700
Revised Code to the contrary. 1701

(b) A telephone, telegraph, or interexchange 1702
telecommunications company subject to division (A)(5)(a) of this 1703
section shall file a combined return with the tax commissioner in 1704
accordance with section 5711.13 of the Revised Code even if the 1705
company has tangible personal property in only one county. Such a 1706
company also is subject to the issuance of a preliminary 1707
assessment certificate by the tax commissioner under section 1708
5711.25 of the Revised Code. Such a company is not required to 1709
file a county supplemental return under section 5711.131 of the 1710
Revised Code. 1711

(6) In the case of an energy company, for tax year 2011 and 1712
each tax year thereafter, all tangible personal property that on 1713
the thirty-first day of December of the preceding year was both 1714
located in this state and either owned by the company or leased by 1715
the company under a sale and leaseback transaction, and that is 1716
not exempted from taxation under section 5727.75 of the Revised 1717
Code. 1718

(B) This division applies to tax years before tax year 2007. 1719

In the case of an interexchange telecommunications company, 1720
all taxable property shall be subject to the provisions of this 1721
chapter and shall be valued by the commissioner in accordance with 1722
division (A) of section 5727.11 of the Revised Code. A person 1723
described by this division shall file the report required by 1724
section 5727.08 of the Revised Code. Persons described in this 1725
division shall not be considered taxpayers, as defined in division 1726
(B) of section 5711.01 of the Revised Code, and shall not be 1727
required to file a return and list their taxable property under 1728
any provision of Chapter 5711. of the Revised Code. 1729

(C) The lien of the state for taxes levied each year on the 1730
real and personal property of public utilities and interexchange 1731
telecommunications companies and on the personal property of 1732
public utility property lessors shall attach thereto on the 1733
thirty-first day of December of the preceding year. 1734

(D) Property that is required by division (A)(3)(b) of this 1735
section to be assessed by the tax commissioner under this chapter 1736
shall not be listed by the owner of the property under Chapter 1737
5711. of the Revised Code. 1738

(E) The ten-thousand-dollar exemption provided for in 1739
division (C)(3) of section 5709.01 of the Revised Code does not 1740
apply to any personal property that is valued under this chapter. 1741

(F) The tax commissioner may adopt rules governing the 1742
listing of the taxable property of public utilities and 1743
interexchange telecommunications companies and the determination 1744
of true value. 1745

Sec. 5727.11. (A) Except as otherwise provided in this 1746
section, the true value of all taxable property, except property 1747
of a railroad company, required by section 5727.06 of the Revised 1748
Code to be assessed by the tax commissioner shall be determined by 1749
a method of valuation using cost as capitalized on the public 1750

utility's books and records less composite annual allowances as 1751
prescribed by the commissioner. If the commissioner finds that 1752
application of this method will not result in the determination of 1753
true value of the public utility's taxable property, the 1754
commissioner may use another method of valuation. 1755

(B)(1) Except as provided in division (B)(2) of this section, 1756
the true value of current gas stored underground is the cost of 1757
that gas shown on the books and records of the public utility on 1758
the thirty-first day of December of the preceding year. 1759

(2) For tax year 2001 and thereafter, the true value of 1760
current gas stored underground is the quotient obtained by 1761
dividing (a) the average value of the current gas stored 1762
underground, which shall be determined by adding the value of the 1763
gas on hand at the end of each calendar month in the calendar year 1764
preceding the tax year, or, if applicable, the last day of 1765
business of each month for a partial month, divided by (b) the 1766
total number of months the natural gas company was in business 1767
during the calendar year prior to the beginning of the tax year. 1768
with the approval of the tax commissioner, a natural gas company 1769
may use a date other than the end of a calendar month to value its 1770
current gas stored underground. 1771

(C) The true value of noncurrent gas stored underground is 1772
thirty-five per cent of the cost of that gas shown on the books 1773
and records of the public utility on the thirty-first day of 1774
December of the preceding year. 1775

(D)(1) Except as provided in division (D)(2) of this section, 1776
the true value of the production equipment of an electric company 1777
and the true value of all taxable property of a rural electric 1778
company is the equipment's or property's cost as capitalized on 1779
the company's books and records less fifty per cent of that cost 1780
as an allowance for depreciation and obsolescence. 1781

(2) The true value of the production equipment or energy 1782
conversion equipment of an electric company ~~or~~, rural electric 1783
company, or energy company purchased, transferred, or placed into 1784
service after ~~the effective date of this amendment~~ October 5, 1785
1999, is the purchase price of the equipment as capitalized on the 1786
company's books and records less composite annual allowances as 1787
prescribed by the tax commissioner. 1788

(E) The true value of taxable property, except property of a 1789
railroad company, required by section 5727.06 of the Revised Code 1790
to be assessed by the tax commissioner shall not include the 1791
allowance for funds used during construction or interest during 1792
construction that has been capitalized on the public utility's 1793
books and records as part of the total cost of the taxable 1794
property. This division shall not apply to the taxable property of 1795
an electric company or a rural electric company, excluding 1796
transmission and distribution property, first placed into service 1797
after December 31, 2000, or to the taxable property a person 1798
purchases, which includes transfers, if that property was used in 1799
business by the seller prior to the purchase. 1800

(F) The true value of watercraft owned or operated by a water 1801
transportation company shall be determined by multiplying the true 1802
value of the watercraft as determined under division (A) of this 1803
section by a fraction, the numerator of which is the number of 1804
revenue-earning miles traveled by the watercraft in the waters of 1805
this state and the denominator of which is the number of 1806
revenue-earning miles traveled by the watercraft in all waters. 1807

(G) The cost of property subject to a sale and leaseback 1808
transaction is the cost of the property as capitalized on the 1809
books and records of the public utility owning the property 1810
immediately prior to the sale and leaseback transaction. 1811

(H) The cost as capitalized on the books and records of a 1812
public utility includes amounts capitalized that represent 1813

regulatory assets, if such amounts previously were included on the 1814
company's books and records as capitalized costs of taxable 1815
personal property. 1816

(I) Any change in the composite annual allowances as 1817
prescribed by the commissioner on a prospective basis shall not be 1818
admissible in any judicial or administrative action or proceeding 1819
as evidence of value with regard to prior years' taxes. 1820
Information about the business, property, or transactions of any 1821
taxpayer obtained by the commissioner for the purpose of adopting 1822
or modifying the composite annual allowances shall not be subject 1823
to discovery or disclosure. 1824

Sec. 5727.111. The taxable property of each public utility, 1825
except a railroad company, and of each interexchange 1826
telecommunications company shall be assessed at the following 1827
percentages of true value: 1828

(A) ~~Fifty~~ In the case of a rural electric company, fifty per 1829
cent in the case of ~~the~~ its taxable transmission and distribution 1830
property ~~of a rural electric company and its energy conversion~~ 1831
equipment, and twenty-five per cent for all its other taxable 1832
property; 1833

(B) In the case of a telephone or telegraph company, 1834
twenty-five per cent for taxable property first subject to 1835
taxation in this state for tax year 1995 or thereafter for tax 1836
years before tax year 2007, and pursuant to division (H) of 1837
section 5711.22 of the Revised Code for tax year 2007 and 1838
thereafter, and the following for all other taxable property: 1839

(1) For tax years prior to 2005, eighty-eight per cent; 1840

(2) For tax year 2005, sixty-seven per cent; 1841

(3) For tax year 2006, forty-six per cent; 1842

(4) For tax year 2007 and thereafter, pursuant to division 1843

| | |
|---|--------------------------------------|
| (H) of section 5711.22 of the Revised Code. | 1844 |
| (C) Twenty-five per cent in the case of a natural gas company. | 1845 1846 |
| (D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company; | 1847 1848 |
| (E)(1) For tax year 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property; | 1849 1850 1851 1852 |
| (2) For tax year 2006 and each tax year thereafter, <u>in the case of an electric company</u> , eighty-five per cent in the case of the <u>its</u> taxable transmission and distribution property of an electric company and its energy conversion equipment , and twenty-four per cent for all its other taxable property. | 1853 1854 1855 1856 1857 |
| (F)(1) Twenty-five per cent in the case of an interexchange telecommunications company for tax years before tax year 2007; | 1858 1859 |
| (2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter. | 1860 1861 |
| (G) Twenty-five per cent in the case of a water transportation company; | 1862 1863 |
| <u>(H) For tax year 2011 and each tax year thereafter in the case of an energy company, twenty-four per cent in the case of its taxable production equipment, and eighty-five per cent for all its other taxable property.</u> | 1864 1865 1866 1867 |
| Sec. 5727.15. When all the taxable property of a public utility is located in one taxing district, the tax commissioner shall apportion the total taxable value thereof to that taxing district. | 1868 1869 1870 1871 |
| When taxable property of a public utility is located in more | 1872 |

than one taxing district, the commissioner shall apportion the 1873
total taxable value thereof among the taxing districts as follows: 1874

(A)(1) In the case of a telegraph, interexchange 1875
telecommunications, or telephone company that owns miles of wire 1876
in this state, the value apportioned to each taxing district shall 1877
be the same percentage of the total value apportioned to all 1878
taxing districts as the miles of wire owned by the company within 1879
the taxing district are to the total miles of wire owned by the 1880
company within this state; 1881

(2) In the case of a telegraph, interexchange 1882
telecommunications, or telephone company that does not own miles 1883
of wire in this state, the value apportioned to each taxing 1884
district shall be the same percentage of the total value 1885
apportioned to all taxing districts as the cost of the taxable 1886
property physically located in the taxing district is of the total 1887
cost of all taxable property physically located in this state. 1888

(B) In the case of a railroad company: 1889

(1) The taxable value of real and personal property not used 1890
in railroad operations shall be apportioned according to its 1891
situs; 1892

(2) The taxable value of personal property used in railroad 1893
operations shall be apportioned to each taxing district in 1894
proportion to the miles of track and trackage rights, weighted to 1895
reflect the relative use of such personal property in each taxing 1896
district; 1897

(3) The taxable value of real property used in railroad 1898
operations shall be apportioned to each taxing district in 1899
proportion to its relative value in each taxing district. 1900

(C)(1) Prior to tax year 2001, in the case of an electric 1901
company: 1902

(a) Seventy per cent of the taxable value of all production equipment and of all station equipment that is not production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The remaining value of such property, together with the value of all other taxable personal property, shall be apportioned to each taxing district in the per cent that the cost of all transmission and distribution property physically located in the taxing district is of the total cost of all transmission and distribution property physically located in this state.

(c) If an electric company's taxable value for the current year includes the value of any production equipment at a plant at which the initial cost of the plant's production equipment exceeded one billion dollars, then prior to making the apportionments required for that company by division (C)(1)(a) and (b) of this section, the tax commissioner shall do the following:

(i) Subtract four hundred twenty million dollars from the total taxable value of the production equipment at that plant for the current tax year.

(ii) Multiply the difference thus obtained by a fraction, the numerator of which is the portion of the taxable value of that plant's production equipment included in the company's total value for the current tax year, and the denominator of which is the total taxable value of such equipment included in the total taxable value of all electric companies for such year;

(iii) Apportion the product thus obtained to taxing districts in the manner prescribed in division (C)(1)(b) of this section.

(iv) Deduct the amounts so apportioned from the taxable value of the company's production equipment at the plant, prior to making the apportionments required by divisions (C)(1)(a) and (b) of this section.

For purposes of division (C)(1)(c) of this section, "initial cost" applies only to production equipment of plants placed in commercial operation on or after January 1, 1987, and means the cost of all production equipment at a plant for the first year the plant's equipment was subject to taxation.

(2) For tax year 2001 and thereafter, in the case of an electric company:

(a) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located; and

(b) The value of taxable personal property, ~~other than including energy conversion equipment but excluding~~ production equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable personal property physically located in each taxing district is of the total cost of such other taxable personal property physically located in this state.

(D) For tax year 2011 and thereafter, in the case of the taxable property of an energy company:

(1) The taxable value of all production equipment shall be apportioned to the taxing district in which such property is physically located.

(2) The taxable value of all other taxable property, including energy conversion equipment, shall be apportioned to each taxing district in the proportion that the cost of such other taxable property physically located in each taxing district is of the total cost of such other taxable property physically located in this state.

(E) In the case of all other public utilities, the taxable value of the property to be apportioned shall be apportioned to each taxing district in proportion to the entire value cost of

such property within this state. 1965

Sec. 5727.30. (A) Except as provided in divisions (B), (C), 1966
and (D) of this section, each public utility, except railroad 1967
companies, shall be subject to an annual excise tax, as provided 1968
by sections 5727.31 to 5727.62 of the Revised Code, for the 1969
privilege of owning property in this state or doing business in 1970
this state during the twelve-month period next succeeding the 1971
period upon which the tax is based. The tax shall be imposed 1972
against each such public utility that, on the first day of such 1973
twelve-month period, owns property in this state or is doing 1974
business in this state, and the lien for the tax, including any 1975
penalties and interest accruing thereon, shall attach on such day 1976
to the property of the public utility in this state. 1977

(B) ~~An electric company's or a rural electric company's gross~~ 1978
Gross receipts of an electric company, rural electric company, or 1979
energy company received after April 30, 2001, are not subject to 1980
the annual excise tax imposed by this section. 1981

(C) A natural gas company's gross receipts received after 1982
April 30, 2000, are not subject to the annual excise tax imposed 1983
by this section. 1984

(D) A telephone company's gross receipts derived from amounts 1985
billed to customers after June 30, 2004, are not subject to the 1986
annual excise tax imposed by this section. Notwithstanding any 1987
other provision of law, gross receipts derived from amounts billed 1988
by a telephone company to customers prior to July 1, 2004, shall 1989
be included in the telephone company's annual statement filed on 1990
or before August 1, 2004, which shall be the last statement or 1991
report filed under section 5727.31 of the Revised Code by a 1992
telephone company. A telephone company shall not deduct from its 1993
gross receipts included in that last statement any receipts it was 1994
unable to collect from its customers for the period of July 1, 1995

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| 2003, to June 30, 2004. | 1996 |
| <u>Sec. 5727.75. (A) For purposes of this section:</u> | 1997 |
| <u>(1) "Qualified energy project" means an energy project certified by the director of development pursuant to this section.</u> | 1998 |
| <u>(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.</u> | 1999 |
| <u>(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.</u> | 2000 |
| <u>(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.</u> | 2001 |
| <u>(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.</u> | 2002 |
| <u>(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.</u> | 2003 |
| <u>(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.</u> | 2004 |
| <u>(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.</u> | 2005 |
| <u>(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.</u> | 2006 |
| <u>(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.</u> | 2007 |
| <u>(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.</u> | 2008 |
| <u>(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.</u> | 2009 |
| <u>(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.</u> | 2010 |
| <u>(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.</u> | 2011 |
| <u>(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.</u> | 2012 |
| <u>(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 and 2012 if all of the following conditions are satisfied:</u> | 2013 |
| <u>(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 and 2012 if all of the following conditions are satisfied:</u> | 2014 |
| <u>(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 and 2012 if all of the following conditions are satisfied:</u> | 2015 |
| <u>(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 and 2012 if all of the following conditions are satisfied:</u> | 2016 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2017 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2018 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2019 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2020 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2021 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2022 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2023 |
| <u>(a) On or before December 31, 2011, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.</u> | 2024 |
| <u>(b) Construction or installation of the energy facility</u> | 2025 |

begins on or after January 1, 2009, and before January 1, 2012. 2026
For the purposes of this division, construction begins on the 2027
earlier of the date of application for a certificate or other 2028
approval or permit described in division (B)(1)(a) of this 2029
section, or the date the contract for the construction or 2030
installation of the energy facility is entered into. 2031

(c) For a qualified energy project with a nameplate capacity 2032
of five megawatts or greater, a board of county commissioners of a 2033
county in which property of the project is located has adopted a 2034
resolution under division (E)(1)(b) or (c) of this section to 2035
approve the application submitted under division (E) of this 2036
section to exempt the property located in that county from 2037
taxation. A board's adoption of a resolution rejecting an 2038
application or its failure to adopt a resolution approving the 2039
application does not affect the tax-exempt status of the qualified 2040
energy project's property that is located in another county. 2041

(2) If tangible personal property of a qualified energy 2042
project using renewable energy resources was exempt from taxation 2043
under this section for tax years 2011 and 2012 and the 2044
certification under division (E)(2) of this section has not been 2045
revoked, the tangible personal property of the qualified energy 2046
project is exempt from taxation for tax year 2013 and all ensuing 2047
tax years if the property was placed into service before January 2048
1, 2013, as certified in the construction progress report required 2049
under division (F)(2) of this section. Tangible personal property 2050
that has not been placed into service before that date is taxable 2051
property subject to taxation. An energy project for which 2052
certification has been revoked is ineligible for further exemption 2053
under this section. Revocation does not affect the tax-exempt 2054
status of the project's tangible personal property for the tax 2055
year in which revocation occurs or any prior tax year. 2056

(C) Tangible personal property of a qualified energy project 2057

using clean coal technology, advanced nuclear technology, or 2058
cogeneration technology is exempt from taxation for the first tax 2059
year that the property would be listed for taxation and all 2060
subsequent years if all of the following circumstances are met: 2061

(1) The property was placed into service before January 1, 2062
2017. Tangible personal property that has not been placed into 2063
service before that date is taxable property subject to taxation. 2064

(2) For such a qualified energy project with a nameplate 2065
capacity of five megawatts or greater, a board of county 2066
commissioners of a county in which property of the qualified 2067
energy project is located has adopted a resolution under division 2068
(E)(1)(b) or (c) of this section to approve the application 2069
submitted under division (E) of this section to exempt the 2070
property located in that county from taxation. A board's adoption 2071
of a resolution rejecting the application or its failure to adopt 2072
a resolution approving the application does not affect the 2073
tax-exempt status of the qualified energy project's property that 2074
is located in another county. 2075

(3) The certification for the qualified energy project issued 2076
under division (E)(2) of this section has not been revoked. An 2077
energy project for which certification has been revoked is 2078
ineligible for exemption under this section. Revocation does not 2079
affect the tax-exempt status of the project's tangible personal 2080
property for the tax year in which revocation occurs or any prior 2081
tax year. 2082

(D) Except as otherwise provided in this division, real 2083
property of a qualified energy project is exempt from taxation for 2084
any tax year for which the tangible personal property of the 2085
qualified energy project is exempted under this section. 2086

(E)(1)(a) A person may apply to the director of development 2087
for certification of an energy project as a qualified energy 2088

project on or before the following dates: 2089

(i) December 31, 2011, for an energy project using renewable energy resources; 2090
2091

(ii) December 31, 2013, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology. 2092
2093
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(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of five megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used. 2095
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The board shall send copies of the resolution by certified mail to the owner of the facility and the director within thirty days after receipt of the application, or a longer period of time if authorized by the director. 2115
2116
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(c) A board of county commissioners may adopt a resolution 2119

declaring the county to be an alternative energy zone and 2120
declaring all applications submitted to the director of 2121
development under this division after the adoption of the 2122
resolution, and prior to its repeal, to be approved by the board. 2123

All tangible personal property and real property of an energy 2124
project with a nameplate capacity of five megawatts or greater is 2125
taxable if it is located in a county in which the board of county 2126
commissioners adopted a resolution rejecting the application 2127
submitted under this division or failed to adopt a resolution 2128
approving the application under division (E)(1)(b) or (c) of this 2129
section. 2130

(2) The director shall certify an energy project if all of 2131
the following circumstances exist: 2132

(a) The application was timely submitted. 2133

(b) For an energy project with a nameplate capacity of five 2134
megawatts or greater, a board of county commissioners of at least 2135
one county in which the project is located has adopted a 2136
resolution approving the application under division (E)(1)(b) or 2137
(c) of this section. 2138

(c) No portion of the project's facility was used to supply 2139
electricity before December 31, 2009. 2140

(3) The director shall deny a certification application if 2141
the director determines the person has failed to comply with any 2142
requirement under this section. The director may revoke a 2143
certification if the director determines the person, or subsequent 2144
owner or lessee pursuant to a sale and leaseback transaction of 2145
the qualified energy project, has failed to comply with any 2146
requirement under this section. Upon certification or revocation, 2147
the director shall notify the person, owner, or lessee, the tax 2148
commissioner, and the county auditor of a county in which the 2149
project is located of the certification or revocation. Notice 2150

shall be provided in a manner convenient to the director. 2151

(F) The owner or a lessee pursuant to a sale and leaseback 2152
transaction of a qualified energy project shall do each of the 2153
following: 2154

(1) Comply with all applicable regulations; 2155

(2) File with the director of development a certified 2156
construction progress report before the first day of March of each 2157
year during the energy facility's construction or installation 2158
indicating the percentage of the project completed, and the 2159
project's nameplate capacity, as of the preceding thirty-first day 2160
of December. Unless otherwise instructed by the director of 2161
development, the owner or lessee of an energy project shall file a 2162
report with the director on or before the first day of March each 2163
year after completion of the energy facility's construction or 2164
installation indicating the project's nameplate capacity as of the 2165
preceding thirty-first day of December. Not later than sixty days 2166
after the effective date of this section, the owner or lessee of 2167
an energy project, the construction of which was completed before 2168
the effective date of this section, shall file a certificate 2169
indicating the project's nameplate capacity. 2170

(3) File with the director of development, in a manner 2171
prescribed by the director, a report of the total number of 2172
full-time equivalent employees, and the total number of full-time 2173
equivalent employees domiciled in Ohio, who are employed in the 2174
construction or installation of the energy facility; 2175

(4) For energy projects with a nameplate capacity of five 2176
megawatts or greater, repair all roads, bridges, and culverts 2177
affected by construction as reasonably required to restore them to 2178
their preconstruction condition, as determined by the county 2179
engineer in consultation with the local jurisdiction responsible 2180
for the roads, bridges, and culverts. In the event that the county 2181

engineer deems any road, bridge, or culvert to be inadequate to 2182
support the construction or decommissioning of the energy 2183
facility, the road, bridge, or culvert shall be rebuilt or 2184
reinforced to the specifications established by the county 2185
engineer prior to the construction or decommissioning of the 2186
facility. The owner or lessee of the facility shall post a bond in 2187
an amount established by the county engineer and to be held by the 2188
board of county commissioners to ensure funding for repairs of 2189
roads, bridges, and culverts affected during the construction. The 2190
bond shall be released by the board not later than one year after 2191
the date the repairs are completed. The energy facility owner or 2192
lessee pursuant to a sale and leaseback transaction shall post a 2193
bond, as may be required by the Ohio power siting board in the 2194
certificate authorizing commencement of construction issued 2195
pursuant to section 4906.10 of the Revised Code, to ensure funding 2196
for repairs to roads, bridges, and culverts resulting from 2197
decommissioning of the facility. The energy facility owner or 2198
lessee and the county engineer may enter into an agreement 2199
regarding specific transportation plans, reinforcements, 2200
modifications, use and repair of roads, financial security to be 2201
provided, and any other relevant issue. 2202

(5) Provide or facilitate training for fire and emergency 2203
responders for response to emergency situations related to the 2204
energy project and, for energy projects with a nameplate capacity 2205
of five megawatts or greater, at the person's expense, equip the 2206
fire and emergency responders with proper equipment as reasonably 2207
required to enable them to respond to such emergency situations; 2208

(6) Maintain a ratio of Ohio-domiciled full-time equivalent 2209
employees employed in the construction or installation of the 2210
energy project to total full-time equivalent employees employed in 2211
the construction or installation of the energy project of not less 2212
than eighty per cent in the case of a solar energy project, and 2213

not less than fifty per cent in the case of any other energy 2214
project. In the case of an energy project for which certification 2215
from the power siting board is required under section 4906.20 of 2216
the Revised Code, the number of full-time equivalent employees 2217
employed in the construction or installation of the energy project 2218
equals the number actually employed or the number projected to be 2219
employed in the certificate application, if such projection is 2220
required under regulations adopted pursuant to section 4906.03 of 2221
the Revised Code, whichever is greater. For all other energy 2222
projects, the number of full-time equivalent employees employed in 2223
the construction or installation of the energy project equals the 2224
number actually employed or the number projected to be employed by 2225
the director of development, whichever is greater. To estimate the 2226
number of employees to be employed in the construction or 2227
installation of an energy project, the director shall use a 2228
generally accepted job-estimating model in use for renewable 2229
energy projects, including but not limited to the job and economic 2230
development impact model. The director may adjust an estimate 2231
produced by a model to account for variables not accounted for by 2232
the model. 2233

(7) For energy projects with a nameplate capacity in excess 2234
of two megawatts, establish a relationship with a member of the 2235
university system of Ohio as defined in section 3345.011 of the 2236
Revised Code or with a person offering an apprenticeship program 2237
registered with the employment and training administration within 2238
the United States department of labor or with the apprenticeship 2239
council created by section 4139.02 of the Revised Code, to educate 2240
and train individuals for careers in the wind or solar energy 2241
industry. The relationship may include endowments, cooperative 2242
programs, internships, apprenticeships, research and development 2243
projects, and curriculum development. 2244

(8) Offer to sell power or renewable energy credits from the 2245

energy project to electric distribution utilities or electric 2246
service companies subject to renewable energy resource 2247
requirements under section 4928.64 of the Revised Code that have 2248
issued requests for proposal for such power or renewable energy 2249
credits. If no electric distribution utility or electric service 2250
company issues a request for proposal on or before December 31, 2251
2010, or accepts an offer for power or renewable energy credits 2252
within forty-five days after the offer is submitted, power or 2253
renewable energy credits from the energy project may be sold to 2254
other persons. Division (F)(8) of this section does not apply if: 2255

(a) The owner or lessee is a rural electric company or a 2256
municipal power agency as defined in section 3734.058 of the 2257
Revised Code. 2258

(b) The owner or lessee is a person that, before completion 2259
of the energy project, contracted for the sale of power or 2260
renewable energy credits with a rural electric company or a 2261
municipal power agency. 2262

(c) The owner or lessee contracts for the sale of power or 2263
renewable energy credits from the energy project before the 2264
effective date of this section as enacted by this act. 2265

(9) Make annual service payments as required by division (G) 2266
of this section and as may be required in a resolution adopted by 2267
a board of county commissioners under division (E) of this 2268
section. 2269

(G) The owner or a lessee pursuant to a sale and leaseback 2270
transaction of a qualified energy project shall make annual 2271
service payments in lieu of taxes to the county treasurer on or 2272
before the final dates for payments of taxes on public utility 2273
personal property on the real and public utility personal property 2274
tax list for each tax year for which property of the energy 2275
project is exempt from taxation under this section. The county 2276

treasurer shall allocate the payment on the basis of the project's 2277
physical location. Upon receipt of a payment, or if timely payment 2278
has not been received, the county treasurer shall certify such 2279
receipt or non-receipt to the director of development and tax 2280
commissioner in a form determined by the director and 2281
commissioner, respectively. Each payment shall be in the following 2282
amount: 2283

(1) In the case of a solar energy project, seven thousand 2284
dollars per megawatt of nameplate capacity located in the county 2285
as of December 31, 2010, for tax year 2011, as of December 31, 2286
2011, for tax year 2012, and as of December 31, 2012, for tax year 2287
2013 and each tax year thereafter; 2288

(2) In the case of any other energy project using renewable 2289
energy resources, the following: 2290

(a) If the project maintains during the construction or 2291
installation of the energy facility a ratio of Ohio-domiciled 2292
full-time equivalent employees to total full-time equivalent 2293
employees of not less than seventy-five per cent, six thousand 2294
dollars per megawatt of nameplate capacity located in the county 2295
as of the thirty-first day of December of the preceding tax year; 2296

(b) If the project maintains during the construction or 2297
installation of the energy facility a ratio of Ohio-domiciled 2298
full-time equivalent employees to total full-time equivalent 2299
employees of less than seventy-five per cent but not less than 2300
sixty per cent, seven thousand dollars per megawatt of nameplate 2301
capacity located in the county as of the thirty-first day of 2302
December of the preceding tax year; 2303

(c) If the project maintains during the construction or 2304
installation of the energy facility a ratio of Ohio-domiciled 2305
full-time equivalent employees to total full-time equivalent 2306
employees of less than sixty per cent but not less than fifty per 2307

cent, eight thousand dollars per megawatt of nameplate capacity 2308
located in the county as of the thirty-first day of December of 2309
the preceding tax year. 2310

(3) In the case of an energy project using clean coal 2311
technology, advanced nuclear technology, or cogeneration 2312
technology, the following: 2313

(a) If the project maintains during the construction or 2314
installation of the energy facility a ratio of Ohio-domiciled 2315
full-time equivalent employees to total full-time equivalent 2316
employees of not less than seventy-five per cent, six thousand 2317
dollars per megawatt of nameplate capacity located in the county 2318
as of the thirty-first day of December of the preceding tax year; 2319

(b) If the project maintains during the construction or 2320
installation of the energy facility a ratio of Ohio-domiciled 2321
full-time equivalent employees to total full-time equivalent 2322
employees of less than seventy-five per cent but not less than 2323
sixty per cent, seven thousand dollars per megawatt of nameplate 2324
capacity located in the county as of the thirty-first day of 2325
December of the preceding tax year; 2326

(c) If the project maintains during the construction or 2327
installation of the energy facility a ratio of Ohio-domiciled 2328
full-time equivalent employees to total full-time equivalent 2329
employees of less than sixty per cent but not less than fifty per 2330
cent, eight thousand dollars per megawatt of nameplate capacity 2331
located in the county as of the thirty-first day of December of 2332
the preceding tax year. 2333

(H) The director of development in consultation with the tax 2334
commissioner shall adopt rules pursuant to Chapter 119. of the 2335
Revised Code to implement and enforce this section. 2336

Sec. 5739.02. For the purpose of providing revenue with which 2337

to meet the needs of the state, for the use of the general revenue 2338
fund of the state, for the purpose of securing a thorough and 2339
efficient system of common schools throughout the state, for the 2340
purpose of affording revenues, in addition to those from general 2341
property taxes, permitted under constitutional limitations, and 2342
from other sources, for the support of local governmental 2343
functions, and for the purpose of reimbursing the state for the 2344
expense of administering this chapter, an excise tax is hereby 2345
levied on each retail sale made in this state. 2346

(A)(1) The tax shall be collected as provided in section 2347
5739.025 of the Revised Code. The rate of the tax shall be five 2348
and one-half per cent. The tax applies and is collectible when the 2349
sale is made, regardless of the time when the price is paid or 2350
delivered. 2351

(2) In the case of the lease or rental, with a fixed term of 2352
more than thirty days or an indefinite term with a minimum period 2353
of more than thirty days, of any motor vehicles designed by the 2354
manufacturer to carry a load of not more than one ton, watercraft, 2355
outboard motor, or aircraft, or of any tangible personal property, 2356
other than motor vehicles designed by the manufacturer to carry a 2357
load of more than one ton, to be used by the lessee or renter 2358
primarily for business purposes, the tax shall be collected by the 2359
vendor at the time the lease or rental is consummated and shall be 2360
calculated by the vendor on the basis of the total amount to be 2361
paid by the lessee or renter under the lease agreement. If the 2362
total amount of the consideration for the lease or rental includes 2363
amounts that are not calculated at the time the lease or rental is 2364
executed, the tax shall be calculated and collected by the vendor 2365
at the time such amounts are billed to the lessee or renter. In 2366
the case of an open-end lease or rental, the tax shall be 2367
calculated by the vendor on the basis of the total amount to be 2368
paid during the initial fixed term of the lease or rental, and for 2369

each subsequent renewal period as it comes due. As used in this 2370
division, "motor vehicle" has the same meaning as in section 2371
4501.01 of the Revised Code, and "watercraft" includes an outdrive 2372
unit attached to the watercraft. 2373

A lease with a renewal clause and a termination penalty or 2374
similar provision that applies if the renewal clause is not 2375
exercised is presumed to be a sham transaction. In such a case, 2376
the tax shall be calculated and paid on the basis of the entire 2377
length of the lease period, including any renewal periods, until 2378
the termination penalty or similar provision no longer applies. 2379
The taxpayer shall bear the burden, by a preponderance of the 2380
evidence, that the transaction or series of transactions is not a 2381
sham transaction. 2382

(3) Except as provided in division (A)(2) of this section, in 2383
the case of a sale, the price of which consists in whole or in 2384
part of the lease or rental of tangible personal property, the tax 2385
shall be measured by the installments of that lease or rental. 2386

(4) In the case of a sale of a physical fitness facility 2387
service or recreation and sports club service, the price of which 2388
consists in whole or in part of a membership for the receipt of 2389
the benefit of the service, the tax applicable to the sale shall 2390
be measured by the installments thereof. 2391

(B) The tax does not apply to the following: 2392

(1) Sales to the state or any of its political subdivisions, 2393
or to any other state or its political subdivisions if the laws of 2394
that state exempt from taxation sales made to this state and its 2395
political subdivisions; 2396

(2) Sales of food for human consumption off the premises 2397
where sold; 2398

(3) Sales of food sold to students only in a cafeteria, 2399
dormitory, fraternity, or sorority maintained in a private, 2400

public, or parochial school, college, or university; 2401

(4) Sales of newspapers and of magazine subscriptions and 2402
sales or transfers of magazines distributed as controlled 2403
circulation publications; 2404

(5) The furnishing, preparing, or serving of meals without 2405
charge by an employer to an employee provided the employer records 2406
the meals as part compensation for services performed or work 2407
done; 2408

(6) Sales of motor fuel upon receipt, use, distribution, or 2409
sale of which in this state a tax is imposed by the law of this 2410
state, but this exemption shall not apply to the sale of motor 2411
fuel on which a refund of the tax is allowable under division (A) 2412
of section 5735.14 of the Revised Code; and the tax commissioner 2413
may deduct the amount of tax levied by this section applicable to 2414
the price of motor fuel when granting a refund of motor fuel tax 2415
pursuant to division (A) of section 5735.14 of the Revised Code 2416
and shall cause the amount deducted to be paid into the general 2417
revenue fund of this state; 2418

(7) Sales of natural gas by a natural gas company, of water 2419
by a water-works company, or of steam by a heating company, if in 2420
each case the thing sold is delivered to consumers through pipes 2421
or conduits, and all sales of communications services by a 2422
telegraph company, all terms as defined in section 5727.01 of the 2423
Revised Code, and sales of electricity delivered through wires; 2424

(8) Casual sales by a person, or auctioneer employed directly 2425
by the person to conduct such sales, except as to such sales of 2426
motor vehicles, watercraft or outboard motors required to be 2427
titled under section 1548.06 of the Revised Code, watercraft 2428
documented with the United States coast guard, snowmobiles, and 2429
all-purpose vehicles as defined in section 4519.01 of the Revised 2430
Code; 2431

(9)(a) Sales of services or tangible personal property, other 2432
than motor vehicles, mobile homes, and manufactured homes, by 2433
churches, organizations exempt from taxation under section 2434
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 2435
organizations operated exclusively for charitable purposes as 2436
defined in division (B)(12) of this section, provided that the 2437
number of days on which such tangible personal property or 2438
services, other than items never subject to the tax, are sold does 2439
not exceed six in any calendar year, except as otherwise provided 2440
in division (B)(9)(b) of this section. If the number of days on 2441
which such sales are made exceeds six in any calendar year, the 2442
church or organization shall be considered to be engaged in 2443
business and all subsequent sales by it shall be subject to the 2444
tax. In counting the number of days, all sales by groups within a 2445
church or within an organization shall be considered to be sales 2446
of that church or organization. 2447

(b) The limitation on the number of days on which tax-exempt 2448
sales may be made by a church or organization under division 2449
(B)(9)(a) of this section does not apply to sales made by student 2450
clubs and other groups of students of a primary or secondary 2451
school, or a parent-teacher association, booster group, or similar 2452
organization that raises money to support or fund curricular or 2453
extracurricular activities of a primary or secondary school. 2454

(c) Divisions (B)(9)(a) and (b) of this section do not apply 2455
to sales by a noncommercial educational radio or television 2456
broadcasting station. 2457

(10) Sales not within the taxing power of this state under 2458
the Constitution of the United States; 2459

(11) Except for transactions that are sales under division 2460
(B)(3)(r) of section 5739.01 of the Revised Code, the 2461
transportation of persons or property, unless the transportation 2462
is by a private investigation and security service; 2463

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music,

dramatics, and the arts; or the promotion of education by an 2497
organization engaged in carrying on research in, or the 2498
dissemination of, scientific and technological knowledge and 2499
information primarily for the public. 2500

Nothing in this division shall be deemed to exempt sales to 2501
any organization for use in the operation or carrying on of a 2502
trade or business, or sales to a home for the aged for use in the 2503
operation of independent living facilities as defined in division 2504
(A) of section 5709.12 of the Revised Code. 2505

(13) Building and construction materials and services sold to 2506
construction contractors for incorporation into a structure or 2507
improvement to real property under a construction contract with 2508
this state or a political subdivision of this state, or with the 2509
United States government or any of its agencies; building and 2510
construction materials and services sold to construction 2511
contractors for incorporation into a structure or improvement to 2512
real property that are accepted for ownership by this state or any 2513
of its political subdivisions, or by the United States government 2514
or any of its agencies at the time of completion of the structures 2515
or improvements; building and construction materials sold to 2516
construction contractors for incorporation into a horticulture 2517
structure or livestock structure for a person engaged in the 2518
business of horticulture or producing livestock; building 2519
materials and services sold to a construction contractor for 2520
incorporation into a house of public worship or religious 2521
education, or a building used exclusively for charitable purposes 2522
under a construction contract with an organization whose purpose 2523
is as described in division (B)(12) of this section; building 2524
materials and services sold to a construction contractor for 2525
incorporation into a building under a construction contract with 2526
an organization exempt from taxation under section 501(c)(3) of 2527
the Internal Revenue Code of 1986 when the building is to be used 2528

exclusively for the organization's exempt purposes; building and 2529
construction materials sold for incorporation into the original 2530
construction of a sports facility under section 307.696 of the 2531
Revised Code; and building and construction materials and services 2532
sold to a construction contractor for incorporation into real 2533
property outside this state if such materials and services, when 2534
sold to a construction contractor in the state in which the real 2535
property is located for incorporation into real property in that 2536
state, would be exempt from a tax on sales levied by that state; 2537

(14) Sales of ships or vessels or rail rolling stock used or 2538
to be used principally in interstate or foreign commerce, and 2539
repairs, alterations, fuel, and lubricants for such ships or 2540
vessels or rail rolling stock; 2541

(15) Sales to persons primarily engaged in any of the 2542
activities mentioned in division (B)(42)(a) or (g) of this 2543
section, to persons engaged in making retail sales, or to persons 2544
who purchase for sale from a manufacturer tangible personal 2545
property that was produced by the manufacturer in accordance with 2546
specific designs provided by the purchaser, of packages, including 2547
material, labels, and parts for packages, and of machinery, 2548
equipment, and material for use primarily in packaging tangible 2549
personal property produced for sale, including any machinery, 2550
equipment, and supplies used to make labels or packages, to 2551
prepare packages or products for labeling, or to label packages or 2552
products, by or on the order of the person doing the packaging, or 2553
sold at retail. "Packages" includes bags, baskets, cartons, 2554
crates, boxes, cans, bottles, bindings, wrappings, and other 2555
similar devices and containers, but does not include motor 2556
vehicles or bulk tanks, trailers, or similar devices attached to 2557
motor vehicles. "Packaging" means placing in a package. Division 2558
(B)(15) of this section does not apply to persons engaged in 2559
highway transportation for hire. 2560

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant

to a prescription and when such devices or equipment are for use 2593
by a human being. 2594

(20) Sales of emergency and fire protection vehicles and 2595
equipment to nonprofit organizations for use solely in providing 2596
fire protection and emergency services, including trauma care and 2597
emergency medical services, for political subdivisions of the 2598
state; 2599

(21) Sales of tangible personal property manufactured in this 2600
state, if sold by the manufacturer in this state to a retailer for 2601
use in the retail business of the retailer outside of this state 2602
and if possession is taken from the manufacturer by the purchaser 2603
within this state for the sole purpose of immediately removing the 2604
same from this state in a vehicle owned by the purchaser; 2605

(22) Sales of services provided by the state or any of its 2606
political subdivisions, agencies, instrumentalities, institutions, 2607
or authorities, or by governmental entities of the state or any of 2608
its political subdivisions, agencies, instrumentalities, 2609
institutions, or authorities; 2610

(23) Sales of motor vehicles to nonresidents of this state 2611
under the circumstances described in division (B) of section 2612
5739.029 of the Revised Code; 2613

(24) Sales to persons engaged in the preparation of eggs for 2614
sale of tangible personal property used or consumed directly in 2615
such preparation, including such tangible personal property used 2616
for cleaning, sanitizing, preserving, grading, sorting, and 2617
classifying by size; packages, including material and parts for 2618
packages, and machinery, equipment, and material for use in 2619
packaging eggs for sale; and handling and transportation equipment 2620
and parts therefor, except motor vehicles licensed to operate on 2621
public highways, used in intraplant or interplant transfers or 2622
shipment of eggs in the process of preparation for sale, when the 2623

plant or plants within or between which such transfers or 2624
shipments occur are operated by the same person. "Packages" 2625
includes containers, cases, baskets, flats, fillers, filler flats, 2626
cartons, closure materials, labels, and labeling materials, and 2627
"packaging" means placing therein. 2628

(25)(a) Sales of water to a consumer for residential use, 2629
except the sale of bottled water, distilled water, mineral water, 2630
carbonated water, or ice; 2631

(b) Sales of water by a nonprofit corporation engaged 2632
exclusively in the treatment, distribution, and sale of water to 2633
consumers, if such water is delivered to consumers through pipes 2634
or tubing. 2635

(26) Fees charged for inspection or reinspection of motor 2636
vehicles under section 3704.14 of the Revised Code; 2637

(27) Sales to persons licensed to conduct a food service 2638
operation pursuant to section 3717.43 of the Revised Code, of 2639
tangible personal property primarily used directly for the 2640
following: 2641

(a) To prepare food for human consumption for sale; 2642

(b) To preserve food that has been or will be prepared for 2643
human consumption for sale by the food service operator, not 2644
including tangible personal property used to display food for 2645
selection by the consumer; 2646

(c) To clean tangible personal property used to prepare or 2647
serve food for human consumption for sale. 2648

(28) Sales of animals by nonprofit animal adoption services 2649
or county humane societies; 2650

(29) Sales of services to a corporation described in division 2651
(A) of section 5709.72 of the Revised Code, and sales of tangible 2652
personal property that qualifies for exemption from taxation under 2653

section 5709.72 of the Revised Code; 2654

(30) Sales and installation of agricultural land tile, as 2655
defined in division (B)(5)(a) of section 5739.01 of the Revised 2656
Code; 2657

(31) Sales and erection or installation of portable grain 2658
bins, as defined in division (B)(5)(b) of section 5739.01 of the 2659
Revised Code; 2660

(32) The sale, lease, repair, and maintenance of, parts for, 2661
or items attached to or incorporated in, motor vehicles that are 2662
primarily used for transporting tangible personal property 2663
belonging to others by a person engaged in highway transportation 2664
for hire, except for packages and packaging used for the 2665
transportation of tangible personal property; 2666

(33) Sales to the state headquarters of any veterans' 2667
organization in this state that is either incorporated and issued 2668
a charter by the congress of the United States or is recognized by 2669
the United States veterans administration, for use by the 2670
headquarters; 2671

(34) Sales to a telecommunications service vendor, mobile 2672
telecommunications service vendor, or satellite broadcasting 2673
service vendor of tangible personal property and services used 2674
directly and primarily in transmitting, receiving, switching, or 2675
recording any interactive, one- or two-way electromagnetic 2676
communications, including voice, image, data, and information, 2677
through the use of any medium, including, but not limited to, 2678
poles, wires, cables, switching equipment, computers, and record 2679
storage devices and media, and component parts for the tangible 2680
personal property. The exemption provided in this division shall 2681
be in lieu of all other exemptions under division (B)(42)(a) of 2682
this section to which the vendor may otherwise be entitled, based 2683
upon the use of the thing purchased in providing the 2684

telecommunications, mobile telecommunications, or satellite 2685
broadcasting service. 2686

(35)(a) Sales where the purpose of the consumer is to use or 2687
consume the things transferred in making retail sales and 2688
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2689
certificates, or other advertising material that prices and 2690
describes tangible personal property offered for retail sale. 2691

(b) Sales to direct marketing vendors of preliminary 2692
materials such as photographs, artwork, and typesetting that will 2693
be used in printing advertising material; of printed matter that 2694
offers free merchandise or chances to win sweepstake prizes and 2695
that is mailed to potential customers with advertising material 2696
described in division (B)(35)(a) of this section; and of equipment 2697
such as telephones, computers, facsimile machines, and similar 2698
tangible personal property primarily used to accept orders for 2699
direct marketing retail sales. 2700

(c) Sales of automatic food vending machines that preserve 2701
food with a shelf life of forty-five days or less by refrigeration 2702
and dispense it to the consumer. 2703

For purposes of division (B)(35) of this section, "direct 2704
marketing" means the method of selling where consumers order 2705
tangible personal property by United States mail, delivery 2706
service, or telecommunication and the vendor delivers or ships the 2707
tangible personal property sold to the consumer from a warehouse, 2708
catalogue distribution center, or similar fulfillment facility by 2709
means of the United States mail, delivery service, or common 2710
carrier. 2711

(36) Sales to a person engaged in the business of 2712
horticulture or producing livestock of materials to be 2713
incorporated into a horticulture structure or livestock structure; 2714

(37) Sales of personal computers, computer monitors, computer 2715

keyboards, modems, and other peripheral computer equipment to an 2716
individual who is licensed or certified to teach in an elementary 2717
or a secondary school in this state for use by that individual in 2718
preparation for teaching elementary or secondary school students; 2719

(38) Sales to a professional racing team of any of the 2720
following: 2721

(a) Motor racing vehicles; 2722

(b) Repair services for motor racing vehicles; 2723

(c) Items of property that are attached to or incorporated in 2724
motor racing vehicles, including engines, chassis, and all other 2725
components of the vehicles, and all spare, replacement, and 2726
rebuilt parts or components of the vehicles; except not including 2727
tires, consumable fluids, paint, and accessories consisting of 2728
instrumentation sensors and related items added to the vehicle to 2729
collect and transmit data by means of telemetry and other forms of 2730
communication. 2731

(39) Sales of used manufactured homes and used mobile homes, 2732
as defined in section 5739.0210 of the Revised Code, made on or 2733
after January 1, 2000; 2734

(40) Sales of tangible personal property and services to a 2735
provider of electricity used or consumed directly and primarily in 2736
generating, transmitting, or distributing electricity for use by 2737
others, including property that is or is to be incorporated into 2738
and will become a part of the consumer's production, transmission, 2739
or distribution system and that retains its classification as 2740
tangible personal property after incorporation; fuel or power used 2741
in the production, transmission, or distribution of electricity; 2742
energy conversion equipment as defined in section 5727.01 of the 2743
Revised Code; and tangible personal property and services used in 2744
the repair and maintenance of the production, transmission, or 2745
distribution system, including only those motor vehicles as are 2746

2747 specially designed and equipped for such use. The exemption
2748 provided in this division shall be in lieu of all other exemptions
2749 in division (B)(42)(a) of this section to which a provider of
2750 electricity may otherwise be entitled based on the use of the
2751 tangible personal property or service purchased in generating,
2752 transmitting, or distributing electricity.

(41) Sales to a person providing services under division 2753
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 2754
personal property and services used directly and primarily in 2755
providing taxable services under that section. 2756

(42) Sales where the purpose of the purchaser is to do any of 2757
the following: 2758

(a) To incorporate the thing transferred as a material or a 2759
part into tangible personal property to be produced for sale by 2760
manufacturing, assembling, processing, or refining; or to use or 2761
consume the thing transferred directly in producing tangible 2762
personal property for sale by mining, including, without 2763
limitation, the extraction from the earth of all substances that 2764
are classed geologically as minerals, production of crude oil and 2765
natural gas, farming, agriculture, horticulture, or floriculture, 2766
or directly in the rendition of a public utility service, except 2767
that the sales tax levied by this section shall be collected upon 2768
all meals, drinks, and food for human consumption sold when 2769
transporting persons. Persons engaged in rendering farming, 2770
agricultural, horticultural, or floricultural services, and 2771
services in the exploration for, and production of, crude oil and 2772
natural gas, for others are deemed engaged directly in farming, 2773
agriculture, horticulture, and floriculture, or exploration for, 2774
and production of, crude oil and natural gas. This paragraph does 2775
not exempt from "retail sale" or "sales at retail" the sale of 2776
tangible personal property that is to be incorporated into a 2777
structure or improvement to real property. 2778

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| (b) To hold the thing transferred as security for the performance of an obligation of the vendor; | 2779 2780 |
| (c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance; | 2781 2782 |
| (d) To use or consume the thing directly in commercial fishing; | 2783 2784 |
| (e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications; | 2785 2786 2787 2788 |
| (f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter; | 2789 2790 2791 2792 2793 |
| (g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale; | 2794 2795 2796 |
| (h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section; | 2797 2798 2799 2800 2801 2802 |
| (i) To use the thing transferred as qualified research and development equipment; | 2803 2804 |
| (j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this | 2805 2806 2807 2808 |

state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water,

whether or not in combination with soap or other cleaning agents 2840
or wax, to the consumer for the consumer's use on the premises in 2841
washing, cleaning, or waxing a motor vehicle, provided no other 2842
personal property or personal service is provided as part of the 2843
transaction. 2844

(44) Sales of replacement and modification parts for engines, 2845
airframes, instruments, and interiors in, and paint for, aircraft 2846
used primarily in a fractional aircraft ownership program, and 2847
sales of services for the repair, modification, and maintenance of 2848
such aircraft, and machinery, equipment, and supplies primarily 2849
used to provide those services. 2850

(45) Sales of telecommunications service that is used 2851
directly and primarily to perform the functions of a call center. 2852
As used in this division, "call center" means any physical 2853
location where telephone calls are placed or received in high 2854
volume for the purpose of making sales, marketing, customer 2855
service, technical support, or other specialized business 2856
activity, and that employs at least fifty individuals that engage 2857
in call center activities on a full-time basis, or sufficient 2858
individuals to fill fifty full-time equivalent positions. 2859

(46) Sales by a telecommunications service vendor of 900 2860
service to a subscriber. This division does not apply to 2861
information services, as defined in division (FF) of section 2862
5739.01 of the Revised Code. 2863

(47) Sales of value-added non-voice data service. This 2864
division does not apply to any similar service that is not 2865
otherwise a telecommunications service. 2866

(48)(a) Sales of machinery, equipment, and software to a 2867
qualified direct selling entity for use in a warehouse or 2868
distribution center primarily for storing, transporting, or 2869
otherwise handling inventory that is held for sale to independent 2870

salespersons who operate as direct sellers and that is held 2871
primarily for distribution outside this state; 2872

(b) As used in division (B)(48)(a) of this section: 2873

(i) "Direct seller" means a person selling consumer products 2874
to individuals for personal or household use and not from a fixed 2875
retail location, including selling such product at in-home product 2876
demonstrations, parties, and other one-on-one selling. 2877

(ii) "Qualified direct selling entity" means an entity 2878
selling to direct sellers at the time the entity enters into a tax 2879
credit agreement with the tax credit authority pursuant to section 2880
122.17 of the Revised Code, provided that the agreement was 2881
entered into on or after January 1, 2007. Neither contingencies 2882
relevant to the granting of, nor later developments with respect 2883
to, the tax credit shall impair the status of the qualified direct 2884
selling entity under division (B)(48) of this section after 2885
execution of the tax credit agreement by the tax credit authority. 2886

(c) Division (B)(48) of this section is limited to machinery, 2887
equipment, and software first stored, used, or consumed in this 2888
state within the period commencing June 24, 2008, and ending on 2889
the date that is five years after that date. 2890

(49) Sales of materials, parts, equipment, or engines used in 2891
the repair or maintenance of aircraft or avionics systems of such 2892
aircraft, and sales of repair, remodeling, replacement, or 2893
maintenance services in this state performed on aircraft or on an 2894
aircraft's avionics, engine, or component materials or parts. As 2895
used in division (B)(49) of this section, "aircraft" means 2896
aircraft of more than six thousand pounds maximum certified 2897
takeoff weight or used exclusively in general aviation. 2898

(50) Sales of full flight simulators that are used for pilot 2899
or flight-crew training, sales of repair or replacement parts or 2900
components, and sales of repair or maintenance services for such 2901

full flight simulators. "Full flight simulator" means a replica of 2902
a specific type, or make, model, and series of aircraft cockpit. 2903
It includes the assemblage of equipment and computer programs 2904
necessary to represent aircraft operations in ground and flight 2905
conditions, a visual system providing an out-of-the-cockpit view, 2906
and a system that provides cues at least equivalent to those of a 2907
three-degree-of-freedom motion system, and has the full range of 2908
capabilities of the systems installed in the device as described 2909
in appendices A and B of part 60 of chapter 1 of title 14 of the 2910
Code of Federal Regulations. 2911

(C) For the purpose of the proper administration of this 2912
chapter, and to prevent the evasion of the tax, it is presumed 2913
that all sales made in this state are subject to the tax until the 2914
contrary is established. 2915

(D) The levy of this tax on retail sales of recreation and 2916
sports club service shall not prevent a municipal corporation from 2917
levying any tax on recreation and sports club dues or on any 2918
income generated by recreation and sports club dues. 2919

(E) The tax collected by the vendor from the consumer under 2920
this chapter is not part of the price, but is a tax collection for 2921
the benefit of the state, and of counties levying an additional 2922
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 2923
Code and of transit authorities levying an additional sales tax 2924
pursuant to section 5739.023 of the Revised Code. Except for the 2925
discount authorized under section 5739.12 of the Revised Code and 2926
the effects of any rounding pursuant to section 5703.055 of the 2927
Revised Code, no person other than the state or such a county or 2928
transit authority shall derive any benefit from the collection or 2929
payment of the tax levied by this section or section 5739.021, 2930
5739.023, or 5739.026 of the Revised Code. 2931

Section 2. That existing sections 717.25, 1710.01, 1710.02, 2932

1710.06, 1710.07, 4928.01, 4928.64, 5709.53, 5713.30, 5713.34, 2933
5727.01, 5727.02, 5727.06, 5727.11, 5727.111, 5727.15, 5727.30, 2934
and 5739.02 of the Revised Code are hereby repealed. 2935

Section 3. This act is hereby declared to be an emergency 2936
measure necessary for the immediate preservation of the public 2937
peace, health, and safety. The reason for such necessity is that 2938
the immediate construction of facilities to which this act applies 2939
is necessary to ensure the state's alternative energy resource 2940
benchmarks are achieved. Therefore, this act shall go into 2941
immediate effect. 2942