

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 204

Representative Foley

**Cosponsors: Representatives Hagan, R., Yuko, Antonio, Ramos, Letson,
Williams, Pillich, Milkovich, Garland, Murray, Fedor**

—

A B I L L

To amend sections 4928.58, 4928.61, and 4928.62, and 1
to enact sections 4928.611 and 4928.612 of the 2
Revised Code to reimpose the Advanced Energy Fund 3
revenue rider on retail electric distribution 4
service rates and to clarify how Advanced Energy 5
Fund grant amounts are to be determined. 6

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

Section 1. That sections 4928.58, 4928.61, and 4928.62 be 7
amended and sections 4928.611 and 4928.612 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4928.58. (A) There is hereby created the public benefits 10
advisory board, which has the purpose of ensuring that energy 11
services be provided to low-income consumers in this state in an 12
affordable manner consistent with the policy specified in section 13
4928.02 of the Revised Code. The advisory board shall consist of 14
twenty-one members as follows: the director of development, the 15
chairperson of the public utilities commission, the consumers' 16
counsel, and the director of the air quality development 17
authority, each serving ex officio and represented by a designee 18

at the official's discretion; two members of the house of 19
representatives appointed by the speaker of the house of 20
representatives, neither of the same political party, and two 21
members of the senate appointed by the president of the senate, 22
neither of the same political party; and thirteen members 23
appointed by the governor with the advice and consent of the 24
senate, consisting of one representative of suppliers of 25
competitive retail electric service; one representative of the 26
residential class of electric utility customers; one 27
representative of the industrial class of electric utility 28
customers; one representative of the commercial class of electric 29
utility customers; one representative of agricultural or rural 30
customers of an electric utility; two customers receiving 31
assistance under one or more of the low-income customer assistance 32
programs, to represent customers eligible for any such assistance, 33
including senior citizens; one representative of the general 34
public; one representative of local intake agencies; one 35
representative of a community-based organization serving 36
low-income customers; one representative of environmental 37
protection interests; one representative of lending institutions; 38
and one person considered an expert in energy efficiency or 39
renewables technology. Initial appointments shall be made not 40
later than November 1, 1999. 41

(B) Initial terms of six of the appointed members shall end 42
on June 30, 2003, and initial terms of the remaining seven 43
appointed members shall end on June 30, 2004. Thereafter, terms of 44
appointed members shall be for three years, with each term ending 45
on the same day of the same month as the term it succeeds. Each 46
member shall hold office from the date of the member's appointment 47
until the end of the term for which the member was appointed. 48
Members may be reappointed. 49

Vacancies shall be filled in the manner provided for original 50

appointments. Any member appointed to fill a vacancy occurring 51
prior to the expiration date of the term for which the member's 52
predecessor was appointed shall hold office as a member for the 53
remainder of that term. A member shall continue in office after 54
the expiration date of the member's term until the member's 55
successor takes office or until a period of sixty days has 56
elapsed, whichever occurs first. 57

(C) Board members shall be reimbursed for their actual and 58
necessary expenses incurred in the performance of board duties. 59
The reimbursements constitute, as applicable, administrative costs 60
of the low-income customer assistance programs for the purpose of 61
division (A) of section 4928.51 of the Revised Code or 62
administrative costs of the advanced energy program for the 63
purpose of division (A) of section 4528.61 of the Revised Code. 64

(D) The advisory board shall select a chairperson from among 65
its members. Only board members appointed by the governor with the 66
advice and consent of the senate shall be voting members of the 67
board; each shall have one vote in all deliberations of the board. 68
A majority of the voting members constitute a quorum. 69

(E) The duties of the advisory board shall be as follows: 70

(1) Advise the director in the administration of the 71
universal service fund and the low-income customer assistance 72
programs and advise the director on the director's recommendation 73
to the commission regarding the appropriate level of the universal 74
service rider; 75

(2) Advise the director on the administration of the advanced 76
energy program and the advanced energy fund under sections 4928.61 77
to 4928.63 of the Revised Code, including grant award levels under 78
section 4928.62 of the Revised Code; 79

(3) Hold public hearings to carry out the requirements of 80
division (E)(2) of this section. 81

(F) The advisory board is not an agency for purposes of 82
sections 101.82 to 101.87 of the Revised Code. 83

Sec. 4928.61. (A) There is hereby established in the state 84
treasury the advanced energy fund, into which shall be deposited 85
all advanced energy revenues remitted to the director of 86
development under division (B) of this section, for the exclusive 87
purposes of funding the advanced energy program created under 88
section 4928.62 of the Revised Code and paying the program's 89
administrative costs. Interest on the fund shall be credited to 90
the fund. 91

(B) Advanced energy revenues shall include all of the 92
following: 93

(1) ~~Revenues remitted to the director after collection by 94
each electric distribution utility in this state of a The 95
temporary rider on retail electric distribution service rates as 96
such rates are determined by the public utilities commission 97
pursuant to this chapter. The rider shall be a uniform amount 98
statewide, determined by the director of development, after 99
consultation with the public benefits advisory board created by 100
section 4928.58 of the Revised Code. The amount shall be 101
determined by dividing an aggregate revenue target for a given 102
year as determined by the director, after consultation with the 103
advisory board, by the number of customers of electric 104
distribution utilities in this state in the prior year. Such 105
aggregate revenue target shall not exceed more than fifteen 106
million dollars in any year through 2005 and shall not exceed more 107
than five million dollars in any year after 2005. The rider shall 108
be imposed beginning on the effective date of the amendment of 109
this section by Sub. H.B. 251 of the 126th general assembly, 110
January 4, 2007, and shall terminate at the end of ten years 111
following the starting date of competitive retail electric service 112~~

~~or until the advanced energy fund, including interest, reaches one hundred million dollars, whichever is first imposed under section 4928.611 of the Revised Code.~~

~~(2) Revenues from payments, repayments, and collections under the advanced energy program and from program income;~~

~~(3) Revenues remitted to the director after collection by a municipal electric utility or electric cooperative in this state upon the utility's or cooperative's decision to participate in the advanced energy fund;~~

~~(4) Revenues from renewable energy compliance payments as provided under division (C)(2) of section 4928.64 of the Revised Code;~~

~~(5)(4) Revenue from forfeitures under division (C) of section 4928.66 of the Revised Code;~~

~~(6)(5) Interest earnings on the advanced energy fund.~~

~~(C)(1) Each electric distribution utility in this state shall remit to the director on a quarterly basis the revenues described in divisions (B)(1) and (2) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter.~~

~~(2) Each participating electric cooperative and participating municipal electric utility shall remit to the director on a quarterly basis the revenues described in division (B)(3) of this section. Such remittances shall occur within thirty days after the end of each calendar quarter. For the purpose of division (B)(3) of this section, the participation of an electric cooperative or municipal electric utility in the energy efficiency revolving loan program as it existed immediately prior to the effective date of the amendment of this section by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, does not constitute a decision to participate in the advanced energy fund under this section as~~

~~so amended.~~ 144

~~(3) All remittances under divisions (C)(1) and (2) of this section shall continue only until the end of ten years following the starting date of competitive retail electric service or until the advanced energy fund, including interest, reaches one hundred million dollars, whichever is first.~~ 145
146
147
148
149

~~(D) Any moneys collected in rates for non low income customer energy efficiency programs, as of October 5, 1999, and not contributed to the energy efficiency revolving loan fund authorized under this section prior to the effective date of its amendment by Sub. H.B. 251 of the 126th general assembly, January 4, 2007, shall be used to continue to fund cost effective, residential energy efficiency programs, be contributed into the universal service fund as a supplement to that required under section 4928.53 of the Revised Code, or be returned to ratepayers in the form of a rate reduction at the option of the affected electric distribution utility.~~ 150
151
152
153
154
155
156
157
158
159
160

Sec. 4928.611. (A) Each electric distribution utility in this state shall impose a temporary rider on the retail electric distribution service rates of residential, commercial, and industrial customers as defined by rules adopted by the public utilities commission. The amount of the rider shall be as follows: 161
162
163
164
165

(1) Ten cents per month for residential customers; 166

(2) Twenty-five cents per month for commercial customers; 167

(3) Fifty cents per month for industrial customers. 168

(B) The rider shall be imposed beginning on the effective date of this amendment and shall terminate on January 1, 2025. 169
170

Sec. 4928.612. Each electric distribution utility in this state shall remit to the director of development on a quarterly 171
172

basis the rider imposed in section 4928.611 of the Revised Code 173
and the revenues described in division (B)(2) of section 4928.61 174
of the Revised Code. Such remittances shall occur within thirty 175
days after the end of each calendar quarter. 176

Sec. 4928.62. (A) There is hereby created the advanced energy 177
program, which shall be administered by the director of 178
development. Under the program, the director may authorize the use 179
of moneys in the advanced energy fund for financial, technical, 180
and related assistance for advanced energy projects in this state 181
or for economic development assistance, in furtherance of the 182
purposes set forth in section 4928.63 of the Revised Code. To the 183
extent feasible given approved applications for assistance, the 184
assistance shall be distributed among the certified territories of 185
electric distribution utilities ~~and participating electric~~ 186
~~cooperatives, and among the service areas of participating~~ 187
~~municipal electric utilities,~~ in amounts proportionate to the 188
remittances of each utility ~~and cooperative~~ under ~~divisions (B)(1)~~ 189
~~and (3)~~ of section ~~4928.61~~ 4928.612 of the Revised Code. 190

The director shall determine the amount of each grant based 191
on the market price of energy and the advice of the public 192
benefits advisory board under division (E)(2) of section 4928.58 193
of the Revised Code. The amount of each grant shall decrease 194
annually in order to enable the program to fund an increasing 195
number of grants. 196

The director shall not authorize financial assistance for an 197
advanced energy project under the program unless the director 198
first determines that the project will create new jobs or preserve 199
existing jobs in this state or use innovative technologies or 200
materials. 201

(B) In carrying out sections 4928.61 to 4928.63 of the 202
Revised Code, the director may do all of the following to further 203

the public interest in advanced energy projects and economic	204
development:	205
(1) Award grants, contracts, loans, loan participation	206
agreements, linked deposits, and energy production incentives;	207
(2) Acquire in the name of the director any property of any	208
kind or character in accordance with this section, by purchase,	209
purchase at foreclosure, or exchange, on such terms and in such	210
manner as the director considers proper;	211
(3) Make and enter into all contracts and agreements	212
necessary or incidental to the performance of the director's	213
duties and the exercise of the director's powers under sections	214
4928.61 to 4928.63 of the Revised Code;	215
(4) Employ or enter into contracts with financial	216
consultants, marketing consultants, consulting engineers,	217
architects, managers, construction experts, attorneys, technical	218
monitors, energy evaluators, or other employees or agents as the	219
director considers necessary, and fix their compensation;	220
(5) Adopt rules prescribing the application procedures for	221
financial assistance under the advanced energy program; the terms	222
and conditions of any grants, contracts, loans, loan participation	223
agreements, linked deposits, and energy production incentives;	224
criteria pertaining to the eligibility of participating lending	225
institutions; and any other matters necessary for the	226
implementation of the program;	227
(6) Do all things necessary and appropriate for the operation	228
of the program.	229
(C) The department of development may hold ownership to any	230
unclaimed energy efficiency and renewable energy emission	231
allowances provided for in Chapter 3745-14 of the Administrative	232
Code or otherwise, that result from advanced energy projects that	233
receive funding from the advanced energy fund, and it may use the	234

allowances to further the public interest in advanced energy 235
projects or for economic development. 236

(D) Financial statements, financial data, and trade secrets 237
submitted to or received by the director from an applicant or 238
recipient of financial assistance under sections 4928.61 to 239
4928.63 of the Revised Code, or any information taken from those 240
statements, data, or trade secrets for any purpose, are not public 241
records for the purpose of section 149.43 of the Revised Code. 242

(E) Nothing in the amendments of sections 4928.61, 4928.62, 243
and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th 244
general assembly and nothing in the amendments of sections 4928.61 245
and 4928.62 of the Revised Code by B. of the 129th general 246
assembly shall affect any pending or effected assistance, pending 247
or effected purchases or exchanges of property made, or pending or 248
effected contracts or agreements entered into pursuant to division 249
(A) or (B) of this section as the section existed prior to the 250
effective date of ~~those~~ the amendments made by Sub. H.B. 251, 251
January 4, 2007, or the amendments made by B. of the 129th 252
general assembly, or shall affect the exemption provided under 253
division (C) of this section as the section existed prior to ~~that~~ 254
either effective date. 255

(F) Any assistance a school district receives for an advanced 256
energy project, including a geothermal heating, ventilating, and 257
air conditioning system, shall be in addition to any assistance 258
provided under Chapter 3318. of the Revised Code and shall not be 259
included as part of the district or state portion of the basic 260
project cost under that chapter. 261

Section 2. That existing sections 4928.58, 4928.61, and 262
4928.62 of the Revised Code are hereby repealed. 263