

As Introduced

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

S. B. No. 216

Senator Jordan

Cosponsors: Senators Patton, Seitz

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A B I L L

To amend sections 4928.142, 4928.143, 4928.20, 1
4928.61, 5501.311, and 5727.75 and to repeal 2
sections 4928.64 and 4928.65 of the Revised Code 3
to repeal the requirement that electric 4
distribution utilities and electric services 5
companies provide 25% of their retail power 6
supplies from advanced and renewable energy 7
resources by 2025. 8

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

Section 1. That sections 4928.142, 4928.143, 4928.20, 9
4928.61, 5501.311, and 5727.75 be amended to read as follows: 10

Sec. 4928.142. (A) For the purpose of complying with section 11
4928.141 of the Revised Code and subject to division (D) of this 12
section and, as applicable, subject to the rate plan requirement 13
of division (A) of section 4928.141 of the Revised Code, an 14
electric distribution utility may establish a standard service 15
offer price for retail electric generation service that is 16
delivered to the utility under a market-rate offer. 17

(1) The market-rate offer shall be determined through a 18
competitive bidding process that provides for all of the 19

following:	20
(a) Open, fair, and transparent competitive solicitation;	21
(b) Clear product definition;	22
(c) Standardized bid evaluation criteria;	23
(d) Oversight by an independent third party that shall design the solicitation, administer the bidding, and ensure that the criteria specified in division (A)(1)(a) to (c) of this section are met;	24 25 26 27
(e) Evaluation of the submitted bids prior to the selection of the least-cost bid winner or winners.	28 29
No generation supplier shall be prohibited from participating in the bidding process.	30 31
(2) The public utilities commission shall modify rules, or adopt new rules as necessary, concerning the conduct of the competitive bidding process and the qualifications of bidders, which rules shall foster supplier participation in the bidding process and shall be consistent with the requirements of division (A)(1) of this section.	32 33 34 35 36 37
(B) Prior to initiating a competitive bidding process for a market-rate offer under division (A) of this section, the electric distribution utility shall file an application with the commission. An electric distribution utility may file its application with the commission prior to the effective date of the commission rules required under division (A)(2) of this section, and, as the commission determines necessary, the utility shall immediately conform its filing to the rules upon their taking effect.	38 39 40 41 42 43 44 45 46
An application under this division shall detail the electric distribution utility's proposed compliance with the requirements of division (A)(1) of this section and with commission rules under	47 48 49

division (A)(2) of this section and demonstrate that all of the 50
following requirements are met: 51

(1) The electric distribution utility or its transmission 52
service affiliate belongs to at least one regional transmission 53
organization that has been approved by the federal energy 54
regulatory commission; or there otherwise is comparable and 55
nondiscriminatory access to the electric transmission grid. 56

(2) Any such regional transmission organization has a 57
market-monitor function and the ability to take actions to 58
identify and mitigate market power or the electric distribution 59
utility's market conduct; or a similar market monitoring function 60
exists with commensurate ability to identify and monitor market 61
conditions and mitigate conduct associated with the exercise of 62
market power. 63

(3) A published source of information is available publicly 64
or through subscription that identifies pricing information for 65
traded electricity on- and off-peak energy products that are 66
contracts for delivery beginning at least two years from the date 67
of the publication and is updated on a regular basis. 68

The commission shall initiate a proceeding and, within ninety 69
days after the application's filing date, shall determine by order 70
whether the electric distribution utility and its market-rate 71
offer meet all of the foregoing requirements. If the finding is 72
positive, the electric distribution utility may initiate its 73
competitive bidding process. If the finding is negative as to one 74
or more requirements, the commission in the order shall direct the 75
electric distribution utility regarding how any deficiency may be 76
remedied in a timely manner to the commission's satisfaction; 77
otherwise, the electric distribution utility shall withdraw the 78
application. However, if such remedy is made and the subsequent 79
finding is positive and also if the electric distribution utility 80
made a simultaneous filing under this section and section 4928.143 81

of the Revised Code, the utility shall not initiate its 82
competitive bid until at least one hundred fifty days after the 83
filing date of those applications. 84

(C) Upon the completion of the competitive bidding process 85
authorized by divisions (A) and (B) of this section, including for 86
the purpose of division (D) of this section, the commission shall 87
select the least-cost bid winner or winners of that process, and 88
such selected bid or bids, as prescribed as retail rates by the 89
commission, shall be the electric distribution utility's standard 90
service offer unless the commission, by order issued before the 91
third calendar day following the conclusion of the competitive 92
bidding process for the market rate offer, determines that one or 93
more of the following criteria were not met: 94

(1) Each portion of the bidding process was oversubscribed, 95
such that the amount of supply bid upon was greater than the 96
amount of the load bid out. 97

(2) There were four or more bidders. 98

(3) At least twenty-five per cent of the load is bid upon by 99
one or more persons other than the electric distribution utility. 100

All costs incurred by the electric distribution utility as a 101
result of or related to the competitive bidding process or to 102
procuring generation service to provide the standard service 103
offer, including the costs of energy and capacity and the costs of 104
all other products and services procured as a result of the 105
competitive bidding process, shall be timely recovered through the 106
standard service offer price, and, for that purpose, the 107
commission shall approve a reconciliation mechanism, other 108
recovery mechanism, or a combination of such mechanisms for the 109
utility. 110

(D) The first application filed under this section by an 111
electric distribution utility that, as of July 31, 2008, directly 112

owns, in whole or in part, operating electric generating 113
facilities that had been used and useful in this state shall 114
require that a portion of that utility's standard service offer 115
load for the first five years of the market rate offer be 116
competitively bid under division (A) of this section as follows: 117
ten per cent of the load in year one, not more than twenty per 118
cent in year two, thirty per cent in year three, forty per cent in 119
year four, and fifty per cent in year five. Consistent with those 120
percentages, the commission shall determine the actual percentages 121
for each year of years one through five. The standard service 122
offer price for retail electric generation service under this 123
first application shall be a proportionate blend of the bid price 124
and the generation service price for the remaining standard 125
service offer load, which latter price shall be equal to the 126
electric distribution utility's most recent standard service offer 127
price, adjusted upward or downward as the commission determines 128
reasonable, relative to the jurisdictional portion of any known 129
and measurable changes from the level of any one or more of the 130
following costs as reflected in that most recent standard service 131
offer price: 132

(1) The electric distribution utility's prudently incurred 133
cost of fuel used to produce electricity; 134

(2) Its prudently incurred purchased power costs; 135

(3) Its prudently incurred costs of satisfying the ~~supply and~~ 136
demand portfolio requirements of this state, including, but not 137
limited to, ~~renewable energy resource and~~ energy efficiency 138
requirements; 139

(4) Its costs prudently incurred to comply with environmental 140
laws and regulations, with consideration of the derating of any 141
facility associated with those costs. 142

In making any adjustment to the most recent standard service 143

offer price on the basis of costs described in division (D) of 144
this section, the commission shall include the benefits that may 145
become available to the electric distribution utility as a result 146
of or in connection with the costs included in the adjustment, 147
including, but not limited to, the utility's receipt of emissions 148
credits or its receipt of tax benefits or of other benefits, and, 149
accordingly, the commission may impose such conditions on the 150
adjustment to ensure that any such benefits are properly aligned 151
with the associated cost responsibility. The commission shall also 152
determine how such adjustments will affect the electric 153
distribution utility's return on common equity that may be 154
achieved by those adjustments. The commission shall not apply its 155
consideration of the return on common equity to reduce any 156
adjustments authorized under this division unless the adjustments 157
will cause the electric distribution utility to earn a return on 158
common equity that is significantly in excess of the return on 159
common equity that is earned by publicly traded companies, 160
including utilities, that face comparable business and financial 161
risk, with such adjustments for capital structure as may be 162
appropriate. The burden of proof for demonstrating that 163
significantly excessive earnings will not occur shall be on the 164
electric distribution utility. 165

Additionally, the commission may adjust the electric 166
distribution utility's most recent standard service offer price by 167
such just and reasonable amount that the commission determines 168
necessary to address any emergency that threatens the utility's 169
financial integrity or to ensure that the resulting revenue 170
available to the utility for providing the standard service offer 171
is not so inadequate as to result, directly or indirectly, in a 172
taking of property without compensation pursuant to Section 19 of 173
Article I, Ohio Constitution. The electric distribution utility 174
has the burden of demonstrating that any adjustment to its most 175
recent standard service offer price is proper in accordance with 176

this division. 177

(E) Beginning in the second year of a blended price under 178
division (D) of this section and notwithstanding any other 179
requirement of this section, the commission may alter 180
prospectively the proportions specified in that division to 181
mitigate any effect of an abrupt or significant change in the 182
electric distribution utility's standard service offer price that 183
would otherwise result in general or with respect to any rate 184
group or rate schedule but for such alteration. Any such 185
alteration shall be made not more often than annually, and the 186
commission shall not, by altering those proportions and in any 187
event, including because of the length of time, as authorized 188
under division (C) of this section, taken to approve the market 189
rate offer, cause the duration of the blending period to exceed 190
ten years as counted from the effective date of the approved 191
market rate offer. Additionally, any such alteration shall be 192
limited to an alteration affecting the prospective proportions 193
used during the blending period and shall not affect any blending 194
proportion previously approved and applied by the commission under 195
this division. 196

(F) An electric distribution utility that has received 197
commission approval of its first application under division (C) of 198
this section shall not, nor ever shall be authorized or required 199
by the commission to, file an application under section 4928.143 200
of the Revised Code. 201

Sec. 4928.143. (A) For the purpose of complying with section 202
4928.141 of the Revised Code, an electric distribution utility may 203
file an application for public utilities commission approval of an 204
electric security plan as prescribed under division (B) of this 205
section. The utility may file that application prior to the 206
effective date of any rules the commission may adopt for the 207

purpose of this section, and, as the commission determines 208
necessary, the utility immediately shall conform its filing to 209
those rules upon their taking effect. 210

(B) Notwithstanding any other provision of Title XLIX of the 211
Revised Code to the contrary except division (D) of this section, 212
divisions (I), (J), and (K) of section 4928.20, ~~division (E) of~~ 213
~~section 4928.64,~~ and section 4928.69 of the Revised Code: 214

(1) An electric security plan shall include provisions 215
relating to the supply and pricing of electric generation service. 216
In addition, if the proposed electric security plan has a term 217
longer than three years, it may include provisions in the plan to 218
permit the commission to test the plan pursuant to division (E) of 219
this section and any transitional conditions that should be 220
adopted by the commission if the commission terminates the plan as 221
authorized under that division. 222

(2) The plan may provide for or include, without limitation, 223
any of the following: 224

(a) Automatic recovery of any of the following costs of the 225
electric distribution utility, provided the cost is prudently 226
incurred: the cost of fuel used to generate the electricity 227
supplied under the offer; the cost of purchased power supplied 228
under the offer, including the cost of energy and capacity, and 229
including purchased power acquired from an affiliate; the cost of 230
emission allowances; and the cost of federally mandated carbon or 231
energy taxes; 232

(b) A reasonable allowance for construction work in progress 233
for any of the electric distribution utility's cost of 234
constructing an electric generating facility or for an 235
environmental expenditure for any electric generating facility of 236
the electric distribution utility, provided the cost is incurred 237
or the expenditure occurs on or after January 1, 2009. Any such 238

allowance shall be subject to the construction work in progress 239
allowance limitations of division (A) of section 4909.15 of the 240
Revised Code, except that the commission may authorize such an 241
allowance upon the incurrence of the cost or occurrence of the 242
expenditure. No such allowance for generating facility 243
construction shall be authorized, however, unless the commission 244
first determines in the proceeding that there is need for the 245
facility based on resource planning projections submitted by the 246
electric distribution utility. Further, no such allowance shall be 247
authorized unless the facility's construction was sourced through 248
a competitive bid process, regarding which process the commission 249
may adopt rules. An allowance approved under division (B)(2)(b) of 250
this section shall be established as a nonbypassable surcharge for 251
the life of the facility. 252

(c) The establishment of a nonbypassable surcharge for the 253
life of an electric generating facility that is owned or operated 254
by the electric distribution utility, was sourced through a 255
competitive bid process subject to any such rules as the 256
commission adopts under division (B)(2)(b) of this section, and is 257
newly used and useful on or after January 1, 2009, which surcharge 258
shall cover all costs of the utility specified in the application, 259
excluding costs recovered through a surcharge under division 260
(B)(2)(b) of this section. However, no surcharge shall be 261
authorized unless the commission first determines in the 262
proceeding that there is need for the facility based on resource 263
planning projections submitted by the electric distribution 264
utility. Additionally, if a surcharge is authorized for a facility 265
pursuant to plan approval under division (C) of this section and 266
as a condition of the continuation of the surcharge, the electric 267
distribution utility shall dedicate to Ohio consumers the capacity 268
and energy and the rate associated with the cost of that facility. 269
Before the commission authorizes any surcharge pursuant to this 270
division, it may consider, as applicable, the effects of any 271

decommissioning, deratings, and retirements.	272
(d) Terms, conditions, or charges relating to limitations on	273
customer shopping for retail electric generation service,	274
bypassability, standby, back-up, or supplemental power service,	275
default service, carrying costs, amortization periods, and	276
accounting or deferrals, including future recovery of such	277
deferrals, as would have the effect of stabilizing or providing	278
certainty regarding retail electric service;	279
(e) Automatic increases or decreases in any component of the	280
standard service offer price;	281
(f) Provisions for the electric distribution utility to	282
securitize any phase-in, inclusive of carrying charges, of the	283
utility's standard service offer price, which phase-in is	284
authorized in accordance with section 4928.144 of the Revised	285
Code; and provisions for the recovery of the utility's cost of	286
securitization-;i	287
(g) Provisions relating to transmission, ancillary,	288
congestion, or any related service required for the standard	289
service offer, including provisions for the recovery of any cost	290
of such service that the electric distribution utility incurs on	291
or after that date pursuant to the standard service offer;	292
(h) Provisions regarding the utility's distribution service,	293
including, without limitation and notwithstanding any provision of	294
Title XLIX of the Revised Code to the contrary, provisions	295
regarding single issue ratemaking, a revenue decoupling mechanism	296
or any other incentive ratemaking, and provisions regarding	297
distribution infrastructure and modernization incentives for the	298
electric distribution utility. The latter may include a long-term	299
energy delivery infrastructure modernization plan for that utility	300
or any plan providing for the utility's recovery of costs,	301
including lost revenue, shared savings, and avoided costs, and a	302

just and reasonable rate of return on such infrastructure 303
modernization. As part of its determination as to whether to allow 304
in an electric distribution utility's electric security plan 305
inclusion of any provision described in division (B)(2)(h) of this 306
section, the commission shall examine the reliability of the 307
electric distribution utility's distribution system and ensure 308
that customers' and the electric distribution utility's 309
expectations are aligned and that the electric distribution 310
utility is placing sufficient emphasis on and dedicating 311
sufficient resources to the reliability of its distribution 312
system. 313

(i) Provisions under which the electric distribution utility 314
may implement economic development, job retention, and energy 315
efficiency programs, which provisions may allocate program costs 316
across all classes of customers of the utility and those of 317
electric distribution utilities in the same holding company 318
system. 319

(C)(1) The burden of proof in the proceeding shall be on the 320
electric distribution utility. The commission shall issue an order 321
under this division for an initial application under this section 322
not later than one hundred fifty days after the application's 323
filing date and, for any subsequent application by the utility 324
under this section, not later than two hundred seventy-five days 325
after the application's filing date. Subject to division (D) of 326
this section, the commission by order shall approve or modify and 327
approve an application filed under division (A) of this section if 328
it finds that the electric security plan so approved, including 329
its pricing and all other terms and conditions, including any 330
deferrals and any future recovery of deferrals, is more favorable 331
in the aggregate as compared to the expected results that would 332
otherwise apply under section 4928.142 of the Revised Code. 333
Additionally, if the commission so approves an application that 334

contains a surcharge under division (B)(2)(b) or (c) of this 335
section, the commission shall ensure that the benefits derived for 336
any purpose for which the surcharge is established are reserved 337
and made available to those that bear the surcharge. Otherwise, 338
the commission by order shall disapprove the application. 339

(2)(a) If the commission modifies and approves an application 340
under division (C)(1) of this section, the electric distribution 341
utility may withdraw the application, thereby terminating it, and 342
may file a new standard service offer under this section or a 343
standard service offer under section 4928.142 of the Revised Code. 344

(b) If the utility terminates an application pursuant to 345
division (C)(2)(a) of this section or if the commission 346
disapproves an application under division (C)(1) of this section, 347
the commission shall issue such order as is necessary to continue 348
the provisions, terms, and conditions of the utility's most recent 349
standard service offer, along with any expected increases or 350
decreases in fuel costs from those contained in that offer, until 351
a subsequent offer is authorized pursuant to this section or 352
section 4928.142 of the Revised Code, respectively. 353

(D) Regarding the rate plan requirement of division (A) of 354
section 4928.141 of the Revised Code, if an electric distribution 355
utility that has a rate plan that extends beyond December 31, 356
2008, files an application under this section for the purpose of 357
its compliance with division (A) of section 4928.141 of the 358
Revised Code, that rate plan and its terms and conditions are 359
hereby incorporated into its proposed electric security plan and 360
shall continue in effect until the date scheduled under the rate 361
plan for its expiration, and that portion of the electric security 362
plan shall not be subject to commission approval or disapproval 363
under division (C) of this section, and the earnings test provided 364
for in division (F) of this section shall not apply until after 365
the expiration of the rate plan. However, that utility may include 366

in its electric security plan under this section, and the 367
commission may approve, modify and approve, or disapprove subject 368
to division (C) of this section, provisions for the incremental 369
recovery or the deferral of any costs that are not being recovered 370
under the rate plan and that the utility incurs during that 371
continuation period to comply with section 4928.141, ~~division (B)~~ 372
~~of section 4928.64, of the Revised Code~~ or division (A) of section 373
4928.66 of the Revised Code. 374

(E) If an electric security plan approved under division (C) 375
of this section, except one withdrawn by the utility as authorized 376
under that division, has a term, exclusive of phase-ins or 377
deferrals, that exceeds three years from the effective date of the 378
plan, the commission shall test the plan in the fourth year, and 379
if applicable, every fourth year thereafter, to determine whether 380
the plan, including its then-existing pricing and all other terms 381
and conditions, including any deferrals and any future recovery of 382
deferrals, continues to be more favorable in the aggregate and 383
during the remaining term of the plan as compared to the expected 384
results that would otherwise apply under section 4928.142 of the 385
Revised Code. The commission shall also determine the prospective 386
effect of the electric security plan to determine if that effect 387
is substantially likely to provide the electric distribution 388
utility with a return on common equity that is significantly in 389
excess of the return on common equity that is likely to be earned 390
by publicly traded companies, including utilities, that face 391
comparable business and financial risk, with such adjustments for 392
capital structure as may be appropriate. The burden of proof for 393
demonstrating that significantly excessive earnings will not occur 394
shall be on the electric distribution utility. If the test results 395
are in the negative or the commission finds that continuation of 396
the electric security plan will result in a return on equity that 397
is significantly in excess of the return on common equity that is 398
likely to be earned by publicly traded companies, including 399

utilities, that will face comparable business and financial risk, 400
with such adjustments for capital structure as may be appropriate, 401
during the balance of the plan, the commission may terminate the 402
electric security plan, but not until it shall have provided 403
interested parties with notice and an opportunity to be heard. The 404
commission may impose such conditions on the plan's termination as 405
it considers reasonable and necessary to accommodate the 406
transition from an approved plan to the more advantageous 407
alternative. In the event of an electric security plan's 408
termination pursuant to this division, the commission shall permit 409
the continued deferral and phase-in of any amounts that occurred 410
prior to that termination and the recovery of those amounts as 411
contemplated under that electric security plan. 412

(F) With regard to the provisions that are included in an 413
electric security plan under this section, the commission shall 414
consider, following the end of each annual period of the plan, if 415
any such adjustments resulted in excessive earnings as measured by 416
whether the earned return on common equity of the electric 417
distribution utility is significantly in excess of the return on 418
common equity that was earned during the same period by publicly 419
traded companies, including utilities, that face comparable 420
business and financial risk, with such adjustments for capital 421
structure as may be appropriate. Consideration also shall be given 422
to the capital requirements of future committed investments in 423
this state. The burden of proof for demonstrating that 424
significantly excessive earnings did not occur shall be on the 425
electric distribution utility. If the commission finds that such 426
adjustments, in the aggregate, did result in significantly 427
excessive earnings, it shall require the electric distribution 428
utility to return to consumers the amount of the excess by 429
prospective adjustments; provided that, upon making such 430
prospective adjustments, the electric distribution utility shall 431
have the right to terminate the plan and immediately file an 432

application pursuant to section 4928.142 of the Revised Code. Upon 433
termination of a plan under this division, rates shall be set on 434
the same basis as specified in division (C)(2)(b) of this section, 435
and the commission shall permit the continued deferral and 436
phase-in of any amounts that occurred prior to that termination 437
and the recovery of those amounts as contemplated under that 438
electric security plan. In making its determination of 439
significantly excessive earnings under this division, the 440
commission shall not consider, directly or indirectly, the 441
revenue, expenses, or earnings of any affiliate or parent company. 442

Sec. 4928.20. (A) The legislative authority of a municipal 443
corporation may adopt an ordinance, or the board of township 444
trustees of a township or the board of county commissioners of a 445
county may adopt a resolution, under which, on or after the 446
starting date of competitive retail electric service, it may 447
aggregate in accordance with this section the retail electrical 448
loads located, respectively, within the municipal corporation, 449
township, or unincorporated area of the county and, for that 450
purpose, may enter into service agreements to facilitate for those 451
loads the sale and purchase of electricity. The legislative 452
authority or board also may exercise such authority jointly with 453
any other such legislative authority or board. For customers that 454
are not mercantile customers, an ordinance or resolution under 455
this division shall specify whether the aggregation will occur 456
only with the prior, affirmative consent of each person owning, 457
occupying, controlling, or using an electric load center proposed 458
to be aggregated or will occur automatically for all such persons 459
pursuant to the opt-out requirements of division (D) of this 460
section. The aggregation of mercantile customers shall occur only 461
with the prior, affirmative consent of each such person owning, 462
occupying, controlling, or using an electric load center proposed 463
to be aggregated. Nothing in this division, however, authorizes 464

the aggregation of the retail electric loads of an electric load center, as defined in section 4933.81 of the Revised Code, that is located in the certified territory of a nonprofit electric supplier under sections 4933.81 to 4933.90 of the Revised Code or an electric load center served by transmission or distribution facilities of a municipal electric utility.

(B) If an ordinance or resolution adopted under division (A) of this section specifies that aggregation of customers that are not mercantile customers will occur automatically as described in that division, the ordinance or resolution shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the municipal corporation, township, or county. The legislative authority or board shall certify a copy of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of each

hearing. 497

(D) No legislative authority or board, pursuant to an 498
ordinance or resolution under divisions (A) and (B) of this 499
section that provides for automatic aggregation of customers that 500
are not mercantile customers as described in division (A) of this 501
section, shall aggregate the electrical load of any electric load 502
center located within its jurisdiction unless it in advance 503
clearly discloses to the person owning, occupying, controlling, or 504
using the load center that the person will be enrolled 505
automatically in the aggregation program and will remain so 506
enrolled unless the person affirmatively elects by a stated 507
procedure not to be so enrolled. The disclosure shall state 508
prominently the rates, charges, and other terms and conditions of 509
enrollment. The stated procedure shall allow any person enrolled 510
in the aggregation program the opportunity to opt out of the 511
program every three years, without paying a switching fee. Any 512
such person that opts out before the commencement of the 513
aggregation program pursuant to the stated procedure shall default 514
to the standard service offer provided under section 4928.14 or 515
division (D) of section 4928.35 of the Revised Code until the 516
person chooses an alternative supplier. 517

(E)(1) With respect to a governmental aggregation for a 518
municipal corporation that is authorized pursuant to divisions (A) 519
to (D) of this section, resolutions may be proposed by initiative 520
or referendum petitions in accordance with sections 731.28 to 521
731.41 of the Revised Code. 522

(2) With respect to a governmental aggregation for a township 523
or the unincorporated area of a county, which aggregation is 524
authorized pursuant to divisions (A) to (D) of this section, 525
resolutions may be proposed by initiative or referendum petitions 526
in accordance with sections 731.28 to 731.40 of the Revised Code, 527
except that: 528

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its aggregation the accounts of any of the following:

(1) A customer that has opted out of the aggregation;

(2) A customer in contract with a certified electric services company;

(3) A customer that has a special contract with an electric distribution utility;

(4) A customer that is not located within the governmental 559
aggregator's governmental boundaries; 560

(5) Subject to division (C) of section 4928.21 of the Revised 561
Code, a customer who appears on the "do not aggregate" list 562
maintained under that section. 563

(I) Customers that are part of a governmental aggregation 564
under this section shall be responsible only for such portion of a 565
surcharge under section 4928.144 of the Revised Code that is 566
proportionate to the benefits, as determined by the commission, 567
that electric load centers within the jurisdiction of the 568
governmental aggregation as a group receive. The proportionate 569
surcharge so established shall apply to each customer of the 570
governmental aggregation while the customer is part of that 571
aggregation. If a customer ceases being such a customer, the 572
otherwise applicable surcharge shall apply. Nothing in this 573
section shall result in less than full recovery by an electric 574
distribution utility of any surcharge authorized under section 575
4928.144 of the Revised Code. 576

(J) On behalf of the customers that are part of a 577
governmental aggregation under this section and by filing written 578
notice with the public utilities commission, the legislative 579
authority that formed or is forming that governmental aggregation 580
may elect not to receive standby service within the meaning of 581
division (B)(2)(d) of section 4928.143 of the Revised Code from an 582
electric distribution utility in whose certified territory the 583
governmental aggregation is located and that operates under an 584
approved electric security plan under that section. Upon the 585
filing of that notice, the electric distribution utility shall not 586
charge any such customer to whom competitive retail electric 587
generation service is provided by another supplier under the 588
governmental aggregation for the standby service. Any such 589
consumer that returns to the utility for competitive retail 590

electric service shall pay the market price of power incurred by 591
the utility to serve that consumer ~~plus any amount attributable to~~ 592
~~the utility's cost of compliance with the alternative energy~~ 593
~~resource provisions of section 4928.64 of the Revised Code to~~ 594
~~serve the consumer.~~ Such market price shall include, but not be 595
limited to, capacity and energy charges; all charges associated 596
with the provision of that power supply through the regional 597
transmission organization, including, but not limited to, 598
transmission, ancillary services, congestion, and settlement and 599
administrative charges; and all other costs incurred by the 600
utility that are associated with the procurement, provision, and 601
administration of that power supply, as such costs may be approved 602
by the commission. The period of time during which the market 603
price ~~and alternative energy resource amount~~ shall be so assessed 604
on the consumer shall be from the time the consumer so returns to 605
the electric distribution utility until the expiration of the 606
electric security plan. However, if that period of time is 607
expected to be more than two years, the commission may reduce the 608
time period to a period of not less than two years. 609

(K) The commission shall adopt rules to encourage and promote 610
large-scale governmental aggregation in this state. For that 611
purpose, the commission shall conduct an immediate review of any 612
rules it has adopted for the purpose of this section that are in 613
effect on the effective date of the amendment of this section by 614
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 615
within the context of an electric security plan under section 616
4928.143 of the Revised Code, the commission shall consider the 617
effect on large-scale governmental aggregation of any 618
nonbypassable generation charges, however collected, that would be 619
established under that plan, except any nonbypassable generation 620
charges that relate to any cost incurred by the electric 621
distribution utility, the deferral of which has been authorized by 622
the commission prior to the effective date of the amendment of 623

this section by S.B. 221 of the 127th general assembly, July 31, 624
2008. 625

Sec. 4928.61. (A) There is hereby established in the state 626
treasury the advanced energy fund, into which shall be deposited 627
all advanced energy revenues remitted to the director of 628
development under division (B) of this section, for the exclusive 629
purposes of funding the advanced energy program created under 630
section 4928.62 of the Revised Code and paying the program's 631
administrative costs. Interest on the fund shall be credited to 632
the fund. 633

(B) Advanced energy revenues shall include all of the 634
following: 635

(1) Revenues remitted to the director after collection by 636
each electric distribution utility in this state of a temporary 637
rider on retail electric distribution service rates as such rates 638
are determined by the public utilities commission pursuant to this 639
chapter. The rider shall be a uniform amount statewide, determined 640
by the director of development, after consultation with the public 641
benefits advisory board created by section 4928.58 of the Revised 642
Code. The amount shall be determined by dividing an aggregate 643
revenue target for a given year as determined by the director, 644
after consultation with the advisory board, by the number of 645
customers of electric distribution utilities in this state in the 646
prior year. Such aggregate revenue target shall not exceed more 647
than fifteen million dollars in any year through 2005 and shall 648
not exceed more than five million dollars in any year after 2005. 649
The rider shall be imposed beginning on the effective date of the 650
amendment of this section by Sub. H.B. 251 of the 126th general 651
assembly, January 4, 2007, and shall terminate at the end of ten 652
years following the starting date of competitive retail electric 653
service or until the advanced energy fund, including interest, 654

reaches one hundred million dollars, whichever is first. 655

(2) Revenues from payments, repayments, and collections under 656
the advanced energy program and from program income; 657

(3) Revenues remitted to the director after collection by a 658
municipal electric utility or electric cooperative in this state 659
upon the utility's or cooperative's decision to participate in the 660
advanced energy fund; 661

~~(4) Revenues from renewable energy compliance payments as 662
provided under division (C)(2) of section 4928.64 of the Revised 663
Code; 664~~

~~(5) Revenue from forfeitures under division (C) of section 665
4928.66 of the Revised Code; 666~~

~~(6)~~(5) Interest earnings on the advanced energy fund. 667

(C)(1) Each electric distribution utility in this state shall 668
remit to the director on a quarterly basis the revenues described 669
in divisions (B)(1) and (2) of this section. Such remittances 670
shall occur within thirty days after the end of each calendar 671
quarter. 672

(2) Each participating electric cooperative and participating 673
municipal electric utility shall remit to the director on a 674
quarterly basis the revenues described in division (B)(3) of this 675
section. Such remittances shall occur within thirty days after the 676
end of each calendar quarter. For the purpose of division (B)(3) 677
of this section, the participation of an electric cooperative or 678
municipal electric utility in the energy efficiency revolving loan 679
program as it existed immediately prior to the effective date of 680
the amendment of this section by Sub. H.B. 251 of the 126th 681
general assembly, January 4, 2007, does not constitute a decision 682
to participate in the advanced energy fund under this section as 683
so amended. 684

(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.

(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.

Sec. 5501.311. (A) As used in this section, "alternative energy generating facility" means a facility that uses advanced energy or renewable energy resources to produce electricity. "Advanced energy resource" and "renewable energy resources" have the same meaning as in section 4928.01 of the Revised Code.

(B) Notwithstanding sections 123.01 and 127.16 of the Revised Code the director of transportation may lease or lease-purchase all or any part of a transportation facility to or from one or more persons, one or more governmental agencies, a transportation improvement district, or any combination thereof, and may grant leases, easements, or licenses for lands under the control of the department of transportation. The director may adopt rules necessary to give effect to this section.

~~(B)~~(C) Plans and specifications for the construction of a transportation facility under a lease or lease-purchase agreement

are subject to approval of the director and must meet or exceed 716
all applicable standards of the department. 717

~~(C)~~(D) Any lease or lease-purchase agreement under which the 718
department is the lessee shall be for a period not exceeding the 719
then current two-year period for which appropriations have been 720
made by the general assembly to the department, and such agreement 721
may contain such other terms as the department and the other 722
parties thereto agree, notwithstanding any other provision of law, 723
including provisions that rental payments in amounts sufficient to 724
pay bond service charges payable during the current two-year lease 725
term shall be an absolute and unconditional obligation of the 726
department independent of all other duties under the agreement 727
without set-off or deduction or any other similar rights or 728
defenses. Any such agreement may provide for renewal of the 729
agreement at the end of each term for another term, not exceeding 730
two years, provided that no renewal shall be effective until the 731
effective date of an appropriation enacted by the general assembly 732
from which the department may lawfully pay rentals under such 733
agreement. Any such agreement may include, without limitation, any 734
agreement by the department with respect to any costs of 735
transportation facilities to be included prior to acquisition and 736
construction of such transportation facilities. Any such agreement 737
shall not constitute a debt or pledge of the faith and credit of 738
the state, or of any political subdivision of the state, and the 739
lessor shall have no right to have taxes or excises levied by the 740
general assembly, or the taxing authority of any political 741
subdivision of the state, for the payment of rentals thereunder. 742
Any such agreement shall contain a statement to that effect. 743

~~(D)~~(E) A municipal corporation, township, or county may use 744
service payments in lieu of taxes credited to special funds or 745
accounts pursuant to sections 5709.43, 5709.75, and 5709.80 of the 746
Revised Code to provide its contribution to the cost of a 747

transportation facility, provided such facility was among the 748
purposes for which such service payments were authorized. The 749
contribution may be in the form of a lump sum or periodic 750
payments. 751

~~(E)~~(F) Pursuant to the "Telecommunications Act of 1996," 110 752
Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, 753
easement, or license in a transportation facility to a 754
telecommunications service provider for construction, placement, 755
or operation of a telecommunications facility. An interest granted 756
under this division is subject to all of the following conditions: 757

(1) The transportation facility is owned in fee simple or 758
easement by this state at the time the lease, easement, or license 759
is granted to the telecommunications provider. 760

(2) The lease, easement, or license shall be granted on a 761
competitive basis in accordance with policies and procedures to be 762
determined by the director. The policies and procedures may 763
include provisions for master leases for multiple sites. 764

(3) The telecommunications facility shall be designed to 765
accommodate the state's multi-agency radio communication system, 766
the intelligent transportation system, and the department's 767
communication system as the director may determine is necessary 768
for highway or other departmental purposes. 769

(4) The telecommunications facility shall be designed to 770
accommodate such additional telecommunications equipment as may 771
feasibly be co-located thereon as determined in the discretion of 772
the director. 773

(5) The telecommunications service providers awarded the 774
lease, easement, or license, agree to permit other 775
telecommunications service providers to co-locate on the 776
telecommunications facility, and agree to the terms and conditions 777
of the co-location as determined in the discretion of the 778

director. 779

(6) The director shall require indemnity agreements in favor 780
of the department as a condition of any lease, easement, or 781
license granted under this division. Each indemnity agreement 782
shall secure this state and its agents from liability for damages 783
arising out of safety hazards, zoning, and any other matter of 784
public interest the director considers necessary. 785

(7) The telecommunications service provider fully complies 786
with any permit issued under section 5515.01 of the Revised Code 787
pertaining to land that is the subject of the lease, easement, or 788
license. 789

(8) All plans and specifications shall meet with the 790
director's approval. 791

(9) Any other conditions the director determines necessary. 792

~~(F)~~(G) In accordance with section 5501.031 of the Revised 793
Code, to further efforts to promote energy conservation and energy 794
efficiency, the director may grant a lease, easement, or license 795
in a transportation facility to a utility service provider that 796
has received its certificate from the Ohio power siting board or 797
appropriate local entity for construction, placement, or operation 798
of an alternative energy generating facility ~~service provider as~~ 799
~~defined in section 4928.64 of the Revised Code.~~ An interest 800
granted under this division is subject to all of the following 801
conditions: 802

(1) The transportation facility is owned in fee simple or in 803
easement by this state at the time the lease, easement, or license 804
is granted to the utility service provider. 805

(2) The lease, easement, or license shall be granted on a 806
competitive basis in accordance with policies and procedures to be 807
determined by the director. The policies and procedures may 808
include provisions for master leases for multiple sites. 809

(3) The alternative energy generating facility shall be 810
designed to provide energy for the department's transportation 811
facilities with the potential for selling excess power on the 812
power grid, as the director may determine is necessary for highway 813
or other departmental purposes. 814

(4) The director shall require indemnity agreements in favor 815
of the department as a condition of any lease, easement, or 816
license granted under this division. Each indemnity agreement 817
shall secure this state from liability for damages arising out of 818
safety hazards, zoning, and any other matter of public interest 819
the director considers necessary. 820

(5) The alternative energy service facility and utility 821
service provider fully ~~complies~~ comply with any permit issued by 822
the Ohio power siting board under Chapter 4906. of the Revised 823
Code and ~~complies~~ comply with section 5515.01 of the Revised Code 824
pertaining to land that is the subject of the lease, easement, or 825
license. 826

(6) All plans and specifications shall meet with the 827
director's approval. 828

(7) Any other conditions the director determines necessary. 829

~~(G)~~(H) Money the department receives under divisions ~~(E)~~ and 830
(F) and (G) of this section shall be deposited into the state 831
treasury to the credit of the highway operating fund. 832

~~(H)~~(I) A lease, easement, or license granted under division 833
~~(E)~~ or (F) or (G) of this section, and any telecommunications 834
facility or alternative energy generating facility relating to 835
such interest in a transportation facility, is hereby deemed to 836
further the essential highway purpose of building and maintaining 837
a safe, energy-efficient, and accessible transportation system. 838

Sec. 5727.75. (A) For purposes of this section: 839

(1) "Qualified energy project" means an energy project 840
certified by the director of development pursuant to this section. 841

(2) "Energy project" means a project to provide electric 842
power through the construction, installation, and use of an energy 843
facility. 844

(3) "Alternative energy zone" means a county declared as such 845
by the board of county commissioners under division (E)(1)(b) or 846
(c) of this section. 847

(4) "Full-time equivalent employee" means the total number of 848
employee-hours for which compensation was paid to individuals 849
employed at a qualified energy project for services performed at 850
the project during the calendar year divided by two thousand 851
eighty hours. 852

(5) "Solar energy project" means an energy project composed 853
of an energy facility using solar panels to generate electricity. 854

(B)(1) Tangible personal property of a qualified energy 855
project using renewable energy resources is exempt from taxation 856
for tax years 2011 and 2012 if all of the following conditions are 857
satisfied: 858

(a) On or before December 31, 2011, the owner or a lessee 859
pursuant to a sale and leaseback transaction of the project 860
submits an application to the power siting board for a certificate 861
under section 4906.20 of the Revised Code, or if that section does 862
not apply, submits an application for any approval, consent, 863
permit, or certificate or satisfies any condition required by a 864
public agency or political subdivision of this state for the 865
construction or initial operation of an energy project. 866

(b) Construction or installation of the energy facility 867
begins on or after January 1, 2009, and before January 1, 2012. 868
For the purposes of this division, construction begins on the 869
earlier of the date of application for a certificate or other 870

approval or permit described in division (B)(1)(a) of this 871
section, or the date the contract for the construction or 872
installation of the energy facility is entered into. 873

(c) For a qualified energy project with a nameplate capacity 874
of five megawatts or greater, a board of county commissioners of a 875
county in which property of the project is located has adopted a 876
resolution under division (E)(1)(b) or (c) of this section to 877
approve the application submitted under division (E) of this 878
section to exempt the property located in that county from 879
taxation. A board's adoption of a resolution rejecting an 880
application or its failure to adopt a resolution approving the 881
application does not affect the tax-exempt status of the qualified 882
energy project's property that is located in another county. 883

(2) If tangible personal property of a qualified energy 884
project using renewable energy resources was exempt from taxation 885
under this section for tax years 2011 and 2012 and the 886
certification under division (E)(2) of this section has not been 887
revoked, the tangible personal property of the qualified energy 888
project is exempt from taxation for tax year 2013 and all ensuing 889
tax years if the property was placed into service before January 890
1, 2013, as certified in the construction progress report required 891
under division (F)(2) of this section. Tangible personal property 892
that has not been placed into service before that date is taxable 893
property subject to taxation. An energy project for which 894
certification has been revoked is ineligible for further exemption 895
under this section. Revocation does not affect the tax-exempt 896
status of the project's tangible personal property for the tax 897
year in which revocation occurs or any prior tax year. 898

(C) Tangible personal property of a qualified energy project 899
using clean coal technology, advanced nuclear technology, or 900
cogeneration technology is exempt from taxation for the first tax 901
year that the property would be listed for taxation and all 902

subsequent years if all of the following circumstances are met: 903

(1) The property was placed into service before January 1, 904
2017. Tangible personal property that has not been placed into 905
service before that date is taxable property subject to taxation. 906

(2) For such a qualified energy project with a nameplate 907
capacity of five megawatts or greater, a board of county 908
commissioners of a county in which property of the qualified 909
energy project is located has adopted a resolution under division 910
(E)(1)(b) or (c) of this section to approve the application 911
submitted under division (E) of this section to exempt the 912
property located in that county from taxation. A board's adoption 913
of a resolution rejecting the application or its failure to adopt 914
a resolution approving the application does not affect the 915
tax-exempt status of the qualified energy project's property that 916
is located in another county. 917

(3) The certification for the qualified energy project issued 918
under division (E)(2) of this section has not been revoked. An 919
energy project for which certification has been revoked is 920
ineligible for exemption under this section. Revocation does not 921
affect the tax-exempt status of the project's tangible personal 922
property for the tax year in which revocation occurs or any prior 923
tax year. 924

(D) Except as otherwise provided in ~~this~~ division (E)(1) of 925
this section, real property of a qualified energy project is 926
exempt from taxation for any tax year for which the tangible 927
personal property of the qualified energy project is exempted 928
under this section. 929

(E)(1)(a) A person may apply to the director of development 930
for certification of an energy project as a qualified energy 931
project on or before the following dates: 932

(i) December 31, 2011, for an energy project using renewable 933

energy resources; 934

(ii) December 31, 2013, for an energy project using clean 935
coal technology, advanced nuclear technology, or cogeneration 936
technology. 937

(b) The director shall forward a copy of each application for 938
certification of an energy project with a nameplate capacity of 939
five megawatts or greater to the board of county commissioners of 940
each county in which the project is located and to each taxing 941
unit with territory located in each of the affected counties. Any 942
board that receives from the director a copy of an application 943
submitted under this division shall adopt a resolution approving 944
or rejecting the application unless it has adopted a resolution 945
under division (E)(1)(c) of this section. A resolution adopted 946
under division (E)(1)(b) or (c) of this section may require an 947
annual service payment to be made in addition to the service 948
payment required under division (G) of this section. The sum of 949
the service payment required in the resolution and the service 950
payment required under division (G) of this section shall not 951
exceed nine thousand dollars per megawatt of nameplate capacity 952
located in the county. The resolution shall specify the time and 953
manner in which the payments required by the resolution shall be 954
paid to the county treasurer. The county treasurer shall deposit 955
the payment to the credit of the county's general fund to be used 956
for any purpose for which money credited to that fund may be used. 957

The board shall send copies of the resolution by certified 958
mail to the owner of the facility and the director within thirty 959
days after receipt of the application, or a longer period of time 960
if authorized by the director. 961

(c) A board of county commissioners may adopt a resolution 962
declaring the county to be an alternative energy zone and 963
declaring all applications submitted to the director of 964
development under this division after the adoption of the 965

resolution, and prior to its repeal, to be approved by the board. 966

All tangible personal property and real property of an energy 967
project with a nameplate capacity of five megawatts or greater is 968
taxable if it is located in a county in which the board of county 969
commissioners adopted a resolution rejecting the application 970
submitted under this division or failed to adopt a resolution 971
approving the application under division (E)(1)(b) or (c) of this 972
section. 973

(2) The director shall certify an energy project if all of 974
the following circumstances exist: 975

(a) The application was timely submitted. 976

(b) For an energy project with a nameplate capacity of five 977
megawatts or greater, a board of county commissioners of at least 978
one county in which the project is located has adopted a 979
resolution approving the application under division (E)(1)(b) or 980
(c) of this section. 981

(c) No portion of the project's facility was used to supply 982
electricity before December 31, 2009. 983

(3) The director shall deny a certification application if 984
the director determines the person has failed to comply with any 985
requirement under this section. The director may revoke a 986
certification if the director determines the person, or subsequent 987
owner or lessee pursuant to a sale and leaseback transaction of 988
the qualified energy project, has failed to comply with any 989
requirement under this section. Upon certification or revocation, 990
the director shall notify the person, owner, or lessee, the tax 991
commissioner, and the county auditor of a county in which the 992
project is located of the certification or revocation. Notice 993
shall be provided in a manner convenient to the director. 994

(F) The owner or a lessee pursuant to a sale and leaseback 995
transaction of a qualified energy project shall do each of the 996

following: 997

(1) Comply with all applicable regulations; 998

(2) File with the director of development a certified 999
construction progress report before the first day of March of each 1000
year during the energy facility's construction or installation 1001
indicating the percentage of the project completed, and the 1002
project's nameplate capacity, as of the preceding thirty-first day 1003
of December. Unless otherwise instructed by the director of 1004
development, the owner or lessee of an energy project shall file a 1005
report with the director on or before the first day of March each 1006
year after completion of the energy facility's construction or 1007
installation indicating the project's nameplate capacity as of the 1008
preceding thirty-first day of December. Not later than sixty days 1009
after ~~the effective date of this section~~ June 17, 2010, the owner 1010
or lessee of an energy project, the construction of which was 1011
completed before ~~the effective date of this section~~ June 17, 2010, 1012
shall file a certificate indicating the project's nameplate 1013
capacity. 1014

(3) File with the director of development, in a manner 1015
prescribed by the director, a report of the total number of 1016
full-time equivalent employees, and the total number of full-time 1017
equivalent employees domiciled in Ohio, who are employed in the 1018
construction or installation of the energy facility; 1019

(4) For energy projects with a nameplate capacity of five 1020
megawatts or greater, repair all roads, bridges, and culverts 1021
affected by construction as reasonably required to restore them to 1022
their preconstruction condition, as determined by the county 1023
engineer in consultation with the local jurisdiction responsible 1024
for the roads, bridges, and culverts. In the event that the county 1025
engineer deems any road, bridge, or culvert to be inadequate to 1026
support the construction or decommissioning of the energy 1027
facility, the road, bridge, or culvert shall be rebuilt or 1028

reinforced to the specifications established by the county 1029
engineer prior to the construction or decommissioning of the 1030
facility. The owner or lessee of the facility shall post a bond in 1031
an amount established by the county engineer and to be held by the 1032
board of county commissioners to ensure funding for repairs of 1033
roads, bridges, and culverts affected during the construction. The 1034
bond shall be released by the board not later than one year after 1035
the date the repairs are completed. The energy facility owner or 1036
lessee pursuant to a sale and leaseback transaction shall post a 1037
bond, as may be required by the Ohio power siting board in the 1038
certificate authorizing commencement of construction issued 1039
pursuant to section 4906.10 of the Revised Code, to ensure funding 1040
for repairs to roads, bridges, and culverts resulting from 1041
decommissioning of the facility. The energy facility owner or 1042
lessee and the county engineer may enter into an agreement 1043
regarding specific transportation plans, reinforcements, 1044
modifications, use and repair of roads, financial security to be 1045
provided, and any other relevant issue. 1046

(5) Provide or facilitate training for fire and emergency 1047
responders for response to emergency situations related to the 1048
energy project and, for energy projects with a nameplate capacity 1049
of five megawatts or greater, at the person's expense, equip the 1050
fire and emergency responders with proper equipment as reasonably 1051
required to enable them to respond to such emergency situations; 1052

(6) Maintain a ratio of Ohio-domiciled full-time equivalent 1053
employees employed in the construction or installation of the 1054
energy project to total full-time equivalent employees employed in 1055
the construction or installation of the energy project of not less 1056
than eighty per cent in the case of a solar energy project, and 1057
not less than fifty per cent in the case of any other energy 1058
project. In the case of an energy project for which certification 1059
from the power siting board is required under section 4906.20 of 1060

the Revised Code, the number of full-time equivalent employees 1061
employed in the construction or installation of the energy project 1062
equals the number actually employed or the number projected to be 1063
employed in the certificate application, if such projection is 1064
required under regulations adopted pursuant to section 4906.03 of 1065
the Revised Code, whichever is greater. For all other energy 1066
projects, the number of full-time equivalent employees employed in 1067
the construction or installation of the energy project equals the 1068
number actually employed or the number projected to be employed by 1069
the director of development, whichever is greater. To estimate the 1070
number of employees to be employed in the construction or 1071
installation of an energy project, the director shall use a 1072
generally accepted job-estimating model in use for renewable 1073
energy projects, including but not limited to the job and economic 1074
development impact model. The director may adjust an estimate 1075
produced by a model to account for variables not accounted for by 1076
the model. 1077

(7) For energy projects with a nameplate capacity in excess 1078
of two megawatts, establish a relationship with a member of the 1079
university system of Ohio as defined in section 3345.011 of the 1080
Revised Code or with a person offering an apprenticeship program 1081
registered with the employment and training administration within 1082
the United States department of labor or with the apprenticeship 1083
council created by section 4139.02 of the Revised Code, to educate 1084
and train individuals for careers in the wind or solar energy 1085
industry. The relationship may include endowments, cooperative 1086
programs, internships, apprenticeships, research and development 1087
projects, and curriculum development. 1088

~~(8) Offer to sell power or renewable energy credits from the 1089
energy project to electric distribution utilities or electric 1090
service companies subject to renewable energy resource 1091
requirements under section 4928.64 of the Revised Code that have 1092~~

~~issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:~~ 1093
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~~(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.~~ 1100
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~~(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.~~ 1103
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~~(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before the effective date of this section as enacted by this act.~~ 1107
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~~(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county commissioners under division (E) of this section.~~ 1110
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(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such 1114
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receipt or non-receipt to the director of development and tax 1124
commissioner in a form determined by the director and 1125
commissioner, respectively. Each payment shall be in the following 1126
amount: 1127

(1) In the case of a solar energy project, seven thousand 1128
dollars per megawatt of nameplate capacity located in the county 1129
as of December 31, 2010, for tax year 2011^{7*i*} as of December 31, 1130
2011, for tax year 2012^{7*i*} and as of December 31, 2012, for tax 1131
year 2013 and each tax year thereafter; 1132

(2) In the case of any other energy project using renewable 1133
energy resources, the following: 1134

(a) If the project maintains during the construction or 1135
installation of the energy facility a ratio of Ohio-domiciled 1136
full-time equivalent employees to total full-time equivalent 1137
employees of not less than seventy-five per cent, six thousand 1138
dollars per megawatt of nameplate capacity located in the county 1139
as of the thirty-first day of December of the preceding tax year; 1140

(b) If the project maintains during the construction or 1141
installation of the energy facility a ratio of Ohio-domiciled 1142
full-time equivalent employees to total full-time equivalent 1143
employees of less than seventy-five per cent but not less than 1144
sixty per cent, seven thousand dollars per megawatt of nameplate 1145
capacity located in the county as of the thirty-first day of 1146
December of the preceding tax year; 1147

(c) If the project maintains during the construction or 1148
installation of the energy facility a ratio of Ohio-domiciled 1149
full-time equivalent employees to total full-time equivalent 1150
employees of less than sixty per cent but not less than fifty per 1151
cent, eight thousand dollars per megawatt of nameplate capacity 1152
located in the county as of the thirty-first day of December of 1153
the preceding tax year. 1154

(3) In the case of an energy project using clean coal 1155
technology, advanced nuclear technology, or cogeneration 1156
technology, the following: 1157

(a) If the project maintains during the construction or 1158
installation of the energy facility a ratio of Ohio-domiciled 1159
full-time equivalent employees to total full-time equivalent 1160
employees of not less than seventy-five per cent, six thousand 1161
dollars per megawatt of nameplate capacity located in the county 1162
as of the thirty-first day of December of the preceding tax year; 1163

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

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

(H) The director of development in consultation with the tax 1178
commissioner shall adopt rules pursuant to Chapter 119. of the 1179
Revised Code to implement and enforce this section. 1180

Section 2. That existing sections 4928.142, 4928.143, 1181
4928.20, 4928.61, 5501.311, and 5727.75 and sections 4928.64 and 1182
4928.65 of the Revised Code are hereby repealed. 1183