

# GENERAL INFORMATION

June 17, 2019

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Calendar

**CITY COUNCIL MEETING AGENDA** ~ Monday, June 17, 2019 @7:00 pm

Swearing-in of Firefighter Jared Denman

## **APPROVAL OF MINUTES**

- a. June 03, 2019 Special Council Meeting Minutes.
- b. June 03, 2019 Regular Council Meeting Minutes.
- c. June 13, 2019 Special Council Meeting Minutes.

## **INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS**

1. Ordinance No. 039-19, an Ordinance Supplementing the Annual Appropriation Measure (Supplement No. 3) for the Year 2019; and Declaring an Emergency. (Suspension Requested)
2. Resolution No. 040-19, a Resolution Authorizing the Finance Director to Transfer Certain Fund Balances (Transfer No. 2) from Respective Funds to Other Funds per Section 5705.14 ORC on an as needed basis in Fiscal Year 2019, Listed in Exhibit "A"; and Declaring an Emergency. (Suspension Requested)
3. Resolution No 041-19, a Resolution Strongly Opposing the State of Ohio House Bill 6, Replacing the Ohio Renewable Portfolio Standard and Creating the Ohio Clean Air Program; and Declaring an Emergency. (Suspension Requested)
4. Resolution No. 042-19, a Resolution Strongly Opposing the State of Ohio House Bill 163, Regarding Municipal Water and Sewer Practices; and Declaring an Emergency. (Suspension Requested)

## **SECOND READINGS OF ORDINANCES AND RESOLUTIONS.**

1. Resolution No. 038-19, a Resolution Adopting the 2020 Tax Budget for the City of Napoleon, Ohio, as Required in Sections 5705.28 and 5705.281 of the Ohio Revised Code (ORC) and Directing the Finance Director to File the same with the County Auditor; and Declaring an Emergency.

## **THIRD READINGS OF ORDINANCES AND RESOLUTIONS.**

1. Ordinance No. 034-19, an Ordinance Amending Section 143.01 of the City of Napoleon's Codified Ordinances, "Composition and Control of the City Fire/Rescue Department," and Repealing Ordinance No. 012-11.
2. Ordinance No. 035-19, an Ordinance Creating the Non-Bargaining Positions of Adjunct EMS Instructor and Adjunct Fire Instructor for the Fire Department of the City of Napoleon, Ohio, and Amending Ordinance No. 075-18; and Declaring an Emergency.
3. Resolution No. 036-19, a Resolution Authorizing the City of Napoleon to Execute a Loan Agreement with the Henry County Commissioners for Funds to Purchase the City Share of the Countywide Communications System; and Declaring an Emergency.

**GOOD OF THE CITY** (Any other business as may properly come before Council, including but not limited to):

*~ the Majority Report for the Electric Committee regarding Items 1 and 2 is enclosed.*

1. **Discussion/Action:** on Recommendation to Approve the PSCAF for June 2019 as PSCA 3-month Averaged Factor \$0.02051; JV2 \$0.025436.
2. **Discussion/Action:** on Recommendation to Approve Option 2 - Short Term Financing for the New Pool.

*~ Items 3 and 4 are recommendations from the Municipal Properties Committee, the Majority Report from their meeting is attached.*

3. **Discussion/Action:** regarding NORA Rules for Friday, June 28, 2019/Ribfest.
4. **Discussion/Action:** on Recommendation to Approve the Eagle Scout Project for Alex Birkhold.
5. **Discussion/Action:** American Road and Oakwood Avenue Improvements Project.
  - Enclosed is a Memorandum from Chad on this project.
6. **Discussion/Action:** Agreement with the Schools for the Clairmont Avenue Project.
  - A Draft Copy of the Napoleon Area City School District Campus Improvement Agreement is enclosed.
7. **Discussion/Action:** Update on IT Projects.
8. **Discussion/Action:** on Golf Carts.
9. **Discussion/Action:** Accept Donations to K9 Unit.
  - A copy of the most recent donation is included in your packet.
10. **Discussion/Action:** Additional Refuse Bag. (Refer to Committee)
11. **Discussion/Action:** Spring Cleanup Summary. (Refer to Committee)

### **INFORMATIONAL ITEMS**

1. Tree Commission June Meeting *Canceled*
2. Parks & Rec Committee June Meeting *Canceled*
3. Board of Zoning *Draft* June 11, 2019 Meeting Minutes – BZA 19-05 Appeal to Zoning Administrator's Decision for 125 West Clinton
4. Fourth of July Celebration Activities for 2019
5. AMP Update Newsletter/June 7, 2019
6. OML Legislative Bulletin/June 7, 2019

## June 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	<b>3</b> 6:55 pm Public Hearing 2020 Tax Budget 7:00 pm City Council	4	<b>5</b> 8:00 am Healthcare Cost Committee	6	7	8
9	<b>10</b> 6:15 pm Electric Comm. 6:15 pm BOPA 7:00 pm Water/Sewer Comm 7:30 pm Muni Prop. Comm.	<b>11</b> 4:00 pm Records Comm. 4:30 pm BZA	12	<b>13</b> 7:45 am Special Council Meeting	<b>14</b> 12:00 pm Personnel Committee Meeting	15
16	<b>17</b> 7:00 pm City Council	18	19	20	21	22
23	<b>24</b> 6:30 pm Finance & Budget 7:30 pm Safety & Human Resources Comm	<b>25</b> 4:30 pm Civil Service	<b>26</b> 6:30 pm Parks & Rec Board	27	28	29
30	Notes:					

## CITY COUNCIL

### MEETING AGENDA

**Monday, June 17, 2019 at 7:00 pm**

LOCATION: Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

**A. Attendance** (Noted by the Clerk)

**B. Prayer and Pledge of Allegiance**

**C. Swearing-in of Firefighter Jared Denman**

**D. Approval of Minutes** (in the absence of any objections or corrections, the minutes shall stand approved)

1. June 03, 2019 Special Council Meeting Minutes.
2. June 03, 2019 Regular Council Meeting Minutes.
3. June 13, 2019 Special Council Meeting Minutes.

**E. Citizen Communication**

**F. Reports from Council Committees**

1. **Electric Committee**
  - a. Accepted the BOPA recommendation to approve the June 2019 PSCA 3-month averaged factor \$0.02051; JV2 \$0.025436.
  - b. Recommend Council direct the Law Director to Draft Legislation Opposing House Bill 6.
  - c. Recommend Council approve Option No. 2 for Short Term Financing for the New Pool.
2. **Water, Sewer, Refuse, Recycling and Litter Committee**
  - a. Recommend Council direct the Law Director to Draft Legislation Opposing House Bill 163.
  - b. Heard on update on the Wastewater Treatment Plant Sludge Management process.
3. **Municipal Properties, Building, Land Use and Economic Development Committee**
  - a. Recommend Council approve Restricting NORA on Friday, June 28, 2019.
  - b. Approved the Eagle Scout Project for Alex Birkhold.
4. **Parks and Rec Committee.**
  - a. Was canceled due to lack of agenda items.

**G. Reports from Other Committees, Commissions and Boards** (*Informational Only-Not Read*)

1. **Records Commission**
  - a. Met on June 11, 2019 and reviewed and approved the updated RC-2's for Human Resources, Law Department and Finance Department.
2. **Board of Zoning Appeals met on June 11, 2019; and**
  - a. PC 19-04 Approved the Variance to the Property Setback at 1130 Willard Street.
  - b. PC 19-05-Approved the Appeal and Overturned the Zoning Administrator's decision for 125 West Clinton Street.
3. **Planning Commission.**
  - a. Did not meet on June 11, 2019 due to the lack of agenda items.
4. **Tree Commission**
  - a. Did not meet on June 17, 2019 due to lack of agenda items.

**H. Introduction of New Ordinances and Resolutions**

1. **Ordinance No. 039-19**, an Ordinance Supplementing the Annual Appropriation Measure (Supplement No. 3) for the Year 2019; and Declaring an Emergency. (Suspension Requested)
2. **Resolution No. 040-19**, a Resolution Authorizing the Finance Director to Transfer Certain Fund Balances (Transfer No. 2) from Respective Funds to Other Funds per Section 5705.14 ORC on an as needed basis in Fiscal Year 2019, Listed in Exhibit "A"; and Declaring an Emergency. (Suspension Requested)
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4. **Resolution No. 042-19**, a Resolution Strongly Opposing the State of Ohio House Bill 163, Regarding Municipal Water and Sewer Practices; and Declaring and Emergency. (Suspension Requested)

**I. Second Readings of Ordinances and Resolutions.**

1. **Resolution No. 038-19**, a Resolution Adopting the 2020 Tax Budget for the City of Napoleon, Ohio, as Required in Sections 5705.28 and 5705.281 of the Ohio Revised Code (ORC) and Directing the Finance Director to File the same with the County Auditor; and Declaring an Emergency.

**J. Third Readings of Ordinances and Resolutions.**

1. **Ordinance No. 034-19**, an Ordinance Amending Section 143.01 of the City of Napoleon's Codified Ordinances, "Composition and Control of the City Fire/Rescue Department," and Repealing Ordinance No. 012-11.
2. **Ordinance No. 035-19**, an Ordinance Creating the Non-Bargaining Positions of Adjunct EMS Instructor and Adjunct Fire Instructor for the Fire Department of the City of Napoleon, Ohio, and Amending Ordinance No. 075-18; and Declaring an Emergency.
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**K. Good of the City** (Any other business as may properly come before Council, including but not limited to):

1. **Discussion/Action:** on Recommendation to Approve the PSCAF for June 2019 as PSCA 3-month Averaged Factor \$0.02051; JV2 \$0.025436.
2. **Discussion/Action:** on Recommendation to Approve Option 2 - Short Term Financing for the New Pool.
3. **Discussion/Action:** regarding NORA Rules for Friday, June 28, 2019/Ribfest.
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5. **Discussion/Action:** American Road and Oakwood Avenue Improvements Project.
6. **Discussion/Action:** Agreement with the Schools for the Clairmont Avenue Project.
7. **Discussion/Action:** Update on IT Projects.
8. **Discussion/Action:** on Golf Carts.
9. **Discussion/Action:** Accept Donations to K9 Unit.
10. **Discussion/Action:** Additional Refuse Bag. (Refer to Committee)
11. **Discussion/Action:** Spring Cleanup Summary. (Refer to Committee)

**L. Executive Session.** *(as needed)*

**M. Approve Payment of Bills and Approve Financial Reports.** *(In the absence of any objections or corrections, the payment of bills and financial reports shall stand approved.)*

**N. Adjournment.**

  
\_\_\_\_\_  
Kent Seemann  
Finance Director/Clerk of Council

**A. ITEMS REFERRED OR PENDING IN COMMITTEES OF COUNCIL**

1. **Technology & Communication Committee (1<sup>st</sup> Monday)**  
(Next Regular Meeting: Monday, July 1, 2019 @6:15 pm)
2. **Electric Committee (2<sup>nd</sup> Monday)**  
(Next Regular Meeting: Monday, July 08, 2019 @6:15 pm)
  - a. Review of Power Supply Cost Adjustment Factor for July 2019
  - b. Electric Department Report.
3. **Water, Sewer, Refuse, Recycling & Litter Committee (2<sup>nd</sup> Monday)**  
(Next Regular Meeting: Monday, July 08, 2019 @7:00 pm)
  - a. Additional Refuse Bag.
  - b. Spring Cleanup Summary.
4. **Municipal Properties, Buildings, Land Use & Economic Development Committee (2<sup>nd</sup> Monday)**  
(Next Regular Meeting: Monday, July 08, 2019 @7:30 pm)
5. **Parks & Recreation Committee (3<sup>rd</sup> Monday)**  
(Next Regular Meeting: Monday, July 15, 2019 @6:00 pm)
6. **Finance & Budget Committee (4<sup>th</sup> Monday)**  
(Next Regular Meeting: Monday, June 24, 2019 @6:30 pm)
7. **Safety & Human Resources Committee (4<sup>th</sup> Monday)**  
(Next Regular Meeting: Monday, June 24, 2019 @7:30 pm)
8. **Personnel Committee (as needed)**

**B. Items Referred or Pending in Other City Committees, Commissions & Boards**

1. **Board of Public Affairs (2<sup>nd</sup> Monday)**  
(Next Regular Meeting: Monday, July 08, 2019 @6:15 pm)
  - a. Review of Power Supply Cost Adjustment Factor for July 2019
  - b. Electric Department Report
2. **Board of Zoning Appeals (2<sup>nd</sup> Tuesday)**  
(Next Regular Meeting: Tuesday, July 09, 2019 @4:30 pm)
3. **Planning Commission (2<sup>nd</sup> Tuesday)**  
(Next Regular Meeting: Tuesday, July 09, 2019 @5:00 pm)
4. **Tree Commission (3<sup>rd</sup> Monday)**  
(Next Regular Meeting: Monday, July 15, 2019 at 6:00 pm)
5. **Civil Service Commission (4<sup>th</sup> Tuesday)**  
(Next Regular Meeting: Tuesday, June 25, 2019 @4:30 pm)
6. **Parks & Recreation Board (Last Wednesday)**  
(Next Regular Meeting: Wednesday, June 26, 2019 @6:30 pm)
7. **Privacy Committee (2nd Tuesday in May & November)**  
(Next Regular Meeting: Tuesday, November 12, 2019 @10:30 am)
8. **Records Commission (2<sup>nd</sup> Tuesday in June & December)**  
(Next Regular Meeting: Tuesday, December 10, 2019 @4:00 pm)
9. **Housing Council (First Monday of April at 6:30 pm)**
10. **Health Care Cost Committee**  
(Next Meeting: Wednesday, July 24, 2019 at 8:00 am)
11. **Preservation Commission (as needed)**
12. **Napoleon Infrastructure/Economic Development Fund Review Committee [NIEDF] (as needed)**
13. **Tax Incentive Review Council (as needed)**
14. **Volunteer Firefighters' Dependents Fund Board (as needed)**
15. **Volunteer Peace Officers' Dependents Fund Board (as needed)**
16. **Lodge Tax Advisory & Control Board (as needed)**
17. **Board of Building Appeals (as needed)**
18. **ADA Compliance Board (as needed)**

**CITY COUNCIL**  
Special Meeting Minutes  
**Public Hearing – 2020 Tax Budget**

Monday, June 3, 2019 at 6:55 P.M.

**PRESENT**

Councilmembers

Mayor

City Manager

City Finance Director

Recording Secretary

Others

**ABSENT**

Councilmember

**Call To Order**

**2020 Tax Budget**

**Public Comment**

**Adjourn Public Hearing**

**Passed**

**Yea-6**

**Nay-0**

**Date Approved:**

**June 17, 2019**

Joseph D. Bialorucki-Council President, Dan Baer-President Pro-Tem, Jeff Comadoll, Jeff Mires, Lori Siclair, Ken Haase

Jason P. Maassel

Joel L. Mazur

Kent Seemann

Roxanne Dietrich

Travis Sheaffer

Council President Bialorucki called the Public Hearing to order at 6:55 pm.

Seemann reported we are required by statute to have a public hearing on the tax budget, that is currently 2.9 mills a slight fluctuation does occur from year-to-year if there are any changes in the property tax evaluation, we are required to file on the inside portion only. I would present an idea some cities have the ability to waive the public hearing and just post a notice, this is just an option if you want, I can look into it, it still would give the public availability to review the tax budget if they want to.

Bialorucki replied in my opinion, I would like to see more people coming in and do not want to cut any meeting out. Maassel asked both options are available? Seemann confirmed that is correct.

Council President Bialorucki asked if there were any questions or comments on the proposed 2020 Tax Budget. There was no response.

Motion: Siclair

Second: Haase

to adjourn the Special City Council Meeting on the Public Hearing for the 2020 Tax Budget.

Roll call vote on the above motion:

Yea-Comadoll, Baer, Bialorucki, Mires, Haase, Siclair

Nay-

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

\_\_\_\_\_  
Jason P. Maassel, Mayor

\_\_\_\_\_  
Kent Seemann, Finance Director/Clerk of Council

## City Council MEETING MINUTES

Monday, June 03, 2019 at 7:00 pm

<b>PRESENT</b>	
Councilmembers	Joseph D. Bialorucki-Council President, Dan Baer-Council President Pro-Tem, Travis Sheaffer (arrived at 7:09 pm), Jeff Comadoll, Jeff Mires, Lori Sicclair, Ken Haase
Mayor	Jason P. Maassel
City Manager	Joel L. Mazur
City Finance Director	Kent Seemann
City Staff	David J. Mack-Chief of Police; Clayton O'Brien-Fire Chief; Chad E. Lulfs, P.E., P.S.-Director of Public Works; Dave Pike-WWTP Superintendent; Tammy Fein-Law Department
Recording Secretary	Roxanne Dietrich
Others	News Media; April Welch-CIC Director
<b>ABSENT</b>	
<b>Call to Order</b>	Council President Bialorucki called the meeting to order at 7:00 pm with the Lord's Prayer followed by the Pledge of Allegiance.
<b>Introduction of New CIC Director</b>	Mayor Maassel introduced the new CIC Director, April Welch. Ms. Welch said she came from Blissfield, Michigan and will be relocating her family to this area. She worked in economic development for six years for the Village of Blissfield and before that she was with Ohio Means Jobs in Lucas County and worked with workforce development there. I'm excited to be part of this welcoming and friendly community, everyone has been great, I am looking forward to being partners with all of you and continuing to grow the county. Maassel said workforce development is a big thing for us thank you for stopping by, we appreciate it.
<b>Approval of Minutes</b>	Hearing no objections or corrections, the minutes from the May 20, 2019 City Council meeting stand approved as presented.
<b>Citizen Communication</b>	None.
<b>Committee Reports</b>	The <b>Finance and Budget Committee</b> met on May 28, 2019 and discussed the East and West Graceway Drive Street Improvements Project and tabled the project for this year. <b>Safety and Human Resources Committee</b> was canceled due to a lack of agenda items. <b>Technology and Communications Committee</b> did not meet tonight due to a lack of agenda items.
<b>Introduction of Resolution No. 038-19</b>	Council President Bialorucki read by title Resolution No. 038-19, a Resolution Adopting the 2020 Tax Budget for the City of Napoleon, Ohio, as Required in



**Adopting 2020 Tax Budget**

Sections 5705.28 and 5705.281 of the Ohio Revised Code (ORC) and Directing the Finance Director to File the Same with the County Auditor; and Declaring an Emergency.

**Motion to Approve First Read of 038-19**

Motion: Siclair Second: Comadoll  
to approve first read of Resolution No. 038-19.

**Discussion**

Seemann reported the current tax valuation for the 2020 Tax Budget is 2.9 inside millage and needs to be filed with the County Auditor by July 20<sup>th</sup>, 2019.

**Passed  
Yea-6  
Nay-0**

Roll call vote to approve first read of Resolution No. 038-19.  
Yea-Comadoll, Baer, Bialorucki, Mires, Haase, Siclair  
Nay-

**Second Read of Resolution No. 032-19 East and West Graceway Drive St. Improvements (Tabled)**

Council President Bialorucki read by title **Resolution No. 032-19**, a Resolution Awarding the East and West Graceway Drive Street Improvements Project; and Declaring an Emergency. (Tabled)

**Motion to Untable Resolution No. 032-19**

Motion: Comadoll Second: Mires  
to un-table Resolution No. 032-19.

**Passed  
Yea-6  
Nay-0**

Roll call vote to un-table Resolution No. 032-19:  
Yea-Comadoll, Baer, Bialorucki, Mires, Haase, Siclair  
Nay-

**Motion to Approve Second Read of 032-19**

Motion: Comadoll Second: Haase  
to approve second read of Resolution No. 032-19.

**Discussion**

Mazur indicated the Finance and Budget Committee met last Tuesday and discussed the East and West Graceway Drive Street Improvements project and reviewed the analysis Kent prepared on the capital fund balance. Seemann explained typically the target area for the starting balance of the CIP fund is \$800,000, if everything comes in as budgeted and anticipated we will have an end of year balance of \$132,000 this includes the Graceway Project leaving the margin, in my opinion, too close for comfort to proceed at this point, if we do not do that project it will give us a cushion going into next year. Mazur noted that is why the committee voted to table the project for this year and revisit next year, timing may or may not make a difference if we rebid earlier in the season.

**7:09 Sheaffer arrived**

**Failed  
Yea-0  
Nay-7**

Roll call vote on Second Read of Resolution No. 032-19.  
Yea-  
Nay-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair





WWTP Phase I Improvements (Phase 1 & 2 in the SOS) to Jones & Henry Engineers, Ltd. in the amount of \$469,100.00. If Phase 3 needs to be executed, we will bring the contract back to Council for approval.

Mazur said the review committee consisted of myself, Chad, Dave Pike, Jeremy Okuley and Brad Meyer our Construction Engineer.

Sheaffer inquired how are we going to pay for this project besides raising rates, people cannot afford more rates. Lulfs said we will have to debt this project there will be debt service to cover, we are pursuing funding through DEFA. DEFA was used for the EQ Basin and Water Treatment Plant, there are water and sewer components of DEFA. This project will affect the entire City of Napoleon we will try to get the best financing we can. Mazur said the Wastewater Treatment Plant needs rebuilt. Sheaffer said he understands but we are still looking at a \$10 million project, what will be the end result for the sewer rates by the time it is done? Lulfs explained we are following the plan we were ordered to do. Mazur said the facility is aging and we are adding 40% more solids that have to be treated at the WWTP, the good news is the Long Term Control Plan (LTCP) requirements have been negotiated down.

Mazur said when John Courtney did the rate review study in 2017, the City of Napoleon needed to raise rates 5% each year based on the old Long Term Control Plan, now with renegotiations, it may be a good idea to have him look at the Cost of Service Study again. Sheaffer said Napoleon is already considered a red flag area for the State of Ohio. Lulfs noted that is a reason we get low interest, we strongly believe we will get grant money for a portion of the plant, we were given 20% for the EQ Basin project and 30% for the Water Treatment Plant project.

Bialorucki said we heard there is not enough money to do Graceway what happens if we were to push this project back a few years? Lulfs responded the digesters need to be addressed now we have major problems down there that needs to be addressed now. Bialorucki asked how old are the digesters? Pike answered 1982. Lulfs explained there are other problems with regulations being tightened, the plant will not be able to meet some of the new thresholds with the way it is currently set up.

**Motion to Award WWTP  
Phase I Improvements to  
Jones & Henry Engineers**

Motion: Comadoll  
Second: Haase  
to award the Professional Design Services Contract for the WWTP Phase I Improvements Project (Phase 1 and 2) to Jones & Henry Engineers, Ltd. in the amount of \$469,100.00.

**Passed**  
**Yea-6**  
**Nay-1**

Roll call vote on the above motion.  
Yea-Comadoll, Baer, Bialorucki, Mires, Haase, Siclair  
Nay- Sheaffer

**Short Term Financing for  
the New Pool**

Seemann reported we are going to need \$500,000-\$600,000 this Fall for demolition and engineering for the new pool, we will not receive funds from the levy until next March and prefer not to issue the full amount in long term

**Council President  
Referred Short Term  
Financing for New Pool  
to Electric Committee**

### Capital Reserve Fund: Pool Liner Replacement

Mazur stated Council has been putting aside \$25,000 year for the last couple of years earmarked for the pool liner replacement project, right now the balance in that fund is \$100,000. \$19,958 was spent for Peterman to do the preliminary engineering of the pool giving us a balance of \$80,442. We have not received an invoice from the Board of Elections for the cost of the ballot issue we are anticipating that cost to be \$11,000-\$12,000. Sheaffer asked why are you taking that out of capital? Mazur replied we have to figure a way to pay for it, legislation will be needed to transfer funds into another account to pay for the election expenses. Sheaffer said with that being part of the 62%-38% needs to go in unencumbered. Haase asked did we put \$25,000 in this year? Mazur said we checked the budget, last year when the budget was put together we had unusual circumstances and this item was not put in. To pay for the levy we have to have a source, this can be handled through the second quarter budget adjustments. Bialorucki said when we approved the levy we did say it was coming out of the money that was earmarked for the pool liner. Mazur said there was discussion, but no legislation, at this point and time there is no mechanism to pay the invoice when it comes in.

Motion: Bialorucki                      Second: Comadoll  
to transfer the balance of the pool liner fund back into the General Fund to pay the levy invoice out of.

## Motion and Second Withdrawn

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**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Mazur stated the following donations were received for the K9 unit: \$750 from the Ohio Elks Association; \$50 from BPOE Lodge No. 929; Barbara Punches donated \$50; Henry County Bank donated \$500; and \$500 was donated by Rupp/Rosebrock.

Chief Mack reported the total donations to date is \$23,630.50.

Mazur said the position was posted internally with three applications received. Chief Mack said interviews for Sergeant will be this week and then we can move forward with the canine. Seemann indicated he is creating a separate fund for the donations. Chief Mack said the next big purchase within a couple of months will be the dog, that could cost up to \$10,000.

**Passed**  
**Yea-7**  
**Nay-0**

Motion: Sheaffer                      Second: Siclair  
to accept the donations to the K9 program.

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Mazur stated we are looking to have the K9 unit in operation by the end of the year.

Mazur reported \$184.16 was received from Napoleon Pool Levy Committee. The check came to Chris' office and we are not sure what the donation is to be used for, we will proceed to use this donation to pay down the levy ballot invoice.

Passed  
Yea-7  
Nay-0

Motion: Haase                      Second: Mires  
to approve the donation from the Napoleon Pool Levy Committee.

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

It was a busy weekend we had 3.9" of rain and received several calls of water in the basement, a lot of high water, there were six outages on Saturday with

two more on Sunday that were not reported Saturday night. There was activity in the CSOs and SSOs which is typical for the amount of rain we received in that short period of time.

Haley Annual Resurfacing Project - the preconstruction meeting is scheduled for June 24<sup>th</sup> with the completion to be in October.

I have a meeting scheduled with ODNR on June 21<sup>st</sup> to walk through the deer population process.

I talked to Ken Haase, the IT Committee Chair and we decided to have an update on IT to the full body of Council on June 17<sup>th</sup>.

Today we received a letter approving the new Long Term Control Plan (LTCP) addendum, there will be significant savings in the long run.

Clairmont Avenue Project Agreement with the schools will be added to the next council agenda as a discussion/action item.

Chief Mack and I will be at next school board meeting on June 26<sup>th</sup> to discuss the Safety Resource Officer (SRO) Memorandum of Understanding (MOU) Agreement and Clairmont Avenue.

I would request an Executive Session regarding Economic Development and a second Executive Sessions pertaining to matters required to be kept confidential due to the competitive nature of the utility.

**Haase**

No items.

**Mires**

No items.

**Sheaffer**

I received a couple of complaints about the condition of North Perry Street and Oakwood Avenue it is treacherous for motorcycles on those roads. There is an establishment on Oakwood Avenue that mows their grass out into street that is not good for the sewers or motorcycle safety.

The rental rates for the pool facility have those been sent to the Parks and Rec Committee yet? Mires replied the board has not made a recommendation. Sheaffer said he would like to see a fair and equitable plan for rental and use of the pool facilities.

**Maassel**

I received an email from a resident about the feral cat situation in the City of Napoleon, I explained we are exploring pickup, spay/neuter and return, and how to pay for spay and neutering. Mazur said we do not have answers, the Humane Society does not have program, the agency Humane Ohio has a program to trap, spay/neuter and re-release them; but, it only covers inside Lucas County. Mazur said at the APPA National Conference he will talk to other communities for any insight. We can ticket people for feeding feral cats but you have to catch them. Chief Mack noted we have an ordinance for kennels that is the only thing we can enforce our biggest recommendation is to just stop feeding them.

Maassel continued, there is a big pine at the corner of Duquesne and Jahns that could be blocking traffic. Last Sunday morning at church the Electric Department got an atty boy for turning power back on in hurry.

## Białorucki

**Baer**

## Comadoll

Haase

## Siclair

Seemann

## Motion to Direct Law Director to Draft Legislation

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Roll call vote  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Motion: Siclair                      Second: Comadoll  
to go into Executive Session regarding Economic Development.

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Motion: Comadoll                      Second: Siclair  
to go into Executive Session for Matters Required to be Kept Confidential Due  
to Competitive Nature of Utility.

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Motion: Siclair                                      Second: Haase  
to come out of Executive Session for Economic Development.

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Motion: Siclair                      Second: Comadoll  
to come out of Executive Session for Matters Required to be Kept Confidential  
Due to Competitive Nature of Utility.

Roll call vote on the above motion:  
Yea-Comadoll, Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair  
Nay-

Sheaffer said commitment of funds for the pool levy ballot would have to be in Resolution No. 066-18, a lot can be discussed but if it doesn't make it into

## Approve Payment of Bills & Financial Reports

## Motion to Adjourn

**Passed**  
**Yea-7**  
**Nay-0**

## Adjournment

**Approved:**

**June 17, 2019**

Kent Seemann, Finance Director/Clerk of Council



Roll call vote on the above motion:  
Yea-Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair, Comadoll  
Nay-

Harmon stated this bill is pending in the Ohio House of Representatives, it is an attempt to penalize the municipalities that provide water if the state determines that the water rate is not a fair rate, in the state's opinion, after having been properly calculated by the municipality that provides the water and it allows the serviced municipalities to bring suit it would be quite unfair to the municipalities that provide water.

Motion: Comadoll                      Second: Sheaffer  
to direct the Law Director to draft legislation Opposing HB163.

Roll call vote on the above motion:  
Yea-Baer, Bialorucki, Sheaffer, Mires, Haase, Siclair, Comadoll  
Nay-

Motion: Comadoll                      Second: Mires  
to adjourn the special City Council meeting at 7:49 am.

Roll call vote on the above motion:  
Yea-Baer, Bialorucki, Sheaffer, Mires, Haase, Sicclair, Comadoll  
Nay-



Joseph D. Bialorucki, Council President

Jason P. Maassel, Mayor

Kent Seemann, Finance Director/Clerk of Council

**ORDINANCE NO. 039-19**

**AN ORDINANCE SUPPLEMENTING THE ANNUAL APPROPRIATION  
MEASURE (SUPPLEMENT NO. 3) FOR THE YEAR 2019; AND DECLARING  
AN EMERGENCY**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the annual appropriation measure passed in Ordinance No. 072-18 for the fiscal year ending December 31, 2019 shall be supplemented (Supplement No. 3) as provided in Exhibit "A" (one page), attached hereto and made a part hereof.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Napoleon, Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 4. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time because this Ordinance provides for appropriations for the current expenses of the City which are related to public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper payment of current expenses, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 039-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, interim Clerk of Council*

2019 APPROPRIATION BUDGET - SUPPLEMENTAL BUDGET ADJUST			
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY			
ORDINANCE No. 031-19, Passed 1/2019 FUND/DEPARTMENT-2ND QUARTER ADJUSTMENTS	2019 SUPPLEMENTAL BUDGET ADJUSTMENT		
	PERSONAL SERVICES	OTHER	TOTAL
288 JUSTICE REINVESTMENT INCENTIVE GRANT FUND	1500.00	<1500.00>	0
1810 Municipal Court/Probation Department	\$1,500.00	\$4,253.00	\$5,753.00
	=====	=====	=====
* GRAND TOTAL - ALL FUNDS	\$1,500.00	\$4,253.00	\$5,753.00
	=====	=====	=====

**RESOLUTION NO. 040-19**

**A RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO  
TRANSFER CERTAIN FUND BALANCES (TRANSFER NO. 2) FROM  
RESPECTIVE FUNDS TO OTHER FUNDS PER SECTION 5705.14 ORC  
ON AN AS NEEDED BASIS IN FISCAL YEAR 2019, LISTED IN EXHIBIT  
"A"; AND DECLARING AN EMERGENCY**

**WHEREAS**, the City is a charter municipality having those powers of self government as stated in Article I of its Charter; and

**WHEREAS**, in order to provide Fund Balances for approved expenditures in certain funds on an as needed basis, it is necessary to transfer funds from respective funds to other funds; Now Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, pursuant to Section 5705.14 of the ORC and this Resolution, the Finance Director is hereby authorized and directed to transfer monies, transfer number 2, among the various funds on an as needed basis in Fiscal Year 2019 as listed in Exhibit "A" attached hereto and made a part of this Resolution.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Napoleon, Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, only that portion shall be held invalid and the remainder shall remain valid.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to assure the prompt and efficient conduct of the municipal operations related to public peace, health or safety of the City; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper payment of current expenses, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_\_ Yea \_\_\_\_\_ Nay \_\_\_\_\_ Abstain

Attest:

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Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 040-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

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*Roxanne Dietrich, interim Clerk of Council*



2019 APPROPRIATION BUDGET - SUPPLEMENTAL BUDGET ADJUSTMENT			
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY			
ORDINANCE No. 019-19, Passed 4/1/2019	2019 SUPPLEMENTAL BUDGET ADJUSTMENT		
FUND/DEPARTMENT-2ND QUARTER ADJUSTMENTS	PERSONAL SERVICES	OTHER	TOTAL
<b>288 JUSTICE REINVESTMENT INCENTIVE GRANT FUND</b>			
1810 Municipal Court/Probation Department	\$1,500.00	\$4,253.00	\$5,753.00
<b>- 1810 Mun.Court/Prob.Dept. - Additional for Payroll - \$1500.00 and Professional Services - \$4253.00:</b>			
Accounts - 288.1810.51100 Salaries Non Bargaining	\$1,285		
Accounts - 288.1810.51500 PERS	\$190		
Accounts - 288.1810.51700 Medicare - City Share	\$25		
Accounts - 288.1810.53300 Serv. Fee - Professional		\$4,253.00	
1810 Municipal Court/Probation Department	\$1,500.00	\$4,253.00	\$5,753.00
<b>* GRAND TOTAL - ALL FUNDS</b>	<b>\$1,500.00</b>	<b>\$4,253.00</b>	<b>\$5,753.00</b>

## **RESOLUTION NO. 041-19**

### **A RESOLUTION STRONGLY OPPOSING THE STATE OF OHIO HOUSE BILL 6, REPLACING THE OHIO RENEWABLE PORTFOLIO STANDARD AND CREATING THE OHIO CLEAN AIR PROGRAM; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Mayor and Council have been advised of a proposal of State of Ohio House Bill 6, creating the Ohio Clean Air Program; and,

**WHEREAS**, the City of Napoleon has partnered with other municipal electric systems to invest in traditional and renewable energy projects in Ohio and the region to supply our customers with cost-effective, reliable power; and,

**WHEREAS**, House Bill 6 (HB 6) is currently pending in the Ohio House of Representatives, which would effectively replace the Ohio Renewable Portfolio Standard that incentivizes all renewable energy generation with the new “Ohio Clean Air Program” to provide subsidies to certain electric generating facilities; and,

**WHEREAS**, HB 6 fails to recognize municipal electric communities for their significant investments in zero-emission and low-emission energy projects; and,

**WHEREAS**, HB 6 specifically excludes generating assets owned by, or providing power to, municipal electric systems from being eligible to apply for funds through the Ohio Clean Air Program; and,

**WHEREAS**, HB 6 impacts the wholesale energy and capacity markets in PJM by subsidizing a limited set of generating assets with out of market payments; and,

**WHEREAS**, changes to the renewable portfolio standard as proposed in HB 6 will devalue renewable energy credits produced by renewable energy projects, including zero-carbon emission projects; and,

**WHEREAS**, the Ohio Municipal Electric Association and American Municipal Power, Inc., of which this community is a member of both, have submitted amendments that would reduce the overall impact of the legislation on our community and customers; and,

**WHEREAS**, those proposed amendments have not been included in any version of HB 6. **Now Therefore**,

### **BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the City of Napoleon opposes Ohio House Bill 6 and any legislation that would unduly discriminate against zero-carbon emission, reduced-carbon emission and renewable generation resources owned by or serving municipal electric customers by subsidizing similarly situated generation resources.

Section 2. That, that the City of Napoleon opposes Ohio House Bill 6 and any legislation that would devalue the Ohio Renewable Portfolio Standard that incents the

continuation of operation as well as the development of new renewable and zero-carbon emissions generation resources in Ohio.

Section 3. That, the City of Napoleon urges our state representative and state senator to oppose this legislation unless changes are made to mitigate the impact of the bill on our community and our customers.

Section 4. That, a copy of this resolution be sent to our state representative, state senator and Governor Mike DeWine.

Section 5. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 6. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 1. Section 7. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that the City must maintain its ability of Home Rule therefore, this Resolution shall be in full force and effect immediately upon its adoption by Council. Further, the Emergency Clause is necessary to demonstrate opposition to House Bill 6 in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_Yea \_\_\_\_Nay \_\_\_\_Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 041-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, interim Clerk of Council*

**As Passed by the House**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 6**

**Representatives Callender, Wilkin**

**Cosponsors: Representatives Cross, DeVitis, Ghanbari, Hillyer, Jones, Reineke,  
Seitz, Stein, Vitale**

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**A BILL**

To amend sections 303.213, 519.213, 713.081, 1  
1710.06, 3706.02, 3706.03, 4906.10, 4906.13, 2  
4906.20, 4906.201, 4928.01, 4928.02, 4928.142, 3  
4928.143, 4928.20, 4928.61, 4928.62, 4928.641, 4  
4928.645, 4928.66, 4928.6610, 5501.311, 5727.47, 5  
and 5727.75; to amend, for the purpose of 6  
adopting a new section number as indicated in 7  
parentheses, section 519.214 (519.215); and to 8  
enact new section 519.214 and sections 3706.40, 9  
3706.42, 3706.44, 3706.46, 3706.47, 3706.48, 10  
3706.481, 3706.482, 3706.483, 3706.485, 11  
3706.486, 3706.49, 3706.50, 4905.311, 4906.101, 12  
4906.203, 4928.147, 4928.148, 4928.46, 4928.47, 13  
4928.471, 4928.647, 4928.661, 4928.75, and 14  
4928.80; to repeal section 4928.6616; and to 15  
repeal, effective January 1, 2020, sections 16  
1710.061, 4928.64, 4928.643, 4928.644, and 17  
4928.65 of the Revised Code to create the Ohio 18  
Clean Air Program, to facilitate and encourage 19  
electricity production and use from clean air 20  
resources, and to proactively engage the buying 21

power of consumers in this state for the purpose 22  
of improving air quality in this state. 23

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

**Section 1.** That sections 303.213, 519.213, 713.081, 24  
3706.02, 3706.03, 4906.10, 4906.13, 4906.20, 4906.201, 4928.01, 25  
4928.02, 4928.66, 4928.6610, 5727.47, and 5727.75 be amended; 26  
section 519.214 (519.215) be amended for the purpose of adopting 27  
a new section number as indicated in parentheses; and new 28  
section 519.214 and sections 3706.40, 3706.42, 3706.44, 3706.46, 29  
3706.47, 3706.48, 3706.481, 3706.482, 3706.483, 3706.485, 30  
3706.486, 3706.49, 3706.50, 4905.311, 4906.101, 4906.203, 31  
4928.147, 4928.148, 4928.46, 4928.47, 4928.471, 4928.647, 32  
4928.661, 4928.75, and 4928.80 of the Revised Code be enacted to 33  
read as follows: 34

**Sec. 303.213.** (A) As used in this section, "small wind 35  
farm" means wind turbines and associated facilities ~~with a~~ 36  
~~single interconnection to the electrical grid and designed for,~~ 37  
~~or capable of, operation at an aggregate capacity of less than~~ 38  
~~five megawatts~~ that are not subject to the jurisdiction of the 39  
power siting board under sections 4906.20 and 4906.201 of the 40  
Revised Code. 41

(B) Notwithstanding division (A) of section 303.211 of the 42  
Revised Code, sections 303.01 to 303.25 of the Revised Code 43  
confer power on a board of county commissioners or board of 44  
zoning appeals to adopt zoning regulations governing the 45  
location, erection, construction, reconstruction, change, 46  
alteration, maintenance, removal, use, or enlargement of any 47

small wind farm, whether publicly or privately owned, or the use 48  
of land for that purpose, which regulations may be more strict 49  
than the regulations prescribed in rules adopted under division 50  
(B) (2) of section 4906.20 of the Revised Code. 51

(C) The designation under this section of a small wind 52  
farm as a public utility for purposes of sections 303.01 to 53  
303.25 of the Revised Code shall not affect the classification 54  
of a small wind farm for purposes of state or local taxation. 55

(D) Nothing in division (C) of this section shall be 56  
construed as affecting the classification of a 57  
telecommunications tower as defined in division (B) or (E) of 58  
section 303.211 of the Revised Code or any other public utility 59  
for purposes of state and local taxation. 60

**Sec. 519.213.** (A) As used in this section, "small wind 61  
farm" means wind turbines and associated facilities ~~with a~~ 62  
~~single interconnection to the electrical grid and designed for,~~ 63  
~~or capable of, operation at an aggregate capacity of less than~~ 64  
~~five megawatts~~ that are not subject to the jurisdiction of the 65  
power siting board under sections 4906.20 and 4906.201 of the 66  
Revised Code. 67

(B) Notwithstanding division (A) of section 519.211 of the 68  
Revised Code, sections 519.02 to 519.25 of the Revised Code 69  
confer power on a board of township trustees or board of zoning 70  
appeals with respect to the location, erection, construction, 71  
reconstruction, change, alteration, maintenance, removal, use, 72  
or enlargement of any small wind farm, whether publicly or 73  
privately owned, or the use of land for that purpose, which 74  
regulations may be more strict than the regulations prescribed 75  
in rules adopted under division (B) (2) of section 4906.20 of the 76  
Revised Code. 77

(C) The designation under this section of a small wind 78  
farm as a public utility for purposes of sections 519.02 to 79  
519.25 of the Revised Code shall not affect the classification 80  
of a small wind farm or any other public utility for purposes of 81  
state or local taxation. 82

(D) Nothing in division (C) of this section shall be 83  
construed as affecting the classification of a 84  
telecommunications tower as defined in division (B) or (E) of 85  
section 519.211 of the Revised Code or any other public utility 86  
for purposes of state and local taxation. 87

Sec. 519.214. (A) If the power siting board issues a 88  
certificate to an economically significant wind farm or a large 89  
wind farm as those terms are defined in section 4906.13 of the 90  
Revised Code, to be located in whole or in part in the 91  
unincorporated area of a township, the certificate shall become 92  
effective on the ninetieth day after the day it is issued, 93  
unless, not later than that day, a referendum petition is filed 94  
with the board of elections to require the certificate to be 95  
submitted to the electors of the unincorporated area of the 96  
township for approval or rejection. 97

(B) (1) A referendum petition submitted under division (A) 98  
of this section shall be signed by a number of qualified 99  
electors residing in the unincorporated area of the township 100  
equal to not less than eight per cent of the total votes cast 101  
for all candidates for governor in the unincorporated area of 102  
the township at the most recent general election at which a 103  
governor was elected. 104

(2) Each part petition shall contain a brief description 105  
of the wind farm the certificate authorizes that is sufficient 106  
to identify the certificate. In addition to the requirements of 107

this section, the requirements of section 3501.38 of the Revised 108  
Code shall apply to the petition. 109

(3) The form of the petition shall be substantially as 110  
follows: 111

"PETITION FOR REFERENDUM OF WIND FARM CERTIFICATE 112

A proposal to approve or reject the wind farm certificate 113  
issued for ..... (description of wind farm) in the 114  
unincorporated area of ..... Township, ..... County, 115  
Ohio, adopted on ..... (date) by the Board of Township 116  
Trustees of ..... Township, ..... County, Ohio. 117

We, the undersigned, being electors residing in the 118  
unincorporated area of ..... Township, equal to not less 119  
than eight per cent of the total vote cast for all candidates 120  
for governor in the area at the preceding general election at 121  
which a governor was elected, request the Board of Elections to 122  
submit this proposal to the electors of the unincorporated area 123  
of ..... Township for approval or rejection at a special 124  
election to be held on the day of the primary or general 125  
election to be held on ..... (date), pursuant to section 126  
519.214 of the Revised Code. 127

..... Signature 128

..... Residence address 129

..... Date of signing 130

STATEMENT OF CIRCULATOR 131

I, ..... (name of circulator), declare under penalty 132  
of election falsification that I reside at the address appearing 133  
below my signature; that I am the circulator of the foregoing 134  
part petition containing ..... (number) signatures; that I 135



have witnessed the affixing of every signature; that all signers 136  
were to the best of my knowledge and belief qualified to sign; 137  
and that every signature is to the best of my knowledge and 138  
belief the signature of the person whose signature it purports 139  
to be or of an attorney in fact acting pursuant to section 140  
3501.382 of the Revised Code. 141

..... (Signature of circulator) 142

..... (Circulator's residence address) 143

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A 144  
FELONY OF THE FIFTH DEGREE." 145

(C) Upon receiving the referendum petition, the board of 146  
elections shall notify the board of township trustees that the 147  
petition has been filed. If the board of elections determines 148  
that the referendum petition is sufficient and valid, the board 149  
shall notify the board of township trustees of that fact and 150  
shall submit the certificate to the electors of the 151  
unincorporated area of the township for approval or rejection at 152  
a special election held on the day of the next primary or 153  
general election occurring at least ninety days after the board 154  
receives the petition. 155

(D) The certificate shall not take effect unless it is 156  
approved by a majority of the electors voting on it. If the 157  
certificate is approved by a majority of the electors voting on 158  
it, the certificate shall take immediate effect. 159

**Sec. ~~519.214~~ 519.215.** Township zoning commissions, boards 160  
of township trustees, and township boards of zoning appeals 161  
shall comply with section 5502.031 of the Revised Code. 162

**Sec. 713.081.** (A) As used in this section, "small wind 163  
farm" means wind turbines and associated facilities ~~with a~~ 164

~~single interconnection to the electrical grid and designed for,~~ 165  
~~or capable of, operation at an aggregate capacity of less than~~ 166  
~~five megawatts that are not subject to the jurisdiction of the~~ 167  
power siting board under sections 4906.20 and 4906.201 of the 168  
Revised Code. 169

(B) Sections 713.06 to 713.15 of the Revised Code confer 170  
power on the legislative authority of a municipal corporation 171  
with respect to the location, erection, construction, 172  
reconstruction, change, alteration, maintenance, removal, use, 173  
or enlargement of any small wind farm as a public utility, 174  
whether publicly or privately owned, or the use of land for that 175  
purpose, which regulations may be more strict than the 176  
regulations prescribed in rules adopted under division (B) (2) of 177  
section 4906.20 of the Revised Code. 178

(C) The designation under this section of a small wind 179  
farm as a public utility for purposes of sections 713.06 to 180  
713.15 of the Revised Code shall not affect the classification 181  
of a small wind farm or any other public utility for purposes of 182  
state or local taxation. 183

**Sec. 3706.02.** (A) There is hereby created the Ohio air 184  
quality development authority. Such authority is a body both 185  
corporate and politic in this state, and the carrying out of its 186  
purposes and the exercise by it of the powers conferred by 187  
Chapter 3706. of the Revised Code shall be held to be, and are 188  
hereby determined to be, essential governmental functions and 189  
public purposes of the state, but the authority shall not be 190  
immune from liability by reason thereof. 191

(B) The authority shall consist of ~~seven~~ thirteen members 192  
as follows: ~~five~~ 193

(1) Five members appointed by the governor, with the 194  
advice and consent of the senate, no more than three of whom 195  
shall be members of the same political party, ~~and the~~ 196

(2) The director of environmental protection ~~and the~~, who 197  
shall be a member ex officio without compensation; 198

(3) The director of health, who shall be ~~members~~ a member 199  
ex officio without compensation; 200

(4) Four legislative members, who shall be nonvoting 201  
members ex officio without compensation. The speaker of the 202  
house of representatives, the president of the senate, and the 203  
minority leader of each house shall each appoint one of the 204  
legislative members. The legislative members may not vote but 205  
may otherwise participate fully in all the board's deliberations 206  
and activities. ~~Each appointive~~ 207

(5) Two members of the general public, who shall be voting 208  
members without compensation. The speaker of the house of 209  
representatives and the president of the senate shall each 210  
appoint one member. These members' terms of office shall be for 211  
four years. 212

Each appointed member shall be a resident of the state, 213  
and a qualified elector therein. The members of the authority 214  
first appointed shall continue in office for terms expiring on 215  
June 30, 1971, June 30, 1973, June 30, 1975, June 30, 1977, and 216  
June 30, 1978, respectively, the term of each member to be 217  
designated by the governor. ~~Appointed~~ Except as provided in 218  
division (B) (5) of this section, appointed members' terms of 219  
office shall be for eight years, commencing on the first day of 220  
July and ending on the thirtieth day of June. Each appointed 221  
member shall hold office from the date of ~~his~~ appointment until 222

the end of the term for which ~~he was~~ appointed. Any member 223  
appointed to fill a vacancy occurring prior to the expiration of 224  
the term for which ~~his~~ the member's predecessor was appointed 225  
shall hold office for the remainder of such term. Any appointed 226  
member shall continue in office subsequent to the expiration 227  
date of ~~his~~ the member's term until ~~his~~ the member's successor 228  
takes office, or until a period of sixty days has elapsed, 229  
whichever occurs first. A member of the authority is eligible 230  
for reappointment. Each appointed member of the authority, 231  
before entering upon ~~his~~ official duties, shall take an oath as 232  
provided by Section 7 of Article XV, Ohio Constitution. The 233  
governor may at any time remove any member of the authority for 234  
misfeasance, nonfeasance, or malfeasance in office. The 235  
authority shall elect one of its appointed members as ~~chairman~~ 236  
chairperson and another as ~~vice chairman~~ vice-chairperson, and 237  
shall appoint a secretary-treasurer who need not be a member of 238  
the authority. Four members of the authority shall constitute a 239  
quorum, and the affirmative vote of four members shall be 240  
necessary for any action taken by vote of the authority. No 241  
vacancy in the membership of the authority shall impair the 242  
rights of a quorum by such vote to exercise all the rights and 243  
perform all the duties of the authority. 244

~~Before~~ (C) Except as provided in division (D) of this 245  
section, before the issuance of any air quality revenue bonds 246  
under Chapter 3706. of the Revised Code, each appointed member 247  
of the authority shall give a surety bond to the state in the 248  
penal sum of twenty-five thousand dollars and the secretary- 249  
treasurer shall give such a bond in the penal sum of fifty 250  
thousand dollars, each such surety bond to be conditioned upon 251  
the faithful performance of the duties of the office, to be 252  
executed by a surety company authorized to transact business in 253

this state, and to be approved by the governor and filed in the 254  
office of the secretary of state. ~~Each~~ Except as provided in 255  
division (B) (4) of this section, each appointed member of the 256  
authority shall receive an annual salary of five thousand 257  
dollars, payable in monthly installments. Each member shall be 258  
reimbursed for ~~his~~ the actual expenses necessarily incurred in 259  
the performance of ~~his~~ official duties. All expenses incurred in 260  
carrying out Chapter 3706. of the Revised Code shall be payable 261  
solely from funds provided under Chapter 3706. of the Revised 262  
Code, appropriated for such purpose by the general assembly, or 263  
provided by the controlling board. No liability or obligation 264  
shall be incurred by the authority beyond the extent to which 265  
moneys have been so provided or appropriated. 266

(D) The six members appointed under divisions (B) (4) and 267  
(5) of this section shall be exempt from the requirement under 268  
division (C) of this section to give a surety bond. 269

**Sec. 3706.03.** (A) It is hereby declared to be the public 270  
policy of the state through the operations of the Ohio air 271  
quality development authority under this chapter to contribute 272  
toward one or more of the following: ~~to~~ 273

(1) To provide for the conservation of air as a natural 274  
resource of the state, ~~and to~~ ; 275

(2) To prevent or abate the pollution thereof, ~~to~~ ; 276

(3) To provide for the comfort, health, safety, and 277  
general welfare of all employees, as well as all other 278  
inhabitants of the state, ~~to~~ ; 279

(4) To assist in the financing of air quality facilities 280  
for industry, commerce, distribution, and research, including 281  
public utility companies, ~~to~~ ; 282

(5) To create or preserve jobs and employment 283  
opportunities or improve the economic welfare of the people, or 284  
assist and cooperate with governmental agencies in achieving 285  
such purposes; 286

(6) To maintain operations of certified clean air 287  
resources, as defined in section 3706.40 of the Revised Code, 288  
that, through continued operation, are expected to provide the 289  
greatest quantity of carbon-dioxide-free electric energy 290  
generation. 291

(B) In furtherance of such public policy the Ohio air 292  
quality development authority may-initiate do any of the 293  
following: 294

(1) Initiate, acquire, construct, maintain, repair, and 295  
operate air quality projects or cause the same to be operated 296  
pursuant to a lease, sublease, or agreement with any person or 297  
governmental agency; ~~may make~~ 298

(2) Make loans and grants to governmental agencies for the 299  
acquisition or construction of air quality facilities by such 300  
governmental agencies; ~~may make~~ 301

(3) Make loans to persons for the acquisition or 302  
construction of air quality facilities by such persons; ~~may~~ 303  
~~enter~~ 304

(4) Enter into commodity contracts with, or make loans for 305  
the purpose of entering into commodity contracts to, any person, 306  
governmental agency, or entity located within or without the 307  
state in connection with the acquisition or construction of air 308  
quality facilities; ~~and may issue~~ 309

(5) Issue air quality revenue bonds of this state payable 310  
solely from revenues, to pay the cost of such projects, 311

including any related commodity contracts.

(C) Any air quality project shall be determined by the authority to be not inconsistent with any applicable air quality standards duly established and then required to be met pursuant to the "Clean Air Act," 84 Stat. 1679 (1970), 42 U.S.C.A. 1857, as amended. Any resolution of the authority providing for acquiring or constructing such projects or for making a loan or grant for such projects shall include a finding by the authority that such determination has been made. Determinations by resolution of the authority that a project is an air quality facility under this chapter and is consistent with the purposes of section 13 of Article VIII, Ohio Constitution, and this chapter, shall be conclusive as to the validity and enforceability of the air quality revenue bonds issued to finance such project and of the resolutions, trust agreements or indentures, leases, subleases, sale agreements, loan agreements, and other agreements made in connection therewith, all in accordance with their terms.

Sec. 3706.40. As used in sections 3706.40 to 3706.50 of the Revised Code:

(A) "Clean air resource" means both of the following:

(1) An electric generating facility in this state fueled by nuclear power that satisfies all of the following criteria:

(a) The facility is not wholly or partially owned by a municipal or cooperative corporation or a group, association, or consortium of those corporations.

(b) The facility is not used to supply customers of a wholly owned municipal or cooperative corporation or a group, association, or consortium of those corporations.

- (c) Either of the following: 341
- (i) The facility has made a significant historical 342  
contribution to the air quality of the state by minimizing 343  
emissions that result from electricity generated in this state. 344
- (ii) The facility will make a significant contribution 345  
toward minimizing emissions that result from electric generation 346  
in this state. 347
- (d) The facility is interconnected with the transmission 348  
grid that is subject to the operational control of PJM 349  
interconnection, L.L.C., or its successor organization. 350
- (e) The facility is a major utility facility in this state 351  
as defined in section 4906.01 of the Revised Code. 352
- (f) The facility's owner maintains operations in this 353  
state. 354
- (2) An electric generating facility in this state that 355  
uses or will use solar energy as the primary energy source that 356  
satisfies all of the criteria in divisions (A)(1)(a) to (e) of 357  
this section and that has obtained a certificate from the power 358  
siting board prior to June 1, 2019. 359
- (B) "Program year" means the twelve-month period beginning 360  
the first day of June of a given year of the Ohio clean air 361  
program and ending the thirty-first day of May of the following 362  
year. 363
- (C) "Electric distribution utility" and "renewable energy 364  
resource" have the same meanings as in section 4928.01 of the 365  
Revised Code. 366
- (D) "Annual capacity factor" means the actual energy 367  
produced in a year divided by the energy that would have been 368



produced if the facility was operating continuously at the 369  
maximum rating. 370

(E) "Clean air credit" means a credit that represents the 371  
clean air attributes of one megawatt hour of electric energy 372  
produced from a certified clean air resource. 373

(F) "Credit price adjustment" means a reduction to the 374  
price for each clean air credit equal to the market price index 375  
minus the strike price. 376

(G) "Strike price" means forty-six dollars per megawatt 377  
hour. 378

(H) "Market price index" means the sum, expressed in 379  
dollars per megawatt hour, of both of the following for the 380  
upcoming program year: 381

(1) Projected energy prices, determined using futures 382  
contracts for the PJM AEP-Dayton hub; 383

(2) Projected capacity prices, determined using PJM's 384  
rest-of-RTO market clearing price. 385

**Sec. 3706.42.** (A) There is hereby created the Ohio clean 386  
air program, which shall terminate on December 31, 2026. 387

(B) Any person owning or controlling an electric 388  
generating facility that meets the definition of a clean air 389  
resource in section 3706.40 of the Revised Code may submit a 390  
written application with the Ohio air quality development 391  
authority for certification as a clean air resource to be 392  
eligible to participate in the Ohio clean air program. 393  
Applications shall be submitted by the first day of February for 394  
any program year beginning the first day of June of the same 395  
calendar year. 396

(C) Applications shall include all of the following 397  
information: 398

(1) The in-service date and estimated remaining useful 399  
life of the resource; 400

(2) For an existing resource, the quantity of megawatt 401  
hours generated by the resource annually during each of the 402  
previous five calendar years during which the resource was 403  
generating, and the annual capacity factor for each of those 404  
calendar years; 405

(3) A forecast estimate of the annual quantity of megawatt 406  
hours to be generated by the resource and the projected annual 407  
capacity factor over the remaining useful life of the resource; 408

(4) A forecast estimate of the emissions that would occur 409  
in this state during the remaining useful life of the resource 410  
if the resource discontinued operations prior to the end of the 411  
resource's useful life; 412

(5) Verified documentation demonstrating all of the 413  
following: 414

(a) That certification as a clean air resource and 415  
participation in the Ohio clean air program will permit the 416  
resource to reduce future emissions per unit of electrical 417  
energy generated in this state; 418

(b) That without certification as a clean air resource, 419  
the positive contributions to the air quality of this state that 420  
the resource has made and is capable of making in the future may 421  
be diminished or eliminated; 422

(c) That the clean air resource meets the definition of a 423  
clean air resource in section 3706.40 of the Revised Code; 424

(d) That the person seeking certification owns or controls 425  
the resource. 426

(6) The resource's nameplate capacity; 427

(7) Any other data or information that the authority 428  
requests and determines is necessary to evaluate an application 429  
for certification as a clean air resource or to demonstrate that 430  
certification would be in the public interest. 431

(D) The authority shall post on the authority's web site 432  
all applications and nonconfidential supporting materials 433  
submitted under this section. 434

(E) Interested persons may file comments not later than 435  
twenty days after the date that an application is posted on the 436  
authority's web site. All comments shall be posted on the 437  
authority's web site. An applicant may respond to those comments 438  
not later than ten days thereafter. 439

**Sec. 3706.44.** (A) (1) On or before the thirty-first day of 440  
March, the Ohio air quality development authority shall review 441  
all applications timely submitted under section 3706.42 of the 442  
Revised Code and issue an order certifying a clean air resource 443  
that meets the definition of a clean air resource in section 444  
3706.40 of the Revised Code. 445

(2) A clean air resource shall remain certified as a clean 446  
air resource as long as the resource continues to meet the 447  
definition of a clean air resource in section 3706.40 of the 448  
Revised Code. 449

(B) In the event the authority does not issue an order 450  
under division (A) of this section by the thirty-first day of 451  
March, each electric generating facility included in a timely 452  
and properly filed application shall be deemed a clean air 453

resource. 454

(C) (1) The authority may decertify a clean air resource at 455  
any time if it determines that certification is not in the 456  
public interest. 457

(2) Before decertifying a clean air resource, the 458  
authority shall do both of the following: 459

(a) Allow the resource to provide additional information 460  
in support of remaining certified; 461

(b) Hold a public hearing and allow for public comment. 462

**Sec. 3706.46.** (A) For the purpose of funding benefits 463  
provided by the Ohio clean air program, there is hereby created 464  
the Ohio clean air program fund. The fund shall be in the 465  
custody of the state treasurer but shall not be part of the 466  
state treasury. The fund shall consist of the charges under 467  
section 3706.47 of the Revised Code. All interest generated by 468  
the fund shall be retained in the fund and used for the purpose 469  
of funding the Ohio clean air program. 470

(B) The treasurer shall distribute the moneys in the Ohio 471  
clean air program fund in accordance with the directions 472  
provided by the Ohio air quality development authority. 473

**Sec. 3706.47.** (A) Beginning January 1, 2020, and ending on 474  
December 31, 2026, each retail electric customer of an electric 475  
distribution utility in this state shall pay a per-account 476  
monthly charge, which shall be billed and collected by each 477  
electric distribution utility and remitted to the state 478  
treasurer for deposit into the Ohio clean air program fund, 479  
created under section 3706.46 of the Revised Code. 480

(B) The monthly charges established under division (A) of 481

this section shall be in accordance with the following: 482

(1) For customers classified by the utility as 483  
residential: 484

(a) For the year 2020, fifty cents; 485

(b) For the years 2021, 2022, 2023, 2024, 2025, and 2026, 486  
one dollar. 487

(2) For customers classified by the utility as commercial, 488  
except as provided in division (B) (4) of this section, a charge 489  
that is determined by a structure and design that the public 490  
utilities commission shall, not later than October 1, 2019, 491  
establish. The commission shall establish the structure and 492  
design of the charge such that the average charge across all 493  
customers subject to the charge under division (B) (2) of this 494  
section is: 495

(a) For the year 2020, ten dollars; and 496

(b) For the years 2021, 2022, 2023, 2024, 2025, and 2026, 497  
fifteen dollars. 498

(3) For customers classified by the utility as industrial, 499  
except as provided in division (B) (4) of this section, a charge 500  
that is determined by a structure and design that the commission 501  
shall, not later than October 1, 2019, establish. The commission 502  
shall establish the structure and design of the charge such that 503  
the average charge across all customers subject to the charge 504  
under division (B) (3) of this section is two hundred fifty 505  
dollars; 506

(4) For customers classified by the utility as commercial 507  
or industrial that exceeded forty-five million kilowatt hours of 508  
electricity at a single location in the preceding year, two 509

thousand five hundred dollars. 510

(C) The commission shall comply with divisions (B) (2) and 511  
(3) of this section in a manner that avoids abrupt or excessive 512  
total electric bill impacts for typical customers with a 513  
classification of commercial or industrial. 514

(D) For purposes of division (B) of this section, the 515  
classification of residential, commercial, and industrial 516  
customers shall be consistent with the utility's reporting under 517  
its approved rate schedules. 518

**Sec. 3706.48.** Each owner of a certified clean air resource 519  
shall report to the Ohio air quality development authority, not 520  
later than seven days after the close of each month during a 521  
program year, the number of megawatt hours the resource produced 522  
in the previous month. 523

**Sec. 3706.481.** A certified clean air resource shall earn a 524  
clean air credit for each megawatt hour of electricity it 525  
produces. 526

**Sec. 3706.482.** (A) Not later than fourteen days after the 527  
close of each month during a program year, the Ohio air quality 528  
development authority shall direct the treasurer of state to 529  
remit money from the Ohio clean air program fund, subject to 530  
section 3706.486 of the Revised Code, to each owner of a 531  
certified clean air resource in the amount equivalent to the 532  
number of credits earned by the resource during the previous 533  
month multiplied by the credit price. 534

(B) The price for each clean air credit shall be nine 535  
dollars, except as provided in division (C) of this section. 536

(C) To ensure that the purchase of clean air credits 537  
remains affordable to retail customers if electricity prices 538

increase, on the first day of April during the first program 539  
year and annually on that date in subsequent program years, the 540  
authority shall apply the credit price adjustment for the 541  
upcoming program year if the market price index exceeds the 542  
strike price on that date. This division shall apply only to 543  
clean air resources fueled by nuclear power. 544

Sec. 3706.483. The Ohio air quality development authority 545  
shall adopt rules to provide for this state a system of 546  
registering clean air credits by specifying that the generation 547  
attribute tracking system may be used for that purpose and not 548  
by creating a registry. 549

Sec. 3706.485. (A) An electric distribution utility shall 550  
submit an application to the Ohio air quality development 551  
authority for reimbursement from the Ohio clean air program fund 552  
of the net costs that are recoverable under section 4928.641 of 553  
the Revised Code. The public utilities commission shall certify 554  
the utility's net costs to be recovered in accordance with 555  
division (F) of section 4928.641 of the Revised Code. 556

(B) Not later than ninety days after the receipt of an 557  
application under division (A) of this section, the authority 558  
shall direct the treasurer of state to remit money from the Ohio 559  
clean air program fund to the electric distribution utility as 560  
reimbursement for those costs. 561

Sec. 3706.486. (A) If the money in the Ohio clean air 562  
program fund is insufficient in a particular month to make the 563  
remittances in the amount required under division (A) of section 564  
3706.482 of the Revised Code, the Ohio air quality development 565  
authority shall, not later than fourteen days after the close of 566  
that month, direct the treasurer of state to remit money from 567  
the Ohio clean air program fund to pay for the unpaid credits 568

before any other remittances are made. Remittances made under 569  
division (A) of this section shall be made in the following 570  
order of priority: 571

(1) To the owners of clean air resources fueled by nuclear 572  
power; 573

(2) To the owners of clean air resources that use or will 574  
use solar energy. 575

(B) After any remittances are made under division (A) of 576  
this section, the remittances under sections 3706.482 and 577  
3706.485 of the Revised Code shall be made in the following 578  
order of priority: 579

(1) Under section 3706.482 of the Revised Code, to the 580  
owners of clean air resources fueled by nuclear power; 581

(2) Under section 3706.482 of the Revised Code, to the 582  
owners of clean air resources that use or will use solar energy; 583

(3) Under section 3706.485 of the Revised Code, to 584  
electric distribution utilities as reimbursement for costs as 585  
described in that section. 586

**Sec. 3706.49.** (A) To facilitate air quality development 587  
related capital formation and investment by or in a certified 588  
clean air resource, the Ohio air quality development authority 589  
may pledge a portion of moneys that may, in the future, be 590  
accumulated in the Ohio clean air program fund for the benefit 591  
of any certified clean air resource, provided the resource 592  
agrees to be bound by the conditions the authority may attach to 593  
the pledge. 594

(B) The authority shall not be required to direct 595  
distribution of moneys in the Ohio clean air program fund unless 596



or until there are adequate moneys available in the Ohio clean 597  
air program fund. Nothing herein shall cause any such pledge to 598  
be construed or applied to create, directly or indirectly, a 599  
general obligation of or for this state. 600

**Sec. 3706.50.** (A) In the years 2021, 2022, 2023, 2024, 601  
2025, 2026, and 2027, an unaffiliated and independent third 602  
party shall conduct an annual audit of the Ohio clean air 603  
program. 604

(B) Not later than ninety days after the effective date of 605  
this section, the authority shall adopt rules that are necessary 606  
to begin implementation of the Ohio clean air program. The rules 607  
adopted under this division shall include provisions for both of 608  
the following: 609

(1) Tracking the number of clean air credits earned by 610  
each certified clean air resource during each month of a program 611  
year, based on the information reported under section 3706.48 of 612  
the Revised Code; 613

(2) The annual audit required under division (A) of this 614  
section. 615

(C) Not later than two hundred seventy-five days after the 616  
effective date of this section, the authority shall adopt rules 617  
that are necessary for the further implementation and 618  
administration of the Ohio clean air program. 619

**Sec. 4905.311.** In order to promote job growth and 620  
retention in this state, the public utilities commission, when 621  
ruling on a reasonable arrangement application under section 622  
4905.31 of the Revised Code, shall attempt to minimize electric 623  
rates to the maximum amount possible on trade-exposed industrial 624  
manufacturers. 625

**Sec. 4906.10.** (A) The power siting board shall render a 626  
decision upon the record either granting or denying the 627  
application as filed, or granting it upon such terms, 628  
conditions, or modifications of the construction, operation, or 629  
maintenance of the major utility facility as the board considers 630  
appropriate. The certificate shall be subject to section 631  
4906.101 of the Revised Code and conditioned upon the facility 632  
being in compliance with standards and rules adopted under 633  
sections 1501.33, 1501.34, and 4561.32 and Chapters 3704., 634  
3734., and 6111. of the Revised Code. An applicant may withdraw 635  
an application if the board grants a certificate on terms, 636  
conditions, or modifications other than those proposed by the 637  
applicant in the application. 638

The board shall not grant a certificate for the 639  
construction, operation, and maintenance of a major utility 640  
facility, either as proposed or as modified by the board, unless 641  
it finds and determines all of the following: 642

(1) The basis of the need for the facility if the facility 643  
is an electric transmission line or gas pipeline; 644

(2) The nature of the probable environmental impact; 645

(3) That the facility represents the minimum adverse 646  
environmental impact, considering the state of available 647  
technology and the nature and economics of the various 648  
alternatives, and other pertinent considerations; 649

(4) In the case of an electric transmission line or 650  
generating facility, that the facility is consistent with 651  
regional plans for expansion of the electric power grid of the 652  
electric systems serving this state and interconnected utility 653  
systems and that the facility will serve the interests of 654

electric system economy and reliability; 655

(5) That the facility will comply with Chapters 3704., 656  
3734., and 6111. of the Revised Code and all rules and standards 657  
adopted under those chapters and under sections 1501.33, 658  
1501.34, and 4561.32 of the Revised Code. In determining whether 659  
the facility will comply with all rules and standards adopted 660  
under section 4561.32 of the Revised Code, the board shall 661  
consult with the office of aviation of the division of multi- 662  
modal planning and programs of the department of transportation 663  
under section 4561.341 of the Revised Code. 664

(6) That the facility will serve the public interest, 665  
convenience, and necessity; 666

(7) In addition to the provisions contained in divisions 667  
(A) (1) to (6) of this section and rules adopted under those 668  
divisions, what its impact will be on the viability as 669  
agricultural land of any land in an existing agricultural 670  
district established under Chapter 929. of the Revised Code that 671  
is located within the site and alternative site of the proposed 672  
major utility facility. Rules adopted to evaluate impact under 673  
division (A) (7) of this section shall not require the 674  
compilation, creation, submission, or production of any 675  
information, document, or other data pertaining to land not 676  
located within the site and alternative site. 677

(8) That the facility incorporates maximum feasible water 678  
conservation practices as determined by the board, considering 679  
available technology and the nature and economics of the various 680  
alternatives. 681

(B) If the board determines that the location of all or a 682  
part of the proposed facility should be modified, it may 683

condition its certificate upon that modification, provided that 684  
the municipal corporations and counties, and persons residing 685  
therein, affected by the modification shall have been given 686  
reasonable notice thereof. 687

(C) A copy of the decision and any opinion issued 688  
therewith shall be served upon each party. 689

**Sec. 4906.101.** (A) If the power siting board issues a 690  
certificate to a large wind farm as defined in section 4906.13 691  
of the Revised Code and the large wind farm is to be located in 692  
the unincorporated area of a township, the certificate shall be 693  
conditioned upon the right of referendum as provided in section 694  
519.214 of the Revised Code. 695

(B) If the certificate is rejected in a referendum under 696  
section 519.214 of the Revised Code, one of the following 697  
applies: 698

(1) If the large wind farm is to be located in the 699  
unincorporated area of a single township, the certificate shall 700  
be invalid; 701

(2) If the large wind farm is to be located in the 702  
unincorporated area of more than one township, one of the 703  
following applies: 704

(a) If less than all of the townships with electors voting 705  
on the referendum reject the certificate, the power siting board 706  
shall modify the certificate to exclude the area of each 707  
township whose electors rejected the certificate. 708

(b) If all the townships with electors voting on the 709  
referendum reject the certificate, the certificate is invalid. 710

**Sec. 4906.13.** (A) As used in this section and sections 711

4906.20, 4906.201, 4906.203, and 4906.98 of the Revised Code, 712  
"economically: 713

"Economically significant wind farm" means wind turbines 714  
and associated facilities with a single interconnection to the 715  
electrical grid and designed for, or capable of, operation at an 716  
aggregate capacity of five or more megawatts but less than fifty 717  
megawatts. The term excludes any such wind farm in operation on 718  
June 24, 2008. The term also excludes one or more wind turbines 719  
and associated facilities that are primarily dedicated to 720  
providing electricity to a single customer at a single location 721  
and that are designed for, or capable of, operation at an 722  
aggregate capacity of less than twenty megawatts, as measured at 723  
the customer's point of interconnection to the electrical grid. 724

"Large wind farm" means an electric generating plant that 725  
consists of wind turbines and associated facilities with a 726  
single interconnection to the electrical grid that is a major 727  
utility facility as defined in section 4906.01 of the Revised 728  
Code. 729

(B) No public agency or political subdivision of this 730  
state may require any approval, consent, permit, certificate, or 731  
other condition for the construction or operation of a major 732  
utility facility or economically significant wind farm 733  
authorized by a certificate issued pursuant to Chapter 4906. of 734  
the Revised Code. Nothing herein shall prevent the application 735  
of state laws for the protection of employees engaged in the 736  
construction of such facility or wind farm nor of municipal 737  
regulations that do not pertain to the location or design of, or 738  
pollution control and abatement standards for, a major utility 739  
facility or economically significant wind farm for which a 740  
certificate has been granted under this chapter. 741

**Sec. 4906.20.** (A) ~~No Subject to section 4906.203 of the~~ 742  
Revised Code, no person shall commence to construct an 743  
economically significant wind farm in this state without first 744  
having obtained a certificate from the power siting board. An 745  
economically significant wind farm with respect to which such a 746  
certificate is required shall be constructed, operated, and 747  
maintained in conformity with that certificate and any terms, 748  
conditions, and modifications it contains. A certificate shall 749  
be issued only pursuant to this section. The certificate may be 750  
transferred, subject to the approval of the board, to a person 751  
that agrees to comply with those terms, conditions, and 752  
modifications. 753

(B) The board shall adopt rules governing the 754  
certificating of economically significant wind farms under this 755  
section. Initial rules shall be adopted within one hundred 756  
twenty days after June 24, 2008. 757

(1) The rules shall provide for an application process for 758  
certificating economically significant wind farms that is 759  
identical to the extent practicable to the process applicable to 760  
certificating major utility facilities under sections 4906.06, 761  
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 762  
Revised Code and shall prescribe a reasonable schedule of 763  
application filing fees structured in the manner of the schedule 764  
of filing fees required for major utility facilities. 765

(2) Additionally, the rules shall prescribe reasonable 766  
regulations regarding any wind turbines and associated 767  
facilities of an economically significant wind farm, including, 768  
but not limited to, their location, erection, construction, 769  
reconstruction, change, alteration, maintenance, removal, use, 770  
or enlargement and including erosion control, aesthetics, 771

recreational land use, wildlife protection, interconnection with 772  
power lines and with regional transmission organizations, 773  
independent transmission system operators, or similar 774  
organizations, ice throw, sound and noise levels, blade shear, 775  
shadow flicker, decommissioning, and necessary cooperation for 776  
site visits and enforcement investigations. 777

(a) The rules also shall prescribe a minimum setback for a 778  
wind turbine of an economically significant wind farm. That 779  
minimum shall be equal to a horizontal distance, from the 780  
turbine's base to the property line of the wind farm property, 781  
equal to one and one-tenth times the total height of the turbine 782  
structure as measured from its base to the tip of its highest 783  
blade and be at least one thousand one hundred twenty-five feet 784  
in horizontal distance from the tip of the turbine's nearest 785  
blade at ninety degrees to the property line of the nearest 786  
adjacent property at the time of the certification application. 787

(b) (i) For any existing certificates and amendments 788  
thereto, and existing certification applications that have been 789  
found by the chairperson to be in compliance with division (A) 790  
of section 4906.06 of the Revised Code before the effective date 791  
of the amendment of this section by H.B. 59 of the 130th general 792  
assembly, September 29, 2013, the distance shall be seven 793  
hundred fifty feet instead of one thousand one hundred twenty- 794  
five feet. 795

(ii) Any amendment made to an existing certificate after 796  
the effective date of the amendment of this section by H.B. 483 797  
of the 130th general assembly, September 15, 2014, shall be 798  
subject to the setback provision of this section as amended by 799  
that act. The amendments to this section by that act shall not 800  
be construed to limit or abridge any rights or remedies in 801

equity or under the common law.

(c) The setback shall apply in all cases except those in which all owners of property adjacent to the wind farm property waive application of the setback to that property pursuant to a procedure the board shall establish by rule and except in which, in a particular case, the board determines that a setback greater than the minimum is necessary.

**Sec. 4906.201.** (A) ~~An electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electrical grid that is designed for, or capable of, operation at an aggregate capacity of fifty megawatts or more~~ A large wind farm is subject to the minimum setback requirements established in rules adopted by the power siting board under division (B) (2) of section 4906.20 of the Revised Code.

(B) (1) For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

(2) Any amendment made to an existing certificate after the effective date of the amendment of this section by H.B. 483 of the 130th general assembly, September 15, 2014, shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.



Sec. 4906.203. (A) If the power siting board issues a 832  
certificate under section 4906.20 of the Revised Code to an 833  
economically significant wind farm to be located in the 834  
unincorporated area of a township, the certificate shall be 835  
conditioned upon the right of referendum as provided in section 836  
519.214 of the Revised Code. 837

(B) If the certificate is rejected in a referendum under 838  
section 519.214 of the Revised Code, one of the following 839  
applies: 840

(1) If the economically significant wind farm is to be 841  
located in the unincorporated area of a single township, the 842  
certificate is invalid; 843

(2) If the economically significant wind farm is to be 844  
located in the unincorporated area of more than one township, 845  
one of the following applies: 846

(a) If less than all of the townships with electors voting 847  
on the referendum reject the certificate, the power siting board 848  
shall modify the certificate to exclude the area of each 849  
township whose electors rejected the certificate. 850

(b) If all the townships with electors voting on the 851  
referendum reject the certificate, the certificate is invalid. 852

**Sec. 4928.01. (A) As used in this chapter:** 853

(1) "Ancillary service" means any function necessary to 854  
the provision of electric transmission or distribution service 855  
to a retail customer and includes, but is not limited to, 856  
scheduling, system control, and dispatch services; reactive 857  
supply from generation resources and voltage control service; 858  
reactive supply from transmission resources service; regulation 859  
service; frequency response service; energy imbalance service; 860

operating reserve-spinning reserve service; operating reserve- 861  
supplemental reserve service; load following; back-up supply 862  
service; real-power loss replacement service; dynamic 863  
scheduling; system black start capability; and network stability 864  
service. 865

(2) "Billing and collection agent" means a fully 866  
independent agent, not affiliated with or otherwise controlled 867  
by an electric utility, electric services company, electric 868  
cooperative, or governmental aggregator subject to certification 869  
under section 4928.08 of the Revised Code, to the extent that 870  
the agent is under contract with such utility, company, 871  
cooperative, or aggregator solely to provide billing and 872  
collection for retail electric service on behalf of the utility 873  
company, cooperative, or aggregator. 874

(3) "Certified territory" means the certified territory 875  
established for an electric supplier under sections 4933.81 to 876  
4933.90 of the Revised Code. 877

(4) "Competitive retail electric service" means a 878  
component of retail electric service that is competitive as 879  
provided under division (B) of this section. 880

(5) "Electric cooperative" means a not-for-profit electric 881  
light company that both is or has been financed in whole or in 882  
part under the "Rural Electrification Act of 1936," 49 Stat. 883  
1363, 7 U.S.C. 901, and owns or operates facilities in this 884  
state to generate, transmit, or distribute electricity, or a 885  
not-for-profit successor of such company. 886

(6) "Electric distribution utility" means an electric 887  
utility that supplies at least retail electric distribution 888  
service. 889

(7) "Electric light company" has the same meaning as in 890  
section 4905.03 of the Revised Code and includes an electric 891  
services company, but excludes any self-generator to the extent 892  
that it consumes electricity it so produces, sells that 893  
electricity for resale, or obtains electricity from a generating 894  
facility it hosts on its premises. 895

(8) "Electric load center" has the same meaning as in 896  
section 4933.81 of the Revised Code. 897

(9) "Electric services company" means an electric light 898  
company that is engaged on a for-profit or not-for-profit basis 899  
in the business of supplying or arranging for the supply of only 900  
a competitive retail electric service in this state. "Electric 901  
services company" includes a power marketer, power broker, 902  
aggregator, or independent power producer but excludes an 903  
electric cooperative, municipal electric utility, governmental 904  
aggregator, or billing and collection agent. 905

(10) "Electric supplier" has the same meaning as in 906  
section 4933.81 of the Revised Code. 907

(11) "Electric utility" means an electric light company 908  
that has a certified territory and is engaged on a for-profit 909  
basis either in the business of supplying a noncompetitive 910  
retail electric service in this state or in the businesses of 911  
supplying both a noncompetitive and a competitive retail 912  
electric service in this state. "Electric utility" excludes a 913  
municipal electric utility or a billing and collection agent. 914

(12) "Firm electric service" means electric service other 915  
than nonfirm electric service. 916

(13) "Governmental aggregator" means a legislative 917  
authority of a municipal corporation, a board of township 918

trustees, or a board of county commissioners acting as an 919  
aggregator for the provision of a competitive retail electric 920  
service under authority conferred under section 4928.20 of the 921  
Revised Code. 922

(14) A person acts "knowingly," regardless of the person's 923  
purpose, when the person is aware that the person's conduct will 924  
probably cause a certain result or will probably be of a certain 925  
nature. A person has knowledge of circumstances when the person 926  
is aware that such circumstances probably exist. 927

(15) "Level of funding for low-income customer energy 928  
efficiency programs provided through electric utility rates" 929  
means the level of funds specifically included in an electric 930  
utility's rates on October 5, 1999, pursuant to an order of the 931  
public utilities commission issued under Chapter 4905. or 4909. 932  
of the Revised Code and in effect on October 4, 1999, for the 933  
purpose of improving the energy efficiency of housing for the 934  
utility's low-income customers. The term excludes the level of 935  
any such funds committed to a specific nonprofit organization or 936  
organizations pursuant to a stipulation or contract. 937

(16) "Low-income customer assistance programs" means the 938  
percentage of income payment plan program, the home energy 939  
assistance program, the home weatherization assistance program, 940  
and the targeted energy efficiency and weatherization program. 941

(17) "Market development period" for an electric utility 942  
means the period of time beginning on the starting date of 943  
competitive retail electric service and ending on the applicable 944  
date for that utility as specified in section 4928.40 of the 945  
Revised Code, irrespective of whether the utility applies to 946  
receive transition revenues under this chapter. 947

(18) "Market power" means the ability to impose on 948  
customers a sustained price for a product or service above the 949  
price that would prevail in a competitive market. 950

(19) "Mercantile customer" means a commercial or 951  
industrial customer if the electricity consumed is for 952  
nonresidential use and the customer consumes more than seven 953  
hundred thousand kilowatt hours per year or is part of a 954  
national account involving multiple facilities in one or more 955  
states. 956

(20) "Municipal electric utility" means a municipal 957  
corporation that owns or operates facilities to generate, 958  
transmit, or distribute electricity. 959

(21) "Noncompetitive retail electric service" means a 960  
component of retail electric service that is noncompetitive as 961  
provided under division (B) of this section. 962

(22) "Nonfirm electric service" means electric service 963  
provided pursuant to a schedule filed under section 4905.30 of 964  
the Revised Code or pursuant to an arrangement under section 965  
4905.31 of the Revised Code, which schedule or arrangement 966  
includes conditions that may require the customer to curtail or 967  
interrupt electric usage during nonemergency circumstances upon 968  
notification by an electric utility. 969

(23) "Percentage of income payment plan arrears" means 970  
funds eligible for collection through the percentage of income 971  
payment plan rider, but uncollected as of July 1, 2000. 972

(24) "Person" has the same meaning as in section 1.59 of 973  
the Revised Code. 974

(25) "Advanced energy project" means any technologies, 975  
products, activities, or management practices or strategies that 976

facilitate the generation or use of electricity or energy and 977  
that reduce or support the reduction of energy consumption or 978  
support the production of clean, renewable energy for 979  
industrial, distribution, commercial, institutional, 980  
governmental, research, not-for-profit, or residential energy 981  
users, including, but not limited to, advanced energy resources 982  
and renewable energy resources. "Advanced energy project" also 983  
includes any project described in division (A), (B), or (C) of 984  
section 4928.621 of the Revised Code. 985

(26) "Regulatory assets" means the unamortized net 986  
regulatory assets that are capitalized or deferred on the 987  
regulatory books of the electric utility, pursuant to an order 988  
or practice of the public utilities commission or pursuant to 989  
generally accepted accounting principles as a result of a prior 990  
commission rate-making decision, and that would otherwise have 991  
been charged to expense as incurred or would not have been 992  
capitalized or otherwise deferred for future regulatory 993  
consideration absent commission action. "Regulatory assets" 994  
includes, but is not limited to, all deferred demand-side 995  
management costs; all deferred percentage of income payment plan 996  
arrears; post-in-service capitalized charges and assets 997  
recognized in connection with statement of financial accounting 998  
standards no. 109 (receivables from customers for income taxes); 999  
future nuclear decommissioning costs and fuel disposal costs as 1000  
those costs have been determined by the commission in the 1001  
electric utility's most recent rate or accounting application 1002  
proceeding addressing such costs; the undepreciated costs of 1003  
safety and radiation control equipment on nuclear generating 1004  
plants owned or leased by an electric utility; and fuel costs 1005  
currently deferred pursuant to the terms of one or more 1006  
settlement agreements approved by the commission. 1007

(27) "Retail electric service" means any service involved 1008  
in supplying or arranging for the supply of electricity to 1009  
ultimate consumers in this state, from the point of generation 1010  
to the point of consumption. For the purposes of this chapter, 1011  
retail electric service includes one or more of the following 1012  
"service components": generation service, aggregation service, 1013  
power marketing service, power brokerage service, transmission 1014  
service, distribution service, ancillary service, metering 1015  
service, and billing and collection service. 1016

(28) "Starting date of competitive retail electric 1017  
service" means January 1, 2001. 1018

(29) "Customer-generator" means a user of a net metering 1019  
system. 1020

(30) "Net metering" means measuring the difference in an 1021  
applicable billing period between the electricity supplied by an 1022  
electric service provider and the electricity generated by a 1023  
customer-generator that is fed back to the electric service 1024  
provider. 1025

(31) "Net metering system" means a facility for the 1026  
production of electrical energy that does all of the following: 1027

(a) Uses as its fuel either solar, wind, biomass, landfill 1028  
gas, or hydropower, or uses a microturbine or a fuel cell; 1029

(b) Is located on a customer-generator's premises; 1030

(c) Operates in parallel with the electric utility's 1031  
transmission and distribution facilities; 1032

(d) Is intended primarily to offset part or all of the 1033  
customer-generator's requirements for electricity. For an 1034  
industrial customer-generator with a net metering system that 1035

has a capacity of less than twenty megawatts and uses wind as 1036  
energy, this means the net metering system was sized so as to 1037  
not exceed one hundred per cent of the customer-generator's 1038  
annual requirements for electric energy at the time of 1039  
interconnection. 1040

(32) "Self-generator" means an entity in this state that 1041  
owns or hosts on its premises an electric generation facility 1042  
that produces electricity primarily for the owner's consumption 1043  
and that may provide any such excess electricity to another 1044  
entity, whether the facility is installed or operated by the 1045  
owner or by an agent under a contract. 1046

(33) "Rate plan" means the standard service offer in 1047  
effect on the effective date of the amendment of this section by 1048  
S.B. 221 of the 127th general assembly, July 31, 2008. 1049

(34) "Advanced energy resource" means any of the 1050  
following: 1051

(a) Any method or any modification or replacement of any 1052  
property, process, device, structure, or equipment that 1053  
increases the generation output of an electric generating 1054  
facility to the extent such efficiency is achieved without 1055  
additional carbon dioxide emissions by that facility; 1056

(b) Any distributed generation system consisting of 1057  
customer cogeneration technology; 1058

(c) Clean coal technology that includes a carbon-based 1059  
product that is chemically altered before combustion to 1060  
demonstrate a reduction, as expressed as ash, in emissions of 1061  
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1062  
sulfur trioxide in accordance with the American society of 1063  
testing and materials standard D1757A or a reduction of metal 1064



oxide emissions in accordance with standard D5142 of that 1065  
society, or clean coal technology that includes the design 1066  
capability to control or prevent the emission of carbon dioxide, 1067  
which design capability the commission shall adopt by rule and 1068  
shall be based on economically feasible best available 1069  
technology or, in the absence of a determined best available 1070  
technology, shall be of the highest level of economically 1071  
feasible design capability for which there exists generally 1072  
accepted scientific opinion; 1073

(d) Advanced nuclear energy technology consisting of 1074  
generation III technology as defined by the nuclear regulatory 1075  
commission; other, later technology; or significant improvements 1076  
to existing facilities; 1077

(e) Any fuel cell used in the generation of electricity, 1078  
including, but not limited to, a proton exchange membrane fuel 1079  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 1080  
solid oxide fuel cell; 1081

(f) Advanced solid waste or construction and demolition 1082  
debris conversion technology, including, but not limited to, 1083  
advanced stoker technology, and advanced fluidized bed 1084  
gasification technology, that results in measurable greenhouse 1085  
gas emissions reductions as calculated pursuant to the United 1086  
States environmental protection agency's waste reduction model 1087  
(WARM); 1088

(g) Demand-side management and any energy efficiency 1089  
improvement; 1090

(h) Any new, retrofitted, refueled, or repowered 1091  
generating facility located in Ohio, including a simple or 1092  
combined-cycle natural gas generating facility or a generating 1093

facility that uses biomass, coal, modular nuclear, or any other 1094  
fuel as its input; 1095

(i) Any uprated capacity of an existing electric 1096  
generating facility if the uprated capacity results from the 1097  
deployment of advanced technology. 1098

~~"Advanced energy resource" does not include a waste energy~~ 1099  
~~recovery system that is, or has been, included in an energy~~ 1100  
~~efficiency program of an electric distribution utility pursuant~~ 1101  
~~to requirements under section 4928.66 of the Revised Code.~~ 1102

(35) "Air contaminant source" has the same meaning as in 1103  
section 3704.01 of the Revised Code. 1104

(36) "Cogeneration technology" means technology that 1105  
produces electricity and useful thermal output simultaneously. 1106

(37) (a) "Renewable energy resource" means any of the 1107  
following: 1108

(i) Solar photovoltaic or solar thermal energy; 1109

(ii) Wind energy; 1110

(iii) Power produced by a hydroelectric facility; 1111

(iv) Power produced by a small hydroelectric facility, 1112  
which is a facility that operates, or is rated to operate, at an 1113  
aggregate capacity of less than six megawatts; 1114

(v) Power produced by a run-of-the-river hydroelectric 1115  
facility placed in service on or after January 1, 1980, that is 1116  
located within this state, relies upon the Ohio river, and 1117  
operates, or is rated to operate, at an aggregate capacity of 1118  
forty or more megawatts; 1119

(vi) Geothermal energy; 1120

(vii) Fuel derived from solid wastes, as defined in 1121  
section 3734.01 of the Revised Code, through fractionation, 1122  
biological decomposition, or other process that does not 1123  
principally involve combustion; 1124

(viii) Biomass energy; 1125

(ix) Energy produced by cogeneration technology that is 1126  
placed into service on or before December 31, 2015, and for 1127  
which more than ninety per cent of the total annual energy input 1128  
is from combustion of a waste or byproduct gas from an air 1129  
contaminant source in this state, which source has been in 1130  
operation since on or before January 1, 1985, provided that the 1131  
cogeneration technology is a part of a facility located in a 1132  
county having a population of more than three hundred sixty-five 1133  
thousand but less than three hundred seventy thousand according 1134  
to the most recent federal decennial census; 1135

(x) Biologically derived methane gas; 1136

(xi) Heat captured from a generator of electricity, 1137  
boiler, or heat exchanger fueled by biologically derived methane 1138  
gas; 1139

(xii) Energy derived from nontreated by-products of the 1140  
pulping process or wood manufacturing process, including bark, 1141  
wood chips, sawdust, and lignin in spent pulping liquors. 1142

"Renewable energy resource" includes, but is not limited 1143  
to, any fuel cell used in the generation of electricity, 1144  
including, but not limited to, a proton exchange membrane fuel 1145  
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 1146  
solid oxide fuel cell; wind turbine located in the state's 1147  
territorial waters of Lake Erie; methane gas emitted from an 1148  
abandoned coal mine; waste energy recovery system placed into 1149

service or retrofitted on or after the effective date of the 1150  
amendment of this section by S.B. 315 of the 129th general 1151  
assembly, September 10, 2012, except that a waste energy 1152  
recovery system described in division (A) (38) (b) of this section 1153  
may be included only if it was placed into service between 1154  
January 1, 2002, and December 31, 2004; storage facility that 1155  
will promote the better utilization of a renewable energy 1156  
resource; or distributed generation system used by a customer to 1157  
generate electricity from any such energy. 1158

~~"Renewable energy resource" does not include a waste 1159~~  
~~energy recovery system that is, or was, on or after January 1, 1160~~  
~~2012, included in an energy efficiency program of an electric 1161~~  
~~distribution utility pursuant to requirements under section 1162~~  
~~4928.66 of the Revised Code. 1163~~

(b) As used in division (A) (37) of this section, 1164  
"hydroelectric facility" means a hydroelectric generating 1165  
facility that is located at a dam on a river, or on any water 1166  
discharged to a river, that is within or bordering this state or 1167  
within or bordering an adjoining state and meets all of the 1168  
following standards: 1169

(i) The facility provides for river flows that are not 1170  
detrimental for fish, wildlife, and water quality, including 1171  
seasonal flow fluctuations as defined by the applicable 1172  
licensing agency for the facility. 1173

(ii) The facility demonstrates that it complies with the 1174  
water quality standards of this state, which compliance may 1175  
consist of certification under Section 401 of the "Clean Water 1176  
Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and 1177  
demonstrates that it has not contributed to a finding by this 1178  
state that the river has impaired water quality under Section 1179

303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 1180  
U.S.C. 1313. 1181

(iii) The facility complies with mandatory prescriptions 1182  
regarding fish passage as required by the federal energy 1183  
regulatory commission license issued for the project, regarding 1184  
fish protection for riverine, anadromous, and catadromous fish. 1185

(iv) The facility complies with the recommendations of the 1186  
Ohio environmental protection agency and with the terms of its 1187  
federal energy regulatory commission license regarding watershed 1188  
protection, mitigation, or enhancement, to the extent of each 1189  
agency's respective jurisdiction over the facility. 1190

(v) The facility complies with provisions of the 1191  
"Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 1192  
to 1544, as amended. 1193

(vi) The facility does not harm cultural resources of the 1194  
area. This can be shown through compliance with the terms of its 1195  
federal energy regulatory commission license or, if the facility 1196  
is not regulated by that commission, through development of a 1197  
plan approved by the Ohio historic preservation office, to the 1198  
extent it has jurisdiction over the facility. 1199

(vii) The facility complies with the terms of its federal 1200  
energy regulatory commission license or exemption that are 1201  
related to recreational access, accommodation, and facilities 1202  
or, if the facility is not regulated by that commission, the 1203  
facility complies with similar requirements as are recommended 1204  
by resource agencies, to the extent they have jurisdiction over 1205  
the facility; and the facility provides access to water to the 1206  
public without fee or charge. 1207

(viii) The facility is not recommended for removal by any 1208

federal agency or agency of any state, to the extent the 1209  
particular agency has jurisdiction over the facility. 1210

(c) The standards in divisions (A) (37) (b) (i) to (viii) of 1211  
this section do not apply to a small hydroelectric facility 1212  
under division (A) (37) (a) (iv) of this section. 1213

(38) "Waste energy recovery system" means either of the 1214  
following: 1215

(a) A facility that generates electricity through the 1216  
conversion of energy from either of the following: 1217

(i) Exhaust heat from engines or manufacturing, 1218  
industrial, commercial, or institutional sites, except for 1219  
exhaust heat from a facility whose primary purpose is the 1220  
generation of electricity; 1221

(ii) Reduction of pressure in gas pipelines before gas is 1222  
distributed through the pipeline, provided that the conversion 1223  
of energy to electricity is achieved without using additional 1224  
fossil fuels. 1225

(b) A facility at a state institution of higher education 1226  
as defined in section 3345.011 of the Revised Code that recovers 1227  
waste heat from electricity-producing engines or combustion 1228  
turbines and that simultaneously uses the recovered heat to 1229  
produce steam, provided that the facility was placed into 1230  
service between January 1, 2002, and December 31, 2004. 1231

(39) "Smart grid" means capital improvements to an 1232  
electric distribution utility's distribution infrastructure that 1233  
improve reliability, efficiency, resiliency, or reduce energy 1234  
demand or use, including, but not limited to, advanced metering 1235  
and automation of system functions. 1236

(40) "Combined heat and power system" means the 1237  
coproduction of electricity and useful thermal energy from the 1238  
same fuel source designed to achieve thermal-efficiency levels 1239  
of at least sixty per cent, with at least twenty per cent of the 1240  
system's total useful energy in the form of thermal energy. 1241

(41) "National security generation resource" means all 1242  
generating facilities owned directly or indirectly by a 1243  
corporation that was formed prior to 1960 by investor-owned 1244  
utilities for the original purpose of providing capacity and 1245  
electricity to the federal government for use in the nation's 1246  
defense or in furtherance of national interests. The term 1247  
includes the Ohio valley electric corporation. 1248

(42) "Prudently incurred costs related to a national 1249  
security generation resource" means, subject to section 4928.148 1250  
of the Revised Code, costs, including deferred costs, allocated 1251  
pursuant to a power agreement approved by the federal energy 1252  
regulatory commission that relates to a national security 1253  
generation resource. Such costs shall exclude any return on 1254  
investment in common equity and, in the event of a premature 1255  
retirement of a national security generation resource, shall 1256  
exclude any recovery of remaining debt. Such costs shall include 1257  
any incremental costs resulting from the bankruptcy of a current 1258  
or former co-owner of the national security generation resource 1259  
if not otherwise recovered through a utility rate cost recovery 1260  
mechanism. 1261

(43) "National security generation resource net impact" 1262  
means retail recovery of prudently incurred costs related to a 1263  
national security generation resource, less any revenues 1264  
realized from offering the contractual commitment related to a 1265  
national security generation resource into the wholesale 1266

markets, provided that where the net revenues exceed net costs, 1267  
those excess revenues shall be credited to customers. 1268

(B) For the purposes of this chapter, a retail electric 1269  
service component shall be deemed a competitive retail electric 1270  
service if the service component is competitive pursuant to a 1271  
declaration by a provision of the Revised Code or pursuant to an 1272  
order of the public utilities commission authorized under 1273  
division (A) of section 4928.04 of the Revised Code. Otherwise, 1274  
the service component shall be deemed a noncompetitive retail 1275  
electric service. 1276

**Sec. 4928.02.** It is the policy of this state to do the 1277  
following throughout this state: 1278

(A) Ensure the availability to consumers of adequate, 1279  
reliable, safe, efficient, nondiscriminatory, and reasonably 1280  
priced retail electric service; 1281

(B) Ensure the availability of unbundled and comparable 1282  
retail electric service that provides consumers with the 1283  
supplier, price, terms, conditions, and quality options they 1284  
elect to meet their respective needs; 1285

(C) Ensure diversity of electricity supplies and 1286  
suppliers, by giving consumers effective choices over the 1287  
selection of those supplies and suppliers and by encouraging the 1288  
development of distributed and small generation facilities; 1289

(D) Encourage innovation and market access for cost- 1290  
effective supply- and demand-side retail electric service 1291  
including, but not limited to, demand-side management, time- 1292  
differentiated pricing, waste energy recovery systems, smart 1293  
grid programs, and implementation of advanced metering 1294  
infrastructure; 1295



(E) Encourage cost-effective and efficient access to 1296  
information regarding the operation of the transmission and 1297  
distribution systems of electric utilities in order to promote 1298  
both effective customer choice of retail electric service and 1299  
the development of performance standards and targets for service 1300  
quality for all consumers, including annual achievement reports 1301  
written in plain language; 1302

(F) Ensure that an electric utility's transmission and 1303  
distribution systems are available to a customer-generator or 1304  
owner of distributed generation, so that the customer-generator 1305  
or owner can market and deliver the electricity it produces; 1306

(G) Recognize the continuing emergence of competitive 1307  
electricity markets through the development and implementation 1308  
of flexible regulatory treatment; 1309

(H) Ensure effective competition in the provision of 1310  
retail electric service by avoiding anticompetitive subsidies 1311  
flowing from a noncompetitive retail electric service to a 1312  
competitive retail electric service or to a product or service 1313  
other than retail electric service, and vice versa, including by 1314  
prohibiting the recovery of any generation-related costs through 1315  
distribution or transmission rates; 1316

(I) Ensure retail electric service consumers protection 1317  
against unreasonable sales practices, market deficiencies, and 1318  
market power; 1319

(J) Provide coherent, transparent means of giving 1320  
appropriate incentives to technologies that can adapt 1321  
successfully to potential environmental mandates; 1322

(K) Encourage implementation of distributed generation 1323  
across customer classes through regular review and updating of 1324

administrative rules governing critical issues such as, but not 1325  
limited to, interconnection standards, standby charges, and net 1326  
metering; 1327

(L) Protect at-risk populations, including, but not 1328  
limited to, when considering the implementation of any new 1329  
advanced energy or renewable energy resource; 1330

(M) Encourage the education of small business owners in 1331  
this state regarding the use of, and encourage the use of, 1332  
energy efficiency programs and alternative energy resources in 1333  
their businesses; 1334

(N) Facilitate the state's effectiveness in the global 1335  
economy; 1336

(O) Provide clarity in cost recovery for Ohio-based 1337  
electric distribution utilities in conjunction with national 1338  
security generation resources and support electric distribution 1339  
utility and affiliate divestiture of ownership interests in any 1340  
national security generation resource if divestiture efforts 1341  
result in no adverse consequences to the utility. 1342

In carrying out this policy, the commission shall consider 1343  
rules as they apply to the costs of electric distribution 1344  
infrastructure, including, but not limited to, line extensions, 1345  
for the purpose of development in this state. 1346

**Sec. 4928.147.** (A) Upon the expiration of any mechanism 1347  
authorized by the public utilities commission to recover an 1348  
electric distribution utility's national security generation 1349  
resource net impact, an electric distribution utility may 1350  
recover, subject to an audit, reconciliation, and prudence 1351  
review under section 4928.148 of the Revised Code, the national 1352  
security generation resource net impact that remains unrecovered 1353

at the time of expiration. 1354

(B) An electric distribution utility, including all 1355  
electric distribution utilities in the same holding company, 1356  
shall bid all output from the national security generation 1357  
resource into the wholesale market and shall not use the output 1358  
in supplying its standard service offer provided under section 1359  
4928.142 or 4928.143 of the Revised Code. 1360

**Sec. 4928.148.** (A) In establishing a nonbypassable rate 1361  
mechanism for recovery of a national security generation 1362  
resource net impact under section 4928.147 of the Revised Code, 1363  
the public utilities commission shall do all of the following: 1364

(1) Determine, every three years, the prudence and 1365  
reasonableness of the electric distribution utility's actions 1366  
related to the national security generation resource, including 1367  
its decisions related to offering the contractual commitment 1368  
into the wholesale markets, and exclude from recovery those 1369  
costs that it determines imprudent and unreasonable. 1370

(2) Determine the proper rate design for recovering or 1371  
remitting the national security generation resource net impact, 1372  
provided, however, that the monthly charge or credit recovering 1373  
that impact, including any deferrals or credits, shall not 1374  
exceed two dollars and fifty cents per customer per month for 1375  
residential customers. For all other customer classes, the 1376  
commission shall establish comparable monthly caps for each at 1377  
or below two thousand five hundred dollars per customer per 1378  
month. Insofar as the national security generation resource net 1379  
impact exceeds these monthly limits, the electric distribution 1380  
utility shall defer the remaining net impact as a regulatory 1381  
asset or liability that shall be recovered as determined by the 1382  
commission subject to the monthly rate caps set forth in this 1383

division. 1384

(3) Provide for discontinuation, subject to final 1385  
reconciliation, of the nonbypassable rate mechanism on December 1386  
31, 2030, unless the mechanism is extended by the general 1387  
assembly under division (B) of this section. 1388

(B) The commission shall conduct an inquiry in 2029 to 1389  
determine whether it is in the public interest to continue 1390  
recovery of a national security generation resource net impact 1391  
after 2030, and report its findings to the general assembly. 1392

**Sec. 4928.46.** (A) In the event that the federal energy 1393  
regulatory commission authorizes a program by which this state 1394  
may take action to satisfy any portion of the capacity resource 1395  
obligation associated with the organized wholesale market that 1396  
functions to meet the capacity, energy services, and ancillary 1397  
services needs of consumers in this state, the public utilities 1398  
commission shall promptly review the program and submit a report 1399  
of its findings to the general assembly. 1400

(B) The report shall include any recommendations for both 1401  
of the following: 1402

(1) Legislation that may be necessary to permit this state 1403  
to beneficially participate in any such program; 1404

(2) How to maintain participation by end-use customers in 1405  
this state in the demand response program offered by PJM 1406  
Interconnection, L.L.C., or its successor organization, 1407  
including how the state may consider structuring procurement for 1408  
demand response that would allow demand response to satisfy a 1409  
portion of the state's capacity resource obligation. 1410

(C) The report shall incorporate the policy of 1411  
facilitating the state's effectiveness in the global economy by 1412

minimizing any adverse impact on trade-exposed industrial 1413  
manufacturers. 1414

Sec. 4928.47. (A) As used in this section, "clean air 1415  
resource" means any of the following: 1416

(1) A clean air resource as defined in section 3706.40 of 1417  
the Revised Code; 1418

(2) A customer-sited renewable energy resource; 1419

(3) A renewable energy resource that is a self-generator. 1420

(B) (1) Through its general supervision, ratemaking, cost 1421  
assignment, allocation, rate schedule approval, and rulemaking 1422  
authority, as well as its authority under section 4905.31 of the 1423  
Revised Code, the public utilities commission shall facilitate 1424  
and encourage the establishment of retail purchased power 1425  
agreements having a term of three years or more through which 1426  
mercantile customers of an electric distribution utility commit 1427  
to satisfy a material portion of their electricity requirements 1428  
from the output of a clean air resource. 1429

(2) The commission's application and administration of 1430  
this section shall be the same for all clean air resources 1431  
regardless of whether the resource is certified or eligible for 1432  
certification under the Ohio clean air program created under 1433  
section 3706.42 of the Revised Code. 1434

(3) In addition to any other benefits that may be 1435  
available as a result of the commission's application of its 1436  
authority under this section, on the effective date of a retail 1437  
purchased power agreement, the commission may exempt such 1438  
purchasing mercantile customer from the Ohio clean air program 1439  
per-account monthly charge established in section 3706.47 of the 1440  
Revised Code. 1441

(C) (1) Not later than ninety days after the effective date 1442  
of this section, the commission shall promulgate rules as 1443  
necessary to begin the implementation of this section. 1444

(2) Not later than two hundred seventy-five days after the 1445  
effective date of this section, the commission shall promulgate 1446  
rules for further implementation and administration of this 1447  
section. 1448

**Sec. 4928.471.** (A) Except as provided in division (E) of 1449  
this section, not earlier than thirty days after the effective 1450  
date of this section, an electric distribution utility may file 1451  
an application to implement a decoupling mechanism for the 2019 1452  
calendar year and each calendar year thereafter. For an electric 1453  
distribution utility that applies for a decoupling mechanism 1454  
under this section, the base distribution rates for residential 1455  
and commercial customers shall be decoupled to the base 1456  
distribution revenue and revenue resulting from implementation 1457  
of section 4928.66 of the Revised Code, excluding program costs 1458  
and shared savings, and recovered pursuant to an approved 1459  
electric security plan under section 4928.143 of the Revised 1460  
Code, as of the twelve-month period ending on December 31, 2018. 1461  
An application under this division shall not be considered an 1462  
application under section 4909.18 of the Revised Code. 1463

(B) The commission shall issue an order approving an 1464  
application for a decoupling mechanism filed under division (A) 1465  
of this section not later than sixty days after the application 1466  
is filed. In determining that an application is not unjust and 1467  
unreasonable, the commission shall verify that the rate schedule 1468  
or schedules are designed to recover the electric distribution 1469  
utility's 2018 annual revenues as described in division (A) of 1470  
this section and that the decoupling rate design is aligned with 1471

the rate design of the electric distribution utility's existing 1472  
base distribution rates. The decoupling mechanism shall recover 1473  
an amount equal to the base distribution revenue and revenue 1474  
resulting from implementation of section 4928.66 of the Revised 1475  
Code, excluding program costs and shared savings, and recovered 1476  
pursuant to an approved electric security plan under section 1477  
4928.143 of the Revised Code, as of the twelve-month period 1478  
ending on December 31, 2018. The decoupling mechanism shall be 1479  
adjusted annually thereafter to reconcile any over recovery or 1480  
under recovery from the prior year and to enable an electric 1481  
distribution utility to recover the same level of revenues 1482  
described in division (A) of this section in each year. 1483

(C) The commission's approval of a decoupling mechanism 1484  
under this section shall not affect any other rates, riders, 1485  
charges, schedules, classifications, or services previously 1486  
approved by the commission. The decoupling mechanism shall 1487  
remain in effect until the next time that the electric 1488  
distribution utility applies for and the commission approves 1489  
base distribution rates for the utility under section 4909.18 of 1490  
the Revised Code. 1491

(D) If the commission determines that approving a 1492  
decoupling mechanism will result in a double recovery by the 1493  
electric distribution utility, the commission shall not approve 1494  
the application unless the utility cures the double recovery. 1495

(E) Divisions (A), (B), and (C) of this section shall not 1496  
apply to an electric distribution utility that has base 1497  
distribution rates that became effective between December 31, 1498  
2018, and the effective date of this section pursuant to an 1499  
application for an increase in base distribution rates filed 1500  
under section 4909.18 of the Revised Code. 1501

Sec. 4928.647. Subject to approval by the public utilities 1502  
commission and regardless of any limitations set forth in any 1503  
other section of Chapter 4928. of the Revised Code, an electric 1504  
distribution utility may offer a customer the opportunity to 1505  
purchase renewable energy services on a nondiscriminatory basis, 1506  
by doing either of the following: 1507

(A) (1) An electric distribution utility may seek approval 1508  
from the commission to establish a schedule or schedules 1509  
applicable to residential, commercial, industrial, or other 1510  
customers and provide a customer the opportunity to purchase 1511  
renewable energy credits for any purpose the customer elects. 1512

(2) The commission shall not approve any schedule unless 1513  
it determines both of the following: 1514

(a) The proposed schedule or schedules do not create an 1515  
undue burden or unreasonable preference or disadvantage to 1516  
nonparticipating customers. 1517

(b) The electric distribution utility seeking approval 1518  
commits to comply with any conditions the commission may impose 1519  
to ensure that the electric distribution utility and any 1520  
participating customers are solely responsible for the risks, 1521  
costs, and benefits of any schedule or schedules. 1522

(B) (1) Consistent with section 4905.31 of the Revised 1523  
Code, an electric distribution utility, a customer, or a group 1524  
of customers may seek approval of a nondiscriminatory schedule 1525  
or reasonable arrangement involving the production and supply of 1526  
renewable energy, including long-term renewable energy purchase 1527  
agreements through which an electric distribution utility may 1528  
construct, lease, finance, or operate renewable energy resources 1529  
dedicated to that customer or customers. 1530



(2) The commission shall not approve any schedule or 1531  
arrangement unless it determines both of the following: 1532

(a) The proposed schedule or arrangement does not create 1533  
an undue burden or unreasonable preference or disadvantage to 1534  
nonparticipating customers. 1535

(b) The electric distribution utility seeking approval 1536  
commits to comply with any conditions the commission may impose 1537  
to ensure that the electric distribution utility and any 1538  
participating customers are solely responsible for the risks, 1539  
costs, and benefits of any schedule or reasonable arrangement. 1540

**Sec. 4928.66.** (A) (1) (a) Beginning in 2009, an electric 1541  
distribution utility shall implement energy efficiency programs 1542  
that achieve energy savings equivalent to at least three-tenths 1543  
of one per cent of the total, annual average, and normalized 1544  
kilowatt-hour sales of the electric distribution utility during 1545  
the preceding three calendar years to customers in this state. 1546  
An energy efficiency program may include a combined heat and 1547  
power system placed into service or retrofitted on or after the 1548  
effective date of the amendment of this section by S.B. 315 of 1549  
the 129th general assembly, September 10, 2012, or a waste 1550  
energy recovery system placed into service or retrofitted on or 1551  
after September 10, 2012, except that a waste energy recovery 1552  
system described in division (A) (38) (b) of section 4928.01 of 1553  
the Revised Code may be included only if it was placed into 1554  
service between January 1, 2002, and December 31, 2004. For a 1555  
waste energy recovery or combined heat and power system, the 1556  
savings shall be as estimated by the public utilities 1557  
commission. The savings requirement, using such a three-year 1558  
average, shall increase to an additional five-tenths of one per 1559  
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1560

of one per cent in 2012, nine-tenths of one per cent in 2013, 1561  
and one per cent in 2014. In 2015 and 2016, an electric 1562  
distribution utility shall achieve energy savings equal to the 1563  
result of subtracting the cumulative energy savings achieved 1564  
since 2009 from the product of multiplying the baseline for 1565  
energy savings, described in division (A)(2)(a) of this section, 1566  
by four and two-tenths of one per cent. If the result is zero or 1567  
less for the year for which the calculation is being made, the 1568  
utility shall not be required to achieve additional energy 1569  
savings for that year, but may achieve additional energy savings 1570  
for that year. ~~Thereafter, the~~ The annual savings requirements 1571  
shall be, for years 2017, 2018, 2019, and 2020, an additional 1572  
~~one per cent of the baseline, and two per cent each year~~ 1573  
~~thereafter, achieving cumulative energy savings in excess of~~ 1574  
~~twenty-two per cent by the end of 2027.~~ For purposes of a waste 1575  
energy recovery or combined heat and power system, an electric 1576  
distribution utility shall not apply more than the total annual 1577  
percentage of the electric distribution utility's industrial- 1578  
customer load, relative to the electric distribution utility's 1579  
total load, to the annual energy savings requirement. 1580

(b) Beginning in 2009, an electric distribution utility 1581  
shall implement peak demand reduction programs designed to 1582  
achieve a one per cent reduction in peak demand in 2009 and an 1583  
additional seventy-five hundredths of one per cent reduction 1584  
each year through 2014. In 2015 and 2016, an electric 1585  
distribution utility shall achieve a reduction in peak demand 1586  
equal to the result of subtracting the cumulative peak demand 1587  
reductions achieved since 2009 from the product of multiplying 1588  
the baseline for peak demand reduction, described in division 1589  
(A)(2)(a) of this section, by four and seventy-five hundredths 1590  
of one per cent. If the result is zero or less for the year for 1591

which the calculation is being made, the utility shall not be 1592  
required to achieve an additional reduction in peak demand for 1593  
that year, but may achieve an additional reduction in peak 1594  
demand for that year. In 2017 and each year thereafter through 1595  
2020, the utility shall achieve an additional seventy-five 1596  
hundredths of one per cent reduction in peak demand. 1597

(2) For the purposes of divisions (A) (1) (a) and (b) of 1598  
this section: 1599

(a) The baseline for energy savings under division (A) (1) 1600  
(a) of this section shall be the average of the total kilowatt 1601  
hours the electric distribution utility sold in the preceding 1602  
three calendar years. The baseline for a peak demand reduction 1603  
under division (A) (1) (b) of this section shall be the average 1604  
peak demand on the utility in the preceding three calendar 1605  
years, except that the commission may reduce either baseline to 1606  
adjust for new economic growth in the utility's certified 1607  
territory. Neither baseline shall include the load and usage of 1608  
any of the following customers: 1609

(i) Beginning January 1, 2017, a customer for which a 1610  
reasonable arrangement has been approved under section 4905.31 1611  
of the Revised Code; 1612

(ii) A customer that has opted out of the utility's 1613  
portfolio plan under section 4928.6611 of the Revised Code; 1614

(iii) A customer that has opted out of the utility's 1615  
portfolio plan under Section 8 of S.B. 310 of the 130th general 1616  
assembly. 1617

(b) The commission may amend the benchmarks set forth in 1618  
division (A) (1) (a) or (b) of this section if, after application 1619  
by the electric distribution utility, the commission determines 1620

that the amendment is necessary because the utility cannot 1621  
reasonably achieve the benchmarks due to regulatory, economic, 1622  
or technological reasons beyond its reasonable control. 1623

(c) Compliance with divisions (A)(1)(a) and (b) of this 1624  
section shall be measured by including the effects of all 1625  
demand-response programs for mercantile customers of the subject 1626  
electric distribution utility, all waste energy recovery systems 1627  
and all combined heat and power systems, and all such mercantile 1628  
customer-sited energy efficiency, including waste energy 1629  
recovery and combined heat and power, and peak demand reduction 1630  
programs, adjusted upward by the appropriate loss factors. Any 1631  
mechanism designed to recover the cost of energy efficiency, 1632  
including waste energy recovery and combined heat and power, and 1633  
peak demand reduction programs under divisions (A)(1)(a) and (b) 1634  
of this section may exempt mercantile customers that commit 1635  
their demand-response or other customer-sited capabilities, 1636  
whether existing or new, for integration into the electric 1637  
distribution utility's demand-response, energy efficiency, 1638  
including waste energy recovery and combined heat and power, or 1639  
peak demand reduction programs, if the commission determines 1640  
that that exemption reasonably encourages such customers to 1641  
commit those capabilities to those programs. If a mercantile 1642  
customer makes such existing or new demand-response, energy 1643  
efficiency, including waste energy recovery and combined heat 1644  
and power, or peak demand reduction capability available to an 1645  
electric distribution utility pursuant to division (A)(2)(c) of 1646  
this section, the electric utility's baseline under division (A) 1647  
(2)(a) of this section shall be adjusted to exclude the effects 1648  
of all such demand-response, energy efficiency, including waste 1649  
energy recovery and combined heat and power, or peak demand 1650  
reduction programs that may have existed during the period used 1651

to establish the baseline. The baseline also shall be normalized 1652  
for changes in numbers of customers, sales, weather, peak 1653  
demand, and other appropriate factors so that the compliance 1654  
measurement is not unduly influenced by factors outside the 1655  
control of the electric distribution utility. 1656

(d) (i) Programs implemented by a utility may include the 1657  
following: 1658

(I) Demand-response programs; 1659

(II) Smart grid investment programs, provided that such 1660  
programs are demonstrated to be cost-beneficial; 1661

(III) Customer-sited programs, including waste energy 1662  
recovery and combined heat and power systems; 1663

(IV) Transmission and distribution infrastructure 1664  
improvements that reduce line losses; 1665

(V) Energy efficiency savings and peak demand reduction 1666  
that are achieved, in whole or in part, as a result of funding 1667  
provided from the universal service fund established by section 1668  
4928.51 of the Revised Code to benefit low-income customers 1669  
through programs that include, but are not limited to, energy 1670  
audits, the installation of energy efficiency insulation, 1671  
appliances, and windows, and other weatherization measures. 1672

(ii) No energy efficiency or peak demand reduction 1673  
achieved under divisions (A) (2) (d) (i) (IV) and (V) of this 1674  
section shall qualify for shared savings. 1675

(iii) Division (A) (2) (c) of this section shall be applied 1676  
to include facilitating efforts by a mercantile customer or 1677  
group of those customers to offer customer-sited demand- 1678  
response, energy efficiency, including waste energy recovery and 1679

combined heat and power, or peak demand reduction capabilities 1680  
to the electric distribution utility as part of a reasonable 1681  
arrangement submitted to the commission pursuant to section 1682  
4905.31 of the Revised Code. 1683

(e) No programs or improvements described in division (A) 1684  
(2) (d) of this section shall conflict with any statewide 1685  
building code adopted by the board of building standards. 1686

(B) In accordance with rules it shall adopt, the public 1687  
utilities commission shall produce and docket at the commission 1688  
an annual report containing the results of its verification of 1689  
the annual levels of energy efficiency and of peak demand 1690  
reductions achieved by each electric distribution utility 1691  
pursuant to division (A) of this section. A copy of the report 1692  
shall be provided to the consumers' counsel. 1693

(C) If the commission determines, after notice and 1694  
opportunity for hearing and based upon its report under division 1695  
(B) of this section, that an electric distribution utility has 1696  
failed to comply with an energy efficiency or peak demand 1697  
reduction requirement of division (A) of this section, the 1698  
commission shall assess a forfeiture on the utility as provided 1699  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised 1700  
Code, ~~either~~ in the amount, per day per undercompliance or 1701  
noncompliance, relative to the period of the report, equal to 1702  
that prescribed for noncompliances under section 4905.54 of the 1703  
Revised Code, ~~or in an amount equal to the then existing market-~~ 1704  
~~value of one renewable energy credit per megawatt hour of~~ 1705  
~~undercompliance or noncompliance.~~ Revenue from any forfeiture 1706  
assessed under this division shall be deposited to the credit of 1707  
the advanced energy fund created under section 4928.61 of the 1708  
Revised Code. 1709

(D) The commission may establish rules regarding the 1710  
content of an application by an electric distribution utility 1711  
for commission approval of a revenue decoupling mechanism under 1712  
this division. Such an application shall not be considered an 1713  
application to increase rates and may be included as part of a 1714  
proposal to establish, continue, or expand energy efficiency or 1715  
conservation programs. The commission by order may approve an 1716  
application under this division if it determines both that the 1717  
revenue decoupling mechanism provides for the recovery of 1718  
revenue that otherwise may be forgone by the utility as a result 1719  
of or in connection with the implementation by the electric 1720  
distribution utility of any energy efficiency or energy 1721  
conservation programs and reasonably aligns the interests of the 1722  
utility and of its customers in favor of those programs. 1723

(E) The commission additionally shall adopt rules that 1724  
require an electric distribution utility to provide a customer 1725  
upon request with two years' consumption data in an accessible 1726  
form. 1727

(F) (1) All the terms and conditions of an electric 1728  
distribution utility's portfolio plan in effect as of the 1729  
effective date of the amendments to this section by H.B. 6 of 1730  
the 133rd general assembly shall remain in place through 1731  
December 31, 2020, and terminate on that date. 1732

(2) If a portfolio plan is extended beyond its commission- 1733  
approved term by division (F) (1) of this section, the existing 1734  
plan's budget shall be increased for the extended term to 1735  
include an amount equal to the annual average of the approved 1736  
budget for all years of the portfolio plan in effect as of the 1737  
effective date of the amendments to this section by H.B. 6 of 1738  
the 133rd general assembly. 1739

(3) All other terms and conditions of a portfolio plan 1740  
extended beyond its commission-approved term by division (F) (1) 1741  
of this section shall remain the same unless changes are 1742  
authorized by the commission upon the electric distribution 1743  
utility's request. 1744

(G) All requirements imposed and all programs implemented 1745  
under this section shall terminate on December 31, 2020, 1746  
provided an electric distribution utility recovers in the 1747  
following year all remaining program costs incurred or to be 1748  
incurred, including costs incurred for contractual obligations 1749  
and any costs to discontinue the portfolio plan programs, 1750  
through applicable tariff schedules or riders in effect on the 1751  
effective date of the amendments to this section by H.B. 6 of 1752  
the 133rd general assembly. 1753

**Sec. 4928.661.** (A) Not earlier than January 1, 2020, an 1754  
electric distribution utility may submit an application to the 1755  
public utilities commission for approval of programs to 1756  
encourage energy efficiency or peak demand reduction. The 1757  
application may include descriptions of the proposed programs 1758  
including all of the following: 1759

(1) The size and scope of the programs; 1760

(2) Applicability of the programs to specific customer 1761  
classes; 1762

(3) Recovery of costs and incentives; 1763

(4) Any other information determined by the electric 1764  
distribution utility to be appropriate for the commission's 1765  
review. 1766

(B) The commission shall issue an order approving or 1767  
modifying and approving an application if it finds that the 1768



proposed programs will be cost-effective, in the public 1769  
interest, and consistent with state policy as specified in 1770  
section 4928.02 of the Revised Code. 1771

(C) Applications submitted and approved under this section 1772  
shall not take effect earlier than January 1, 2021. 1773

**Sec. 4928.6610.** As used in sections 4928.6611 to ~~4928.6616~~ 1774  
4928.6615 of the Revised Code: 1775

(A) "Customer" means ~~any~~ either of the following: 1776

(1) Effective January 1, 2020, a mercantile customer as 1777  
defined in section 4928.01 of the Revised Code; 1778

(2) Any customer of an electric distribution utility to 1779  
which either of the following applies: 1780

~~(1)~~ (a) The customer receives service above the primary 1781  
voltage level as determined by the utility's tariff 1782  
classification. 1783

~~(2)~~ (b) The customer is a commercial or industrial 1784  
customer to which both of the following apply: 1785

~~(a)~~ (i) The customer receives electricity through a meter 1786  
of an end user or through more than one meter at a single 1787  
location in a quantity that exceeds forty-five million kilowatt 1788  
hours of electricity for the preceding calendar year. 1789

~~(b)~~ (ii) The customer has made a written request for 1790  
registration as a self-assessing purchaser pursuant to section 1791  
5727.81 of the Revised Code. 1792

(B) "Energy intensity" means the amount of energy, from 1793  
electricity, used or consumed per unit of production. 1794

(C) "Portfolio plan" means either of the following: 1795

(1) The comprehensive energy efficiency and peak-demand 1796  
reduction program portfolio plan required under rules adopted by 1797  
the public utilities commission and codified in Chapter 4901:1- 1798  
39 of the Administrative Code or hereafter recodified or 1799  
amended; 1800

(2) A plan approved under section 4928.661 of the Revised 1801  
Code or under rules adopted under that section. 1802

Sec. 4928.75. Beginning in fiscal year 2021 and each 1803  
fiscal year thereafter, the director of development services 1804  
shall, in each fiscal year, submit a completed waiver request in 1805  
accordance with section 96.83 of Title 45 of the Code of Federal 1806  
Regulations to the United States department of health and human 1807  
services and any other applicable federal agencies for the state 1808  
to expend twenty-five per cent of federal low-income home energy 1809  
assistance programs funds from the home energy assistance block 1810  
grants for weatherization services allowed by section 96.83(a) 1811  
of Title 45 of the Code of Federal Regulations to the United 1812  
States department of health and human services. 1813

Sec. 4928.80. (A) Each electric distribution utility shall 1814  
file with the public utilities commission a tariff applicable to 1815  
county fairs and agricultural societies that includes either of 1816  
the following: 1817

(1) A fixed monthly service fee; 1818

(2) An energy charge on a kilowatt-hour basis. 1819

(B) The minimum monthly charge shall not exceed the fixed 1820  
monthly service fee and the customer shall not be subject to any 1821  
demand-based riders. 1822

(C) The electric distribution utility shall be eligible to 1823  
recover any revenue loss associated with customer migration to 1824

this new tariff.

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**Sec. 5727.47.** (A) Notice of each assessment certified or  
issued pursuant to section 5727.23 or 5727.38 of the Revised  
Code shall be mailed to the public utility, and its mailing  
shall be prima-facie evidence of its receipt by the public  
utility to which it is addressed. With the notice, the tax  
commissioner shall provide instructions on how to petition for  
reassessment and request a hearing on the petition. ~~If~~ Except as  
otherwise provided in division (G) of this section, if a public  
utility objects to such an assessment, it may file with the  
commissioner, either personally or by certified mail, within  
sixty days after the mailing of the notice of assessment a  
written petition for reassessment signed by the utility's  
authorized agent having knowledge of the facts. The date the  
commissioner receives the petition shall be considered the date  
of filing. The petition shall indicate the utility's objections,  
but additional objections may be raised in writing if received  
by the commissioner prior to the date shown on the final  
determination.

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In the case of a petition seeking a reduction in taxable  
value filed with respect to an assessment certified under  
section 5727.23 of the Revised Code, the petitioner shall state  
in the petition the total amount of reduction in taxable value  
sought by the petitioner. If the petitioner objects to the  
percentage of true value at which taxable property is assessed  
by the commissioner, the petitioner shall state in the petition  
the total amount of reduction in taxable value sought both with  
and without regard to the objection pertaining to the percentage  
of true value at which its taxable property is assessed. If a  
petitioner objects to the commissioner's apportionment of the  
taxable value of the petitioner's taxable property, the

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petitioner shall distinctly state in the petition that the 1856  
petitioner objects to the commissioner's apportionment, and, 1857  
within forty-five days after filing the petition for 1858  
reassessment, shall submit the petitioner's proposed 1859  
apportionment of the taxable value of its taxable property among 1860  
taxing districts. If a petitioner that objects to the 1861  
commissioner's apportionment fails to state its objections to 1862  
that apportionment in its petition for reassessment or fails to 1863  
submit its proposed apportionment within forty-five days after 1864  
filing the petition for reassessment, the commissioner shall 1865  
dismiss the petitioner's objection to the commissioner's 1866  
apportionment, and the taxable value of the petitioner's taxable 1867  
property, subject to any adjustment to taxable value pursuant to 1868  
the petition or appeal, shall be apportioned in the manner used 1869  
by the commissioner in the preliminary or amended preliminary 1870  
assessment certified under section 5727.23 of the Revised Code. 1871

If an additional objection seeking a reduction in taxable 1872  
value in excess of the reduction stated in the original petition 1873  
is properly and timely raised with respect to an assessment 1874  
issued under section 5727.23 of the Revised Code, the petitioner 1875  
shall state the total amount of the reduction in taxable value 1876  
sought in the additional objection both with and without regard 1877  
to any reduction in taxable value pertaining to the percentage 1878  
of true value at which taxable property is assessed. If a 1879  
petitioner fails to state the reduction in taxable value sought 1880  
in the original petition or in additional objections properly 1881  
raised after the petition is filed, the commissioner shall 1882  
notify the petitioner of the failure by certified mail. If the 1883  
petitioner fails to notify the commissioner in writing of the 1884  
reduction in taxable value sought in the petition or in an 1885  
additional objection within thirty days after receiving the 1886

commissioner's notice, the commissioner shall dismiss the 1887  
petition or the additional objection in which that reduction is 1888  
sought. 1889

(B) (1) Subject to divisions (B) (2) and (3) of this 1890  
section, a public utility filing a petition for reassessment 1891  
regarding an assessment certified or issued under section 1892  
5727.23 or 5727.38 of the Revised Code shall pay the tax with 1893  
respect to the assessment objected to as required by law. The 1894  
acceptance of any tax payment by the treasurer of state, tax 1895  
commissioner, or any county treasurer shall not prejudice any 1896  
claim for taxes on final determination by the commissioner or 1897  
final decision by the board of tax appeals or any court. 1898

(2) If a public utility properly and timely files a 1899  
petition for reassessment regarding an assessment certified 1900  
under section 5727.23 of the Revised Code, the petitioner shall 1901  
pay the tax as prescribed by divisions (B) (2) (a), (b), and (c) 1902  
of this section: 1903

(a) If the petitioner does not object to the 1904  
commissioner's apportionment of the taxable value of the 1905  
petitioner's taxable property, the petitioner is not required to 1906  
pay the part of the tax otherwise due on the taxable value that 1907  
the petitioner seeks to have reduced, subject to division (B) (2) 1908  
(c) of this section. 1909

(b) If the petitioner objects to the commissioner's 1910  
apportionment of the taxable value of the petitioner's taxable 1911  
property, the petitioner is not required to pay the tax 1912  
otherwise due on the part of the taxable value apportioned to 1913  
any taxing district that the petitioner objects to, subject to 1914  
division (B) (2) (c) of this section. If, pursuant to division (A) 1915  
of this section, the petitioner has, in a proper and timely 1916

manner, apportioned taxable value to a taxing district to which 1917  
the commissioner did not apportion the petitioner's taxable 1918  
value, the petitioner shall pay the tax due on the taxable value 1919  
that the petitioner has apportioned to the taxing district, 1920  
subject to division (B)(2)(c) of this section. 1921

(c) If a petitioner objects to the percentage of true 1922  
value at which taxable property is assessed by the commissioner, 1923  
the petitioner shall pay the tax due on the basis of the 1924  
percentage of true value at which the public utility's taxable 1925  
property is assessed by the commissioner. In any case, the 1926  
petitioner's payment of tax shall not be less than the amount of 1927  
tax due based on the taxable value reflected on the last appeal 1928  
notice issued by the commissioner under division (C) of this 1929  
section. Until the county auditor receives notification under 1930  
division (E) of this section and proceeds under section 5727.471 1931  
of the Revised Code to issue any refund that is found to be due, 1932  
the county auditor shall not issue a refund for any increase in 1933  
the reduction in taxable value that is sought by a petitioner 1934  
later than forty-five days after the petitioner files the 1935  
original petition as required under division (A) of this 1936  
section. 1937

(3) Any part of the tax that, under division (B)(2)(a) or 1938  
(b) of this section, is not paid shall be collected upon receipt 1939  
of the notification as provided in section 5727.471 of the 1940  
Revised Code with interest thereon computed in the same manner 1941  
as interest is computed under division (E) of section 5715.19 of 1942  
the Revised Code, subject to any correction of the assessment by 1943  
the commissioner under division (E) of this section or the final 1944  
judgment of the board of tax appeals or a court to which the 1945  
board's final judgment is appealed. The penalty imposed under 1946  
section 323.121 of the Revised Code shall apply only to the 1947

unpaid portion of the tax if the petitioner's tax payment is 1948  
less than the amount of tax due based on the taxable value 1949  
reflected on the last appeal notice issued by the commissioner 1950  
under division (C) of this section. 1951

(C) Upon receipt of a properly filed petition for 1952  
reassessment with respect to an assessment certified under 1953  
section 5727.23 of the Revised Code, the tax commissioner shall 1954  
notify the treasurer of state or the auditor of each county to 1955  
which the assessment objected to has been certified. In the case 1956  
of a petition with respect to an assessment certified under 1957  
section 5727.23 of the Revised Code, the commissioner shall 1958  
issue an appeal notice within thirty days after receiving the 1959  
amount of the taxable value reduction and apportionment changes 1960  
sought by the petitioner in the original petition or in any 1961  
additional objections properly and timely raised by the 1962  
petitioner. The appeal notice shall indicate the amount of the 1963  
reduction in taxable value sought in the petition or in the 1964  
additional objections and the extent to which the reduction in 1965  
taxable value and any change in apportionment requested by the 1966  
petitioner would affect the commissioner's apportionment of the 1967  
taxable value among taxing districts in the county as shown in 1968  
the assessment. If a petitioner is seeking a reduction in 1969  
taxable value on the basis of a lower percentage of true value 1970  
than the percentage at which the commissioner assessed the 1971  
petitioner's taxable property, the appeal notice shall indicate 1972  
the reduction in taxable value sought by the petitioner without 1973  
regard to the reduction sought on the basis of the lower 1974  
percentage and shall indicate that the petitioner is required to 1975  
pay tax on the reduced taxable value determined without regard 1976  
to the reduction sought on the basis of a lower percentage of 1977  
true value, as provided under division (B) (2) (c) of this 1978

section. The appeal notice shall include a statement that the  
reduced taxable value and the apportionment indicated in the  
notice are not final and are subject to adjustment by the  
commissioner or by the board of tax appeals or a court on  
appeal. If the commissioner finds an error in the appeal notice,  
the commissioner may amend the notice, but the notice is only  
for informational and tax payment purposes; the notice is not  
subject to appeal by any person. The commissioner also shall  
mail a copy of the appeal notice to the petitioner. Upon the  
request of a taxing authority, the county auditor may disclose  
to the taxing authority the extent to which a reduction in  
taxable value sought by a petitioner would affect the  
apportionment of taxable value to the taxing district or  
districts under the taxing authority's jurisdiction, but such a  
disclosure does not constitute a notice required by law to be  
given for the purpose of section 5717.02 of the Revised Code.

(D) If the petitioner requests a hearing on the petition,  
the tax commissioner shall assign a time and place for the  
hearing on the petition and notify the petitioner of such time  
and place, but the commissioner may continue the hearing from  
time to time as necessary.

(E) The tax commissioner may make corrections to the  
assessment as the commissioner finds proper. The commissioner  
shall serve a copy of the commissioner's final determination on  
the petitioner in the manner provided in section 5703.37 of the  
Revised Code. The commissioner's decision in the matter shall be  
final, subject to appeal under section 5717.02 of the Revised  
Code. With respect to a final determination issued for an  
assessment certified under section 5727.23 of the Revised Code,  
the commissioner also shall transmit a copy of the final  
determination to the applicable county auditor. In the absence



of any further appeal, or when a decision of the board of tax 2010  
appeals or of any court to which the decision has been appealed 2011  
becomes final, the commissioner shall notify the public utility 2012  
and, as appropriate, shall proceed under section 5727.42 of the 2013  
Revised Code, or notify the applicable county auditor, who shall 2014  
proceed under section 5727.471 of the Revised Code. 2015

The notification made under this division is not subject 2016  
to further appeal. 2017

(F) On appeal, no adjustment shall be made in the tax 2018  
commissioner's assessment certified under section 5727.23 of the 2019  
Revised Code that reduces the taxable value of a petitioner's 2020  
taxable property by an amount that exceeds the reduction sought 2021  
by the petitioner in its petition for reassessment or in any 2022  
additional objections properly and timely raised after the 2023  
petition is filed with the commissioner. 2024

(G) An electric company with taxable property that is, or 2025  
is part of, a clean air resource fueled by nuclear power and 2026  
certified under section 3706.44 of the Revised Code may file a 2027  
petition for reassessment seeking a reduction in taxable value 2028  
of that property, provided that any such petition shall not 2029  
request, and the tax commissioner shall have no authority to 2030  
grant, a reduction in taxable value below the taxable values for 2031  
such property as of the effective date of the amendments to this 2032  
section by H.B. 6 of the 133rd general assembly. As used in this 2033  
division, "clean air resource" has the same meaning as defined 2034  
by section 3706.40 of the Revised Code. 2035

**Sec. 5727.75.** (A) For purposes of this section: 2036

(1) "Qualified energy project" means an energy project 2037  
certified by the director of development services pursuant to 2038

this section. 2039

(2) "Energy project" means a project to provide electric 2040  
power through the construction, installation, and use of an 2041  
energy facility. 2042

(3) "Alternative energy zone" means a county declared as 2043  
such by the board of county commissioners under division (E) (1) 2044  
(b) or (c) of this section. 2045

(4) "Full-time equivalent employee" means the total number 2046  
of employee-hours for which compensation was paid to individuals 2047  
employed at a qualified energy project for services performed at 2048  
the project during the calendar year divided by two thousand 2049  
eighty hours. 2050

(5) "Solar energy project" means an energy project 2051  
composed of an energy facility using solar panels to generate 2052  
electricity. 2053

(6) "Internet identifier of record" has the same meaning 2054  
as in section 9.312 of the Revised Code. 2055

(B) (1) Tangible personal property of a qualified energy 2056  
project using renewable energy resources is exempt from taxation 2057  
for tax years 2011 through 2021 if all of the following 2058  
conditions are satisfied: 2059

(a) On or before December 31, 2020, the owner or a lessee 2060  
pursuant to a sale and leaseback transaction of the project 2061  
submits an application to the power siting board for a 2062  
certificate under section 4906.20 of the Revised Code, or if 2063  
that section does not apply, submits an application for any 2064  
approval, consent, permit, or certificate or satisfies any 2065  
condition required by a public agency or political subdivision 2066  
of this state for the construction or initial operation of an 2067

energy project. 2068

(b) Construction or installation of the energy facility 2069  
begins on or after January 1, 2009, and before January 1, 2021. 2070  
For the purposes of this division, construction begins on the 2071  
earlier of the date of application for a certificate or other 2072  
approval or permit described in division (B)(1)(a) of this 2073  
section, or the date the contract for the construction or 2074  
installation of the energy facility is entered into. 2075

(c) For a qualified energy project with a nameplate 2076  
capacity of ~~five~~twenty megawatts or greater, a board of county 2077  
commissioners of a county in which property of the project is 2078  
located has adopted a resolution under division (E)(1)(b) or (c) 2079  
of this section to approve the application submitted under 2080  
division (E) of this section to exempt the property located in 2081  
that county from taxation. A board's adoption of a resolution 2082  
rejecting an application or its failure to adopt a resolution 2083  
approving the application does not affect the tax-exempt status 2084  
of the qualified energy project's property that is located in 2085  
another county. 2086

(2) If tangible personal property of a qualified energy 2087  
project using renewable energy resources was exempt from 2088  
taxation under this section beginning in any of tax years 2011 2089  
through 2021, and the certification under division (E)(2) of 2090  
this section has not been revoked, the tangible personal 2091  
property of the qualified energy project is exempt from taxation 2092  
for tax year 2022 and all ensuing tax years if the property was 2093  
placed into service before January 1, 2022, as certified in the 2094  
construction progress report required under division (F)(2) of 2095  
this section. Tangible personal property that has not been 2096  
placed into service before that date is taxable property subject 2097

to taxation. An energy project for which certification has been 2098  
revoked is ineligible for further exemption under this section. 2099  
Revocation does not affect the tax-exempt status of the 2100  
project's tangible personal property for the tax year in which 2101  
revocation occurs or any prior tax year. 2102

(C) Tangible personal property of a qualified energy 2103  
project using clean coal technology, advanced nuclear 2104  
technology, or cogeneration technology is exempt from taxation 2105  
for the first tax year that the property would be listed for 2106  
taxation and all subsequent years if all of the following 2107  
circumstances are met: 2108

(1) The property was placed into service before January 1, 2109  
2021. Tangible personal property that has not been placed into 2110  
service before that date is taxable property subject to 2111  
taxation. 2112

(2) For such a qualified energy project with a nameplate 2113  
capacity of ~~five~~twenty megawatts or greater, a board of county 2114  
commissioners of a county in which property of the qualified 2115  
energy project is located has adopted a resolution under 2116  
division (E)(1)(b) or (c) of this section to approve the 2117  
application submitted under division (E) of this section to 2118  
exempt the property located in that county from taxation. A 2119  
board's adoption of a resolution rejecting the application or 2120  
its failure to adopt a resolution approving the application does 2121  
not affect the tax-exempt status of the qualified energy 2122  
project's property that is located in another county. 2123

(3) The certification for the qualified energy project 2124  
issued under division (E)(2) of this section has not been 2125  
revoked. An energy project for which certification has been 2126  
revoked is ineligible for exemption under this section. 2127

Revocation does not affect the tax-exempt status of the 2128  
project's tangible personal property for the tax year in which 2129  
revocation occurs or any prior tax year. 2130

(D) Except as otherwise provided in this section, real 2131  
property of a qualified energy project is exempt from taxation 2132  
for any tax year for which the tangible personal property of the 2133  
qualified energy project is exempted under this section. 2134

(E) (1) (a) A person may apply to the director of 2135  
development services for certification of an energy project as a 2136  
qualified energy project on or before the following dates: 2137

(i) December 31, 2020, for an energy project using 2138  
renewable energy resources; 2139

(ii) December 31, 2017, for an energy project using clean 2140  
coal technology, advanced nuclear technology, or cogeneration 2141  
technology. 2142

(b) The director shall forward a copy of each application 2143  
for certification of an energy project with a nameplate capacity 2144  
of ~~five~~ twenty megawatts or greater to the board of county 2145  
commissioners of each county in which the project is located and 2146  
to each taxing unit with territory located in each of the 2147  
affected counties. Any board that receives from the director a 2148  
copy of an application submitted under this division shall adopt 2149  
a resolution approving or rejecting the application unless it 2150  
has adopted a resolution under division (E) (1) (c) of this 2151  
section. A resolution adopted under division (E) (1) (b) or (c) of 2152  
this section may require an annual service payment to be made in 2153  
addition to the service payment required under division (G) of 2154  
this section. The sum of the service payment required in the 2155  
resolution and the service payment required under division (G) 2156

of this section shall not exceed nine thousand dollars per 2157  
megawatt of nameplate capacity located in the county. The 2158  
resolution shall specify the time and manner in which the 2159  
payments required by the resolution shall be paid to the county 2160  
treasurer. The county treasurer shall deposit the payment to the 2161  
credit of the county's general fund to be used for any purpose 2162  
for which money credited to that fund may be used. 2163

The board shall send copies of the resolution to the owner 2164  
of the facility and the director by certified mail or, if the 2165  
board has record of an internet identifier of record associated 2166  
with the owner or director, by ordinary mail and by that 2167  
internet identifier of record. The board shall send such notice 2168  
within thirty days after receipt of the application, or a longer 2169  
period of time if authorized by the director. 2170

(c) A board of county commissioners may adopt a resolution 2171  
declaring the county to be an alternative energy zone and 2172  
declaring all applications submitted to the director of 2173  
development services under this division after the adoption of 2174  
the resolution, and prior to its repeal, to be approved by the 2175  
board. 2176

All tangible personal property and real property of an 2177  
energy project with a nameplate capacity of ~~five~~ twenty 2178  
megawatts or greater is taxable if it is located in a county in 2179  
which the board of county commissioners adopted a resolution 2180  
rejecting the application submitted under this division or 2181  
failed to adopt a resolution approving the application under 2182  
division (E) (1) (b) or (c) of this section. 2183

(2) The director shall certify an energy project if all of 2184  
the following circumstances exist: 2185

(a) The application was timely submitted. 2186

(b) For an energy project with a nameplate capacity of 2187  
~~five~~ twenty megawatts or greater, a board of county 2188  
commissioners of at least one county in which the project is 2189  
located has adopted a resolution approving the application under 2190  
division (E) (1) (b) or (c) of this section. 2191

(c) No portion of the project's facility was used to 2192  
supply electricity before December 31, 2009. 2193

(3) The director shall deny a certification application if 2194  
the director determines the person has failed to comply with any 2195  
requirement under this section. The director may revoke a 2196  
certification if the director determines the person, or 2197  
subsequent owner or lessee pursuant to a sale and leaseback 2198  
transaction of the qualified energy project, has failed to 2199  
comply with any requirement under this section. Upon 2200  
certification or revocation, the director shall notify the 2201  
person, owner, or lessee, the tax commissioner, and the county 2202  
auditor of a county in which the project is located of the 2203  
certification or revocation. Notice shall be provided in a 2204  
manner convenient to the director. 2205

(F) The owner or a lessee pursuant to a sale and leaseback 2206  
transaction of a qualified energy project shall do each of the 2207  
following: 2208

(1) Comply with all applicable regulations; 2209

(2) File with the director of development services a 2210  
certified construction progress report before the first day of 2211  
March of each year during the energy facility's construction or 2212  
installation indicating the percentage of the project completed, 2213  
and the project's nameplate capacity, as of the preceding 2214

thirty-first day of December. Unless otherwise instructed by the 2215  
director of development services, the owner or lessee of an 2216  
energy project shall file a report with the director on or 2217  
before the first day of March each year after completion of the 2218  
energy facility's construction or installation indicating the 2219  
project's nameplate capacity as of the preceding thirty-first 2220  
day of December. Not later than sixty days after June 17, 2010, 2221  
the owner or lessee of an energy project, the construction of 2222  
which was completed before June 17, 2010, shall file a 2223  
certificate indicating the project's nameplate capacity. 2224

(3) File with the director of development services, in a 2225  
manner prescribed by the director, a report of the total number 2226  
of full-time equivalent employees, and the total number of full- 2227  
time equivalent employees domiciled in Ohio, who are employed in 2228  
the construction or installation of the energy facility; 2229

(4) For energy projects with a nameplate capacity of ~~five-~~ 2230  
twenty megawatts or greater, repair all roads, bridges, and 2231  
culverts affected by construction as reasonably required to 2232  
restore them to their preconstruction condition, as determined 2233  
by the county engineer in consultation with the local 2234  
jurisdiction responsible for the roads, bridges, and culverts. 2235  
In the event that the county engineer deems any road, bridge, or 2236  
culvert to be inadequate to support the construction or 2237  
decommissioning of the energy facility, the road, bridge, or 2238  
culvert shall be rebuilt or reinforced to the specifications 2239  
established by the county engineer prior to the construction or 2240  
decommissioning of the facility. The owner or lessee of the 2241  
facility shall post a bond in an amount established by the 2242  
county engineer and to be held by the board of county 2243  
commissioners to ensure funding for repairs of roads, bridges, 2244  
and culverts affected during the construction. The bond shall be 2245



released by the board not later than one year after the date the 2246  
repairs are completed. The energy facility owner or lessee 2247  
pursuant to a sale and leaseback transaction shall post a bond, 2248  
as may be required by the Ohio power siting board in the 2249  
certificate authorizing commencement of construction issued 2250  
pursuant to section 4906.10 of the Revised Code, to ensure 2251  
funding for repairs to roads, bridges, and culverts resulting 2252  
from decommissioning of the facility. The energy facility owner 2253  
or lessee and the county engineer may enter into an agreement 2254  
regarding specific transportation plans, reinforcements, 2255  
modifications, use and repair of roads, financial security to be 2256  
provided, and any other relevant issue. 2257

(5) Provide or facilitate training for fire and emergency 2258  
responders for response to emergency situations related to the 2259  
energy project and, for energy projects with a nameplate 2260  
capacity of ~~five~~twenty megawatts or greater, at the person's 2261  
expense, equip the fire and emergency responders with proper 2262  
equipment as reasonably required to enable them to respond to 2263  
such emergency situations; 2264

(6) Maintain a ratio of Ohio-domiciled full-time 2265  
equivalent employees employed in the construction or 2266  
installation of the energy project to total full-time equivalent 2267  
employees employed in the construction or installation of the 2268  
energy project of not less than eighty per cent in the case of a 2269  
solar energy project, and not less than fifty per cent in the 2270  
case of any other energy project. In the case of an energy 2271  
project for which certification from the power siting board is 2272  
required under section 4906.20 of the Revised Code, the number 2273  
of full-time equivalent employees employed in the construction 2274  
or installation of the energy project equals the number actually 2275  
employed or the number projected to be employed in the 2276

certificate application, if such projection is required under 2277  
regulations adopted pursuant to section 4906.03 of the Revised 2278  
Code, whichever is greater. For all other energy projects, the 2279  
number of full-time equivalent employees employed in the 2280  
construction or installation of the energy project equals the 2281  
number actually employed or the number projected to be employed 2282  
by the director of development services, whichever is greater. 2283  
To estimate the number of employees to be employed in the 2284  
construction or installation of an energy project, the director 2285  
shall use a generally accepted job-estimating model in use for 2286  
renewable energy projects, including but not limited to the job 2287  
and economic development impact model. The director may adjust 2288  
an estimate produced by a model to account for variables not 2289  
accounted for by the model. 2290

(7) For energy projects with a nameplate capacity in 2291  
excess of ~~two~~ twenty megawatts, establish a relationship with a 2292  
member of the university system of Ohio as defined in section 2293  
3345.011 of the Revised Code or with a person offering an 2294  
apprenticeship program registered with the employment and 2295  
training administration within the United States department of 2296  
labor or with the apprenticeship council created by section 2297  
4139.02 of the Revised Code, to educate and train individuals 2298  
for careers in the wind or solar energy industry. The 2299  
relationship may include endowments, cooperative programs, 2300  
internships, apprenticeships, research and development projects, 2301  
and curriculum development. 2302

~~(8) Offer to sell power or renewable energy credits from~~ 2303  
~~the energy project to electric distribution utilities or~~ 2304  
~~electric service companies subject to renewable energy resource~~ 2305  
~~requirements under section 4928.64 of the Revised Code that have~~ 2306  
~~issued requests for proposal for such power or renewable energy~~ 2307

~~credits. If no electric distribution utility or electric service~~ 2308  
~~company issues a request for proposal on or before December 31,~~ 2309  
~~2010, or accepts an offer for power or renewable energy credits~~ 2310  
~~within forty five days after the offer is submitted, power or~~ 2311  
~~renewable energy credits from the energy project may be sold to~~ 2312  
~~other persons. Division (F) (8) of this section does not apply~~ 2313  
~~if:—~~ 2314

~~(a) The owner or lessee is a rural electric company or a~~ 2315  
~~municipal power agency as defined in section 3734.058 of the~~ 2316  
~~Revised Code.—~~ 2317

~~(b) The owner or lessee is a person that, before~~ 2318  
~~completion of the energy project, contracted for the sale of~~ 2319  
~~power or renewable energy credits with a rural electric company~~ 2320  
~~or a municipal power agency.—~~ 2321

~~(c) The owner or lessee contracts for the sale of power or~~ 2322  
~~renewable energy credits from the energy project before June 17,~~ 2323  
~~2010.—~~ 2324

~~(9)~~ Make annual service payments as required by division 2325  
(G) of this section and as may be required in a resolution 2326  
adopted by a board of county commissioners under division (E) of 2327  
this section. 2328

(G) The owner or a lessee pursuant to a sale and leaseback 2329  
transaction of a qualified energy project shall make annual 2330  
service payments in lieu of taxes to the county treasurer on or 2331  
before the final dates for payments of taxes on public utility 2332  
personal property on the real and public utility personal 2333  
property tax list for each tax year for which property of the 2334  
energy project is exempt from taxation under this section. The 2335  
county treasurer shall allocate the payment on the basis of the 2336

project's physical location. Upon receipt of a payment, or if 2337  
timely payment has not been received, the county treasurer shall 2338  
certify such receipt or non-receipt to the director of 2339  
development services and tax commissioner in a form determined 2340  
by the director and commissioner, respectively. Each payment 2341  
shall be in the following amount: 2342

(1) In the case of a solar energy project, seven thousand 2343  
dollars per megawatt of nameplate capacity located in the county 2344  
as of December 31, 2010, for tax year 2011, as of December 31, 2345  
2011, for tax year 2012, as of December 31, 2012, for tax year 2346  
2013, as of December 31, 2013, for tax year 2014, as of December 2347  
31, 2014, for tax year 2015, as of December 31, 2015, for tax 2348  
year 2016, and as of December 31, 2016, for tax year 2017 and 2349  
each tax year thereafter; 2350

(2) In the case of any other energy project using 2351  
renewable energy resources, the following: 2352

(a) If the project maintains during the construction or 2353  
installation of the energy facility a ratio of Ohio-domiciled 2354  
full-time equivalent employees to total full-time equivalent 2355  
employees of not less than seventy-five per cent, six thousand 2356  
dollars per megawatt of nameplate capacity located in the county 2357  
as of the thirty-first day of December of the preceding tax 2358  
year; 2359

(b) If the project maintains during the construction or 2360  
installation of the energy facility a ratio of Ohio-domiciled 2361  
full-time equivalent employees to total full-time equivalent 2362  
employees of less than seventy-five per cent but not less than 2363  
sixty per cent, seven thousand dollars per megawatt of nameplate 2364  
capacity located in the county as of the thirty-first day of 2365  
December of the preceding tax year; 2366

(c) If the project maintains during the construction or 2367  
installation of the energy facility a ratio of Ohio-domiciled 2368  
full-time equivalent employees to total full-time equivalent 2369  
employees of less than sixty per cent but not less than fifty 2370  
per cent, eight thousand dollars per megawatt of nameplate 2371  
capacity located in the county as of the thirty-first day of 2372  
December of the preceding tax year. 2373

(3) In the case of an energy project using clean coal 2374  
technology, advanced nuclear technology, or cogeneration 2375  
technology, the following: 2376

(a) If the project maintains during the construction or 2377  
installation of the energy facility a ratio of Ohio-domiciled 2378  
full-time equivalent employees to total full-time equivalent 2379  
employees of not less than seventy-five per cent, six thousand 2380  
dollars per megawatt of nameplate capacity located in the county 2381  
as of the thirty-first day of December of the preceding tax 2382  
year; 2383

(b) If the project maintains during the construction or 2384  
installation of the energy facility a ratio of Ohio-domiciled 2385  
full-time equivalent employees to total full-time equivalent 2386  
employees of less than seventy-five per cent but not less than 2387  
sixty per cent, seven thousand dollars per megawatt of nameplate 2388  
capacity located in the county as of the thirty-first day of 2389  
December of the preceding tax year; 2390

(c) If the project maintains during the construction or 2391  
installation of the energy facility a ratio of Ohio-domiciled 2392  
full-time equivalent employees to total full-time equivalent 2393  
employees of less than sixty per cent but not less than fifty 2394  
per cent, eight thousand dollars per megawatt of nameplate 2395  
capacity located in the county as of the thirty-first day of 2396

December of the preceding tax year. 2397

(H) The director of development services in consultation 2398  
with the tax commissioner shall adopt rules pursuant to Chapter 2399  
119. of the Revised Code to implement and enforce this section. 2400

**Section 2.** That existing sections 303.213, 519.213, 2401  
519.214, 713.081, 3706.02, 3706.03, 4906.10, 4906.13, 4906.20, 2402  
4906.201, 4928.01, 4928.02, 4928.66, 4928.6610, 5727.47, and 2403  
5727.75 of the Revised Code are hereby repealed. 2404

**Section 3.** That section 4928.6616 of the Revised Code is 2405  
hereby repealed. 2406

**Section 4.** The amendments by this act to division (A) (34) 2407  
of section 4928.01 of the Revised Code, division (C) of section 2408  
4928.66 of the Revised Code, and divisions (F) (8) and (9) of 2409  
section 5727.75 of the Revised Code take effect January 1, 2020. 2410

**Section 5.** That sections 1710.06, 4928.142, 4928.143, 2411  
4928.20, 4928.61, 4928.62, 4928.641, 4928.645, and 5501.311 of 2412  
the Revised Code be amended to read as follows: 2413

**Sec. 1710.06.** (A) The board of directors of a special 2414  
improvement district may develop and adopt one or more written 2415  
plans for public improvements or public services that benefit 2416  
all or any part of the district. Each plan shall set forth the 2417  
specific public improvements or public services that are to be 2418  
provided, identify the area in which they will be provided, and 2419  
specify the method of assessment to be used. Each plan for 2420  
public improvements or public services shall indicate the period 2421  
of time the assessments are to be levied for the improvements 2422  
and services and, if public services are included in the plan, 2423  
the period of time the services are to remain in effect. Plans 2424  
for public improvements may include the planning, design, 2425

construction, reconstruction, enlargement, or alteration of any 2426  
public improvements and the acquisition of land for the 2427  
improvements. Plans for public improvements or public services 2428  
may also include, but are not limited to, provisions for the 2429  
following: 2430

(1) Creating and operating the district and the nonprofit 2431  
corporation under this chapter, including hiring employees and 2432  
professional services, contracting for insurance, and purchasing 2433  
or leasing office space and office equipment and other 2434  
requirements of the district; 2435

(2) Planning, designing, and implementing a public 2436  
improvements or public services plan, including hiring 2437  
architectural, engineering, legal, appraisal, insurance, 2438  
consulting, energy auditing, and planning services, and, for 2439  
public services, managing, protecting, and maintaining public 2440  
and private facilities, including public improvements; 2441

(3) Conducting court proceedings to carry out this 2442  
chapter; 2443

(4) Paying damages resulting from the provision of public 2444  
improvements or public services and implementing the plans; 2445

(5) Paying the costs of issuing, paying interest on, and 2446  
redeeming notes and bonds issued for funding public improvements 2447  
and public services plans; and 2448

(6) Sale, lease, lease with an option to purchase, 2449  
conveyance of other interests in, or other contracts for the 2450  
acquisition, construction, maintenance, repair, furnishing, 2451  
equipping, operation, or improvement of any special energy 2452  
improvement project by the special improvement district, between 2453  
a participating political subdivision and the special 2454

improvement district, and between the special improvement 2455  
district and any owner of real property in the special 2456  
improvement district on which a special energy improvement 2457  
project has been acquired, installed, equipped, or improved, and 2458

~~(7) Aggregating the renewable energy credits generated by 2459  
one or more special energy improvement projects within a special 2460  
improvement district, upon the consent of the owners of the 2461  
credits and for the purpose of negotiating and completing the 2462  
sale of such credits. 2463~~

(B) Once the board of directors of the special improvement 2464  
district adopts a plan, it shall submit the plan to the 2465  
legislative authority of each participating political 2466  
subdivision and the municipal executive of each municipal 2467  
corporation in which the district is located, if any. The 2468  
legislative authorities and municipal executives shall review 2469  
the plan and, within sixty days after receiving it, may submit 2470  
their comments and recommendations about it to the district. 2471  
After reviewing these comments and recommendations, the board of 2472  
directors may amend the plan. It may then submit the plan, 2473  
amended or otherwise, in the form of a petition to members of 2474  
the district whose property may be assessed for the plan. Once 2475  
the petition is signed by those members who own at least sixty 2476  
per cent of the front footage of property that is to be assessed 2477  
and that abuts upon a street, alley, public road, place, 2478  
boulevard, parkway, park entrance, easement, or other public 2479  
improvement, or those members who own at least seventy-five per 2480  
cent of the area to be assessed for the improvement or service, 2481  
the petition may be submitted to each legislative authority for 2482  
approval. Except as provided in division (H) of section 1710.02 2483  
of the Revised Code, if the special improvement district was 2484  
created for the purpose of developing and implementing plans for 2485



special energy improvement projects or shoreline improvement 2486  
projects, the petition required under this division shall be 2487  
signed by one hundred per cent of the owners of the area of all 2488  
real property located within the area to be assessed for the 2489  
special energy improvement project or shoreline improvement 2490  
project. 2491

Each legislative authority shall, by resolution, approve 2492  
or reject the petition within sixty days after receiving it. If 2493  
the petition is approved by the legislative authority of each 2494  
participating political subdivision, the plan contained in the 2495  
petition shall be effective at the earliest date on which a 2496  
nonemergency resolution of the legislative authority with the 2497  
latest effective date may become effective. A plan may not be 2498  
resubmitted to the legislative authorities and municipal 2499  
executives more than three times in any twelve-month period. 2500

(C) Each participating political subdivision shall levy, 2501  
by special assessment upon specially benefited property located 2502  
within the district, the costs of any public improvements or 2503  
public services plan contained in a petition approved by the 2504  
participating political subdivisions under this section or 2505  
division (F) of section 1710.02 of the Revised Code. The levy 2506  
shall be made in accordance with the procedures set forth in 2507  
Chapter 727. of the Revised Code, except that: 2508

(1) The assessment for each improvements or services plan 2509  
may be levied by any one or any combination of the methods of 2510  
assessment listed in section 727.01 of the Revised Code, 2511  
provided that the assessment is uniformly applied. 2512

(2) For the purpose of levying an assessment, the board of 2513  
directors may combine one or more improvements or services plans 2514  
or parts of plans and levy a single assessment against specially 2515

benefited property. 2516

(3) For purposes of special assessments levied by a 2517  
township pursuant to this chapter, references in Chapter 727. of 2518  
the Revised Code to the municipal corporation shall be deemed to 2519  
refer to the township, and references to the legislative 2520  
authority of the municipal corporation shall be deemed to refer 2521  
to the board of township trustees. 2522

Church property or property owned by a political 2523  
subdivision, including any participating political subdivision 2524  
in which a special improvement district is located, shall be 2525  
included in and be subject to special assessments made pursuant 2526  
to a plan adopted under this section or division (F) of section 2527  
1710.02 of the Revised Code, if the church or political 2528  
subdivision has specifically requested in writing that its 2529  
property be included within the special improvement district and 2530  
the church or political subdivision is a member of the district 2531  
or, in the case of a district created by an existing qualified 2532  
nonprofit corporation, if the church is a member of the 2533  
corporation. 2534

(D) All rights and privileges of property owners who are 2535  
assessed under Chapter 727. of the Revised Code shall be granted 2536  
to property owners assessed under this chapter, including those 2537  
rights and privileges specified in sections 727.15 to 727.17 and 2538  
727.18 to 727.22 of the Revised Code and the right to notice of 2539  
the resolution of necessity and the filing of the estimated 2540  
assessment under section 727.13 of the Revised Code. Property 2541  
owners assessed for public services under this chapter shall 2542  
have the same rights and privileges as property owners assessed 2543  
for public improvements under this chapter. 2544

**Sec. 4928.142.** (A) For the purpose of complying with 2545

section 4928.141 of the Revised Code and subject to division (D) 2546  
of this section and, as applicable, subject to the rate plan 2547  
requirement of division (A) of section 4928.141 of the Revised 2548  
Code, an electric distribution utility may establish a standard 2549  
service offer price for retail electric generation service that 2550  
is delivered to the utility under a market-rate offer. 2551

(1) The market-rate offer shall be determined through a 2552  
competitive bidding process that provides for all of the 2553  
following: 2554

(a) Open, fair, and transparent competitive solicitation; 2555

(b) Clear product definition; 2556

(c) Standardized bid evaluation criteria; 2557

(d) Oversight by an independent third party that shall 2558  
design the solicitation, administer the bidding, and ensure that 2559  
the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 2560  
this section are met; 2561

(e) Evaluation of the submitted bids prior to the 2562  
selection of the least-cost bid winner or winners. 2563

No generation supplier shall be prohibited from 2564  
participating in the bidding process. 2565

(2) The public utilities commission shall modify rules, or 2566  
adopt new rules as necessary, concerning the conduct of the 2567  
competitive bidding process and the qualifications of bidders, 2568  
which rules shall foster supplier participation in the bidding 2569  
process and shall be consistent with the requirements of 2570  
division (A) (1) of this section. 2571

(B) Prior to initiating a competitive bidding process for 2572  
a market-rate offer under division (A) of this section, the 2573

electric distribution utility shall file an application with the 2574  
commission. An electric distribution utility may file its 2575  
application with the commission prior to the effective date of 2576  
the commission rules required under division (A) (2) of this 2577  
section, and, as the commission determines necessary, the 2578  
utility shall immediately conform its filing to the rules upon 2579  
their taking effect. 2580

An application under this division shall detail the 2581  
electric distribution utility's proposed compliance with the 2582  
requirements of division (A) (1) of this section and with 2583  
commission rules under division (A) (2) of this section and 2584  
demonstrate that all of the following requirements are met: 2585

(1) The electric distribution utility or its transmission 2586  
service affiliate belongs to at least one regional transmission 2587  
organization that has been approved by the federal energy 2588  
regulatory commission; or there otherwise is comparable and 2589  
nondiscriminatory access to the electric transmission grid. 2590

(2) Any such regional transmission organization has a 2591  
market-monitor function and the ability to take actions to 2592  
identify and mitigate market power or the electric distribution 2593  
utility's market conduct; or a similar market monitoring 2594  
function exists with commensurate ability to identify and 2595  
monitor market conditions and mitigate conduct associated with 2596  
the exercise of market power. 2597

(3) A published source of information is available 2598  
publicly or through subscription that identifies pricing 2599  
information for traded electricity on- and off-peak energy 2600  
products that are contracts for delivery beginning at least two 2601  
years from the date of the publication and is updated on a 2602  
regular basis. 2603

The commission shall initiate a proceeding and, within 2604  
ninety days after the application's filing date, shall determine 2605  
by order whether the electric distribution utility and its 2606  
market-rate offer meet all of the foregoing requirements. If the 2607  
finding is positive, the electric distribution utility may 2608  
initiate its competitive bidding process. If the finding is 2609  
negative as to one or more requirements, the commission in the 2610  
order shall direct the electric distribution utility regarding 2611  
how any deficiency may be remedied in a timely manner to the 2612  
commission's satisfaction; otherwise, the electric distribution 2613  
utility shall withdraw the application. However, if such remedy 2614  
is made and the subsequent finding is positive and also if the 2615  
electric distribution utility made a simultaneous filing under 2616  
this section and section 4928.143 of the Revised Code, the 2617  
utility shall not initiate its competitive bid until at least 2618  
one hundred fifty days after the filing date of those 2619  
applications. 2620

(C) Upon the completion of the competitive bidding process 2621  
authorized by divisions (A) and (B) of this section, including 2622  
for the purpose of division (D) of this section, the commission 2623  
shall select the least-cost bid winner or winners of that 2624  
process, and such selected bid or bids, as prescribed as retail 2625  
rates by the commission, shall be the electric distribution 2626  
utility's standard service offer unless the commission, by order 2627  
issued before the third calendar day following the conclusion of 2628  
the competitive bidding process for the market rate offer, 2629  
determines that one or more of the following criteria were not 2630  
met: 2631

(1) Each portion of the bidding process was 2632  
oversubscribed, such that the amount of supply bid upon was 2633  
greater than the amount of the load bid out. 2634

(2) There were four or more bidders. 2635

(3) At least twenty-five per cent of the load is bid upon 2636  
by one or more persons other than the electric distribution 2637  
utility. 2638

All costs incurred by the electric distribution utility as 2639  
a result of or related to the competitive bidding process or to 2640  
procuring generation service to provide the standard service 2641  
offer, including the costs of energy and capacity and the costs 2642  
of all other products and services procured as a result of the 2643  
competitive bidding process, shall be timely recovered through 2644  
the standard service offer price, and, for that purpose, the 2645  
commission shall approve a reconciliation mechanism, other 2646  
recovery mechanism, or a combination of such mechanisms for the 2647  
utility. 2648

(D) The first application filed under this section by an 2649  
electric distribution utility that, as of July 31, 2008, 2650  
directly owns, in whole or in part, operating electric 2651  
generating facilities that had been used and useful in this 2652  
state shall require that a portion of that utility's standard 2653  
service offer load for the first five years of the market rate 2654  
offer be competitively bid under division (A) of this section as 2655  
follows: ten per cent of the load in year one, not more than 2656  
twenty per cent in year two, thirty per cent in year three, 2657  
forty per cent in year four, and fifty per cent in year five. 2658  
Consistent with those percentages, the commission shall 2659  
determine the actual percentages for each year of years one 2660  
through five. The standard service offer price for retail 2661  
electric generation service under this first application shall 2662  
be a proportionate blend of the bid price and the generation 2663  
service price for the remaining standard service offer load, 2664

which latter price shall be equal to the electric distribution 2665  
utility's most recent standard service offer price, adjusted 2666  
upward or downward as the commission determines reasonable, 2667  
relative to the jurisdictional portion of any known and 2668  
measurable changes from the level of any one or more of the 2669  
following costs as reflected in that most recent standard 2670  
service offer price: 2671

(1) The electric distribution utility's prudently incurred 2672  
cost of fuel used to produce electricity; 2673

(2) Its prudently incurred purchased power costs; 2674

(3) Its prudently incurred costs of ~~satisfying the supply~~ 2675  
~~and demand portfolio requirements of this state, including, but~~ 2676  
~~not limited to, renewable energy resource and energy efficiency~~ 2677  
~~requirements programs;~~ 2678

(4) Its costs prudently incurred to comply with 2679  
environmental laws and regulations, with consideration of the 2680  
derating of any facility associated with those costs. 2681

In making any adjustment to the most recent standard 2682  
service offer price on the basis of costs described in division 2683  
(D) of this section, the commission shall include the benefits 2684  
that may become available to the electric distribution utility 2685  
as a result of or in connection with the costs included in the 2686  
adjustment, including, but not limited to, the utility's receipt 2687  
of emissions credits or its receipt of tax benefits or of other 2688  
benefits, and, accordingly, the commission may impose such 2689  
conditions on the adjustment to ensure that any such benefits 2690  
are properly aligned with the associated cost responsibility. 2691  
The commission shall also determine how such adjustments will 2692  
affect the electric distribution utility's return on common 2693

equity that may be achieved by those adjustments. The commission 2694  
shall not apply its consideration of the return on common equity 2695  
to reduce any adjustments authorized under this division unless 2696  
the adjustments will cause the electric distribution utility to 2697  
earn a return on common equity that is significantly in excess 2698  
of the return on common equity that is earned by publicly traded 2699  
companies, including utilities, that face comparable business 2700  
and financial risk, with such adjustments for capital structure 2701  
as may be appropriate. The burden of proof for demonstrating 2702  
that significantly excessive earnings will not occur shall be on 2703  
the electric distribution utility. 2704

Additionally, the commission may adjust the electric 2705  
distribution utility's most recent standard service offer price 2706  
by such just and reasonable amount that the commission 2707  
determines necessary to address any emergency that threatens the 2708  
utility's financial integrity or to ensure that the resulting 2709  
revenue available to the utility for providing the standard 2710  
service offer is not so inadequate as to result, directly or 2711  
indirectly, in a taking of property without compensation 2712  
pursuant to Section 19 of Article I, Ohio Constitution. The 2713  
electric distribution utility has the burden of demonstrating 2714  
that any adjustment to its most recent standard service offer 2715  
price is proper in accordance with this division. 2716

(E) Beginning in the second year of a blended price under 2717  
division (D) of this section and notwithstanding any other 2718  
requirement of this section, the commission may alter 2719  
prospectively the proportions specified in that division to 2720  
mitigate any effect of an abrupt or significant change in the 2721  
electric distribution utility's standard service offer price 2722  
that would otherwise result in general or with respect to any 2723  
rate group or rate schedule but for such alteration. Any such 2724



alteration shall be made not more often than annually, and the 2725  
commission shall not, by altering those proportions and in any 2726  
event, including because of the length of time, as authorized 2727  
under division (C) of this section, taken to approve the market 2728  
rate offer, cause the duration of the blending period to exceed 2729  
ten years as counted from the effective date of the approved 2730  
market rate offer. Additionally, any such alteration shall be 2731  
limited to an alteration affecting the prospective proportions 2732  
used during the blending period and shall not affect any 2733  
blending proportion previously approved and applied by the 2734  
commission under this division. 2735

(F) An electric distribution utility that has received 2736  
commission approval of its first application under division (C) 2737  
of this section shall not, nor ever shall be authorized or 2738  
required by the commission to, file an application under section 2739  
4928.143 of the Revised Code. 2740

**Sec. 4928.143.** (A) For the purpose of complying with 2741  
section 4928.141 of the Revised Code, an electric distribution 2742  
utility may file an application for public utilities commission 2743  
approval of an electric security plan as prescribed under 2744  
division (B) of this section. The utility may file that 2745  
application prior to the effective date of any rules the 2746  
commission may adopt for the purpose of this section, and, as 2747  
the commission determines necessary, the utility immediately 2748  
shall conform its filing to those rules upon their taking 2749  
effect. 2750

(B) Notwithstanding any other provision of Title XLIX of 2751  
the Revised Code to the contrary except division (D) of this 2752  
section, divisions (I), (J), and (K) of section 4928.20, 2753  
~~division (E) of section 4928.64,~~ and section 4928.69 of the 2754

Revised Code: 2755

(1) An electric security plan shall include provisions 2756  
relating to the supply and pricing of electric generation 2757  
service. In addition, if the proposed electric security plan has 2758  
a term longer than three years, it may include provisions in the 2759  
plan to permit the commission to test the plan pursuant to 2760  
division (E) of this section and any transitional conditions 2761  
that should be adopted by the commission if the commission 2762  
terminates the plan as authorized under that division. 2763

(2) The plan may provide for or include, without 2764  
limitation, any of the following: 2765

(a) Automatic recovery of any of the following costs of 2766  
the electric distribution utility, provided the cost is 2767  
prudently incurred: the cost of fuel used to generate the 2768  
electricity supplied under the offer; the cost of purchased 2769  
power supplied under the offer, including the cost of energy and 2770  
capacity, and including purchased power acquired from an 2771  
affiliate; the cost of emission allowances; and the cost of 2772  
federally mandated carbon or energy taxes; 2773

(b) A reasonable allowance for construction work in 2774  
progress for any of the electric distribution utility's cost of 2775  
constructing an electric generating facility or for an 2776  
environmental expenditure for any electric generating facility 2777  
of the electric distribution utility, provided the cost is 2778  
incurred or the expenditure occurs on or after January 1, 2009. 2779  
Any such allowance shall be subject to the construction work in 2780  
progress allowance limitations of division (A) of section 2781  
4909.15 of the Revised Code, except that the commission may 2782  
authorize such an allowance upon the incurrence of the cost or 2783  
occurrence of the expenditure. No such allowance for generating 2784

facility construction shall be authorized, however, unless the 2785  
commission first determines in the proceeding that there is need 2786  
for the facility based on resource planning projections 2787  
submitted by the electric distribution utility. Further, no such 2788  
allowance shall be authorized unless the facility's construction 2789  
was sourced through a competitive bid process, regarding which 2790  
process the commission may adopt rules. An allowance approved 2791  
under division (B) (2) (b) of this section shall be established as 2792  
a nonbypassable surcharge for the life of the facility. 2793

(c) The establishment of a nonbypassable surcharge for the 2794  
life of an electric generating facility that is owned or 2795  
operated by the electric distribution utility, was sourced 2796  
through a competitive bid process subject to any such rules as 2797  
the commission adopts under division (B) (2) (b) of this section, 2798  
and is newly used and useful on or after January 1, 2009, which 2799  
surcharge shall cover all costs of the utility specified in the 2800  
application, excluding costs recovered through a surcharge under 2801  
division (B) (2) (b) of this section. However, no surcharge shall 2802  
be authorized unless the commission first determines in the 2803  
proceeding that there is need for the facility based on resource 2804  
planning projections submitted by the electric distribution 2805  
utility. Additionally, if a surcharge is authorized for a 2806  
facility pursuant to plan approval under division (C) of this 2807  
section and as a condition of the continuation of the surcharge, 2808  
the electric distribution utility shall dedicate to Ohio 2809  
consumers the capacity and energy and the rate associated with 2810  
the cost of that facility. Before the commission authorizes any 2811  
surcharge pursuant to this division, it may consider, as 2812  
applicable, the effects of any decommissioning, deratings, and 2813  
retirements. 2814

(d) Terms, conditions, or charges relating to limitations 2815

on customer shopping for retail electric generation service, 2816  
bypassability, standby, back-up, or supplemental power service, 2817  
default service, carrying costs, amortization periods, and 2818  
accounting or deferrals, including future recovery of such 2819  
deferrals, as would have the effect of stabilizing or providing 2820  
certainty regarding retail electric service; 2821

(e) Automatic increases or decreases in any component of 2822  
the standard service offer price; 2823

(f) Consistent with sections 4928.23 to 4928.2318 of the 2824  
Revised Code, both of the following: 2825

(i) Provisions for the electric distribution utility to 2826  
securitize any phase-in, inclusive of carrying charges, of the 2827  
utility's standard service offer price, which phase-in is 2828  
authorized in accordance with section 4928.144 of the Revised 2829  
Code; 2830

(ii) Provisions for the recovery of the utility's cost of 2831  
securitization. 2832

(g) Provisions relating to transmission, ancillary, 2833  
congestion, or any related service required for the standard 2834  
service offer, including provisions for the recovery of any cost 2835  
of such service that the electric distribution utility incurs on 2836  
or after that date pursuant to the standard service offer; 2837

(h) Provisions regarding the utility's distribution 2838  
service, including, without limitation and notwithstanding any 2839  
provision of Title XLIX of the Revised Code to the contrary, 2840  
provisions regarding single issue ratemaking, a revenue 2841  
decoupling mechanism or any other incentive ratemaking, and 2842  
provisions regarding distribution infrastructure and 2843  
modernization incentives for the electric distribution utility. 2844

The latter may include a long-term energy delivery 2845  
infrastructure modernization plan for that utility or any plan 2846  
providing for the utility's recovery of costs, including lost 2847  
revenue, shared savings, and avoided costs, and a just and 2848  
reasonable rate of return on such infrastructure modernization. 2849  
As part of its determination as to whether to allow in an 2850  
electric distribution utility's electric security plan inclusion 2851  
of any provision described in division (B) (2) (h) of this 2852  
section, the commission shall examine the reliability of the 2853  
electric distribution utility's distribution system and ensure 2854  
that customers' and the electric distribution utility's 2855  
expectations are aligned and that the electric distribution 2856  
utility is placing sufficient emphasis on and dedicating 2857  
sufficient resources to the reliability of its distribution 2858  
system. 2859

(i) Provisions under which the electric distribution 2860  
utility may implement economic development, job retention, and 2861  
energy efficiency programs, which provisions may allocate 2862  
program costs across all classes of customers of the utility and 2863  
those of electric distribution utilities in the same holding 2864  
company system. 2865

(C) (1) The burden of proof in the proceeding shall be on 2866  
the electric distribution utility. The commission shall issue an 2867  
order under this division for an initial application under this 2868  
section not later than one hundred fifty days after the 2869  
application's filing date and, for any subsequent application by 2870  
the utility under this section, not later than two hundred 2871  
seventy-five days after the application's filing date. Subject 2872  
to division (D) of this section, the commission by order shall 2873  
approve or modify and approve an application filed under 2874  
division (A) of this section if it finds that the electric 2875

security plan so approved, including its pricing and all other 2876  
terms and conditions, including any deferrals and any future 2877  
recovery of deferrals, is more favorable in the aggregate as 2878  
compared to the expected results that would otherwise apply 2879  
under section 4928.142 of the Revised Code. Additionally, if the 2880  
commission so approves an application that contains a surcharge 2881  
under division (B) (2) (b) or (c) of this section, the commission 2882  
shall ensure that the benefits derived for any purpose for which 2883  
the surcharge is established are reserved and made available to 2884  
those that bear the surcharge. Otherwise, the commission by 2885  
order shall disapprove the application. 2886

(2) (a) If the commission modifies and approves an 2887  
application under division (C) (1) of this section, the electric 2888  
distribution utility may withdraw the application, thereby 2889  
terminating it, and may file a new standard service offer under 2890  
this section or a standard service offer under section 4928.142 2891  
of the Revised Code. 2892

(b) If the utility terminates an application pursuant to 2893  
division (C) (2) (a) of this section or if the commission 2894  
disapproves an application under division (C) (1) of this 2895  
section, the commission shall issue such order as is necessary 2896  
to continue the provisions, terms, and conditions of the 2897  
utility's most recent standard service offer, along with any 2898  
expected increases or decreases in fuel costs from those 2899  
contained in that offer, until a subsequent offer is authorized 2900  
pursuant to this section or section 4928.142 of the Revised 2901  
Code, respectively. 2902

(D) Regarding the rate plan requirement of division (A) of 2903  
section 4928.141 of the Revised Code, if an electric 2904  
distribution utility that has a rate plan that extends beyond 2905

December 31, 2008, files an application under this section for 2906  
the purpose of its compliance with division (A) of section 2907  
4928.141 of the Revised Code, that rate plan and its terms and 2908  
conditions are hereby incorporated into its proposed electric 2909  
security plan and shall continue in effect until the date 2910  
scheduled under the rate plan for its expiration, and that 2911  
portion of the electric security plan shall not be subject to 2912  
commission approval or disapproval under division (C) of this 2913  
section, and the earnings test provided for in division (F) of 2914  
this section shall not apply until after the expiration of the 2915  
rate plan. However, that utility may include in its electric 2916  
security plan under this section, and the commission may 2917  
approve, modify and approve, or disapprove subject to division 2918  
(C) of this section, provisions for the incremental recovery or 2919  
the deferral of any costs that are not being recovered under the 2920  
rate plan and that the utility incurs during that continuation 2921  
period to comply with section 4928.141, ~~division (B) of section~~ 2922  
~~4928.64, the Revised Code~~ or division (A) of section 4928.66 of 2923  
the Revised Code. 2924

(E) If an electric security plan approved under division 2925  
(C) of this section, except one withdrawn by the utility as 2926  
authorized under that division, has a term, exclusive of phase- 2927  
ins or deferrals, that exceeds three years from the effective 2928  
date of the plan, the commission shall test the plan in the 2929  
fourth year, and if applicable, every fourth year thereafter, to 2930  
determine whether the plan, including its then-existing pricing 2931  
and all other terms and conditions, including any deferrals and 2932  
any future recovery of deferrals, continues to be more favorable 2933  
in the aggregate and during the remaining term of the plan as 2934  
compared to the expected results that would otherwise apply 2935  
under section 4928.142 of the Revised Code. The commission shall 2936

also determine the prospective effect of the electric security 2937  
plan to determine if that effect is substantially likely to 2938  
provide the electric distribution utility with a return on 2939  
common equity that is significantly in excess of the return on 2940  
common equity that is likely to be earned by publicly traded 2941  
companies, including utilities, that face comparable business 2942  
and financial risk, with such adjustments for capital structure 2943  
as may be appropriate. The burden of proof for demonstrating 2944  
that significantly excessive earnings will not occur shall be on 2945  
the electric distribution utility. If the test results are in 2946  
the negative or the commission finds that continuation of the 2947  
electric security plan will result in a return on equity that is 2948  
significantly in excess of the return on common equity that is 2949  
likely to be earned by publicly traded companies, including 2950  
utilities, that will face comparable business and financial 2951  
risk, with such adjustments for capital structure as may be 2952  
appropriate, during the balance of the plan, the commission may 2953  
terminate the electric security plan, but not until it shall 2954  
have provided interested parties with notice and an opportunity 2955  
to be heard. The commission may impose such conditions on the 2956  
plan's termination as it considers reasonable and necessary to 2957  
accommodate the transition from an approved plan to the more 2958  
advantageous alternative. In the event of an electric security 2959  
plan's termination pursuant to this division, the commission 2960  
shall permit the continued deferral and phase-in of any amounts 2961  
that occurred prior to that termination and the recovery of 2962  
those amounts as contemplated under that electric security plan. 2963

(F) With regard to the provisions that are included in an 2964  
electric security plan under this section, the commission shall 2965  
consider, following the end of each annual period of the plan, 2966  
if any such adjustments resulted in excessive earnings as 2967



measured by whether the earned return on common equity of the 2968  
electric distribution utility is significantly in excess of the 2969  
return on common equity that was earned during the same period 2970  
by publicly traded companies, including utilities, that face 2971  
comparable business and financial risk, with such adjustments 2972  
for capital structure as may be appropriate. Consideration also 2973  
shall be given to the capital requirements of future committed 2974  
investments in this state. The burden of proof for demonstrating 2975  
that significantly excessive earnings did not occur shall be on 2976  
the electric distribution utility. If the commission finds that 2977  
such adjustments, in the aggregate, did result in significantly 2978  
excessive earnings, it shall require the electric distribution 2979  
utility to return to consumers the amount of the excess by 2980  
prospective adjustments; provided that, upon making such 2981  
prospective adjustments, the electric distribution utility shall 2982  
have the right to terminate the plan and immediately file an 2983  
application pursuant to section 4928.142 of the Revised Code. 2984  
Upon termination of a plan under this division, rates shall be 2985  
set on the same basis as specified in division (C)(2)(b) of this 2986  
section, and the commission shall permit the continued deferral 2987  
and phase-in of any amounts that occurred prior to that 2988  
termination and the recovery of those amounts as contemplated 2989  
under that electric security plan. In making its determination 2990  
of significantly excessive earnings under this division, the 2991  
commission shall not consider, directly or indirectly, the 2992  
revenue, expenses, or earnings of any affiliate or parent 2993  
company. 2994

**Sec. 4928.20.** (A) The legislative authority of a municipal 2995  
corporation may adopt an ordinance, or the board of township 2996  
trustees of a township or the board of county commissioners of a 2997  
county may adopt a resolution, under which, on or after the 2998

starting date of competitive retail electric service, it may 2999  
aggregate in accordance with this section the retail electrical 3000  
loads located, respectively, within the municipal corporation, 3001  
township, or unincorporated area of the county and, for that 3002  
purpose, may enter into service agreements to facilitate for 3003  
those loads the sale and purchase of electricity. The 3004  
legislative authority or board also may exercise such authority 3005  
jointly with any other such legislative authority or board. For 3006  
customers that are not mercantile customers, an ordinance or 3007  
resolution under this division shall specify whether the 3008  
aggregation will occur only with the prior, affirmative consent 3009  
of each person owning, occupying, controlling, or using an 3010  
electric load center proposed to be aggregated or will occur 3011  
automatically for all such persons pursuant to the opt-out 3012  
requirements of division (D) of this section. The aggregation of 3013  
mercantile customers shall occur only with the prior, 3014  
affirmative consent of each such person owning, occupying, 3015  
controlling, or using an electric load center proposed to be 3016  
aggregated. Nothing in this division, however, authorizes the 3017  
aggregation of the retail electric loads of an electric load 3018  
center, as defined in section 4933.81 of the Revised Code, that 3019  
is located in the certified territory of a nonprofit electric 3020  
supplier under sections 4933.81 to 4933.90 of the Revised Code 3021  
or an electric load center served by transmission or 3022  
distribution facilities of a municipal electric utility. 3023

(B) If an ordinance or resolution adopted under division 3024  
(A) of this section specifies that aggregation of customers that 3025  
are not mercantile customers will occur automatically as 3026  
described in that division, the ordinance or resolution shall 3027  
direct the board of elections to submit the question of the 3028  
authority to aggregate to the electors of the respective 3029

municipal corporation, township, or unincorporated area of a 3030  
county at a special election on the day of the next primary or 3031  
general election in the municipal corporation, township, or 3032  
county. The legislative authority or board shall certify a copy 3033  
of the ordinance or resolution to the board of elections not 3034  
less than ninety days before the day of the special election. No 3035  
ordinance or resolution adopted under division (A) of this 3036  
section that provides for an election under this division shall 3037  
take effect unless approved by a majority of the electors voting 3038  
upon the ordinance or resolution at the election held pursuant 3039  
to this division. 3040

(C) Upon the applicable requisite authority under 3041  
divisions (A) and (B) of this section, the legislative authority 3042  
or board shall develop a plan of operation and governance for 3043  
the aggregation program so authorized. Before adopting a plan 3044  
under this division, the legislative authority or board shall 3045  
hold at least two public hearings on the plan. Before the first 3046  
hearing, the legislative authority or board shall publish notice 3047  
of the hearings once a week for two consecutive weeks in a 3048  
newspaper of general circulation in the jurisdiction or as 3049  
provided in section 7.16 of the Revised Code. The notice shall 3050  
summarize the plan and state the date, time, and location of 3051  
each hearing. 3052

(D) No legislative authority or board, pursuant to an 3053  
ordinance or resolution under divisions (A) and (B) of this 3054  
section that provides for automatic aggregation of customers 3055  
that are not mercantile customers as described in division (A) 3056  
of this section, shall aggregate the electrical load of any 3057  
electric load center located within its jurisdiction unless it 3058  
in advance clearly discloses to the person owning, occupying, 3059  
controlling, or using the load center that the person will be 3060

enrolled automatically in the aggregation program and will 3061  
remain so enrolled unless the person affirmatively elects by a 3062  
stated procedure not to be so enrolled. The disclosure shall 3063  
state prominently the rates, charges, and other terms and 3064  
conditions of enrollment. The stated procedure shall allow any 3065  
person enrolled in the aggregation program the opportunity to 3066  
opt out of the program every three years, without paying a 3067  
switching fee. Any such person that opts out before the 3068  
commencement of the aggregation program pursuant to the stated 3069  
procedure shall default to the standard service offer provided 3070  
under section 4928.14 or division (D) of section 4928.35 of the 3071  
Revised Code until the person chooses an alternative supplier. 3072

(E) (1) With respect to a governmental aggregation for a 3073  
municipal corporation that is authorized pursuant to divisions 3074  
(A) to (D) of this section, resolutions may be proposed by 3075  
initiative or referendum petitions in accordance with sections 3076  
731.28 to 731.41 of the Revised Code. 3077

(2) With respect to a governmental aggregation for a 3078  
township or the unincorporated area of a county, which 3079  
aggregation is authorized pursuant to divisions (A) to (D) of 3080  
this section, resolutions may be proposed by initiative or 3081  
referendum petitions in accordance with sections 731.28 to 3082  
731.40 of the Revised Code, except that: 3083

(a) The petitions shall be filed, respectively, with the 3084  
township fiscal officer or the board of county commissioners, 3085  
who shall perform those duties imposed under those sections upon 3086  
the city auditor or village clerk. 3087

(b) The petitions shall contain the signatures of not less 3088  
than ten per cent of the total number of electors in, 3089  
respectively, the township or the unincorporated area of the 3090

county who voted for the office of governor at the preceding 3091  
general election for that office in that area. 3092

(F) A governmental aggregator under division (A) of this 3093  
section is not a public utility engaging in the wholesale 3094  
purchase and resale of electricity, and provision of the 3095  
aggregated service is not a wholesale utility transaction. A 3096  
governmental aggregator shall be subject to supervision and 3097  
regulation by the public utilities commission only to the extent 3098  
of any competitive retail electric service it provides and 3099  
commission authority under this chapter. 3100

(G) This section does not apply in the case of a municipal 3101  
corporation that supplies such aggregated service to electric 3102  
load centers to which its municipal electric utility also 3103  
supplies a noncompetitive retail electric service through 3104  
transmission or distribution facilities the utility singly or 3105  
jointly owns or operates. 3106

(H) A governmental aggregator shall not include in its 3107  
aggregation the accounts of any of the following: 3108

(1) A customer that has opted out of the aggregation; 3109

(2) A customer in contract with a certified electric 3110  
services company; 3111

(3) A customer that has a special contract with an 3112  
electric distribution utility; 3113

(4) A customer that is not located within the governmental 3114  
aggregator's governmental boundaries; 3115

(5) Subject to division (C) of section 4928.21 of the 3116  
Revised Code, a customer who appears on the "do not aggregate" 3117  
list maintained under that section. 3118

(I) Customers that are part of a governmental aggregation 3119  
under this section shall be responsible only for such portion of 3120  
a surcharge under section 4928.144 of the Revised Code that is 3121  
proportionate to the benefits, as determined by the commission, 3122  
that electric load centers within the jurisdiction of the 3123  
governmental aggregation as a group receive. The proportionate 3124  
surcharge so established shall apply to each customer of the 3125  
governmental aggregation while the customer is part of that 3126  
aggregation. If a customer ceases being such a customer, the 3127  
otherwise applicable surcharge shall apply. Nothing in this 3128  
section shall result in less than full recovery by an electric 3129  
distribution utility of any surcharge authorized under section 3130  
4928.144 of the Revised Code. Nothing in this section shall 3131  
result in less than the full and timely imposition, charging, 3132  
collection, and adjustment by an electric distribution utility, 3133  
its assignee, or any collection agent, of the phase-in-recovery 3134  
charges authorized pursuant to a final financing order issued 3135  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 3136

(J) On behalf of the customers that are part of a 3137  
governmental aggregation under this section and by filing 3138  
written notice with the public utilities commission, the 3139  
legislative authority that formed or is forming that 3140  
governmental aggregation may elect not to receive standby 3141  
service within the meaning of division (B)(2)(d) of section 3142  
4928.143 of the Revised Code from an electric distribution 3143  
utility in whose certified territory the governmental 3144  
aggregation is located and that operates under an approved 3145  
electric security plan under that section. Upon the filing of 3146  
that notice, the electric distribution utility shall not charge 3147  
any such customer to whom competitive retail electric generation 3148  
service is provided by another supplier under the governmental 3149

aggregation for the standby service. Any such consumer that 3150  
returns to the utility for competitive retail electric service 3151  
shall pay the market price of power incurred by the utility to 3152  
serve that consumer ~~plus any amount attributable to the~~ 3153  
~~utility's cost of compliance with the renewable energy resource~~ 3154  
~~provisions of section 4928.64 of the Revised Code to serve the~~ 3155  
~~consumer.~~ Such market price shall include, but not be limited 3156  
to, capacity and energy charges; all charges associated with the 3157  
provision of that power supply through the regional transmission 3158  
organization, including, but not limited to, transmission, 3159  
ancillary services, congestion, and settlement and 3160  
administrative charges; and all other costs incurred by the 3161  
utility that are associated with the procurement, provision, and 3162  
administration of that power supply, as such costs may be 3163  
approved by the commission. The period of time during which the 3164  
market price ~~and renewable energy resource amount~~ shall be so 3165  
assessed on the consumer shall be from the time the consumer so 3166  
returns to the electric distribution utility until the 3167  
expiration of the electric security plan. However, if that 3168  
period of time is expected to be more than two years, the 3169  
commission may reduce the time period to a period of not less 3170  
than two years. 3171

(K) The commission shall adopt rules to encourage and 3172  
promote large-scale governmental aggregation in this state. For 3173  
that purpose, the commission shall conduct an immediate review 3174  
of any rules it has adopted for the purpose of this section that 3175  
are in effect on the effective date of the amendment of this 3176  
section by S.B. 221 of the 127th general assembly, July 31, 3177  
2008. Further, within the context of an electric security plan 3178  
under section 4928.143 of the Revised Code, the commission shall 3179  
consider the effect on large-scale governmental aggregation of 3180

any nonbypassable generation charges, however collected, that 3181  
would be established under that plan, except any nonbypassable 3182  
generation charges that relate to any cost incurred by the 3183  
electric distribution utility, the deferral of which has been 3184  
authorized by the commission prior to the effective date of the 3185  
amendment of this section by S.B. 221 of the 127th general 3186  
assembly, July 31, 2008. 3187

**Sec. 4928.61.** (A) There is hereby established in the state 3188  
treasury the advanced energy fund, into which shall be deposited 3189  
all advanced energy revenues remitted to the director of 3190  
development under division (B) of this section, for the 3191  
exclusive purposes of funding the advanced energy program 3192  
created under section 4928.62 of the Revised Code and paying the 3193  
program's administrative costs. Interest on the fund shall be 3194  
credited to the fund. 3195

(B) Advanced energy revenues shall include all of the 3196  
following: 3197

(1) Revenues remitted to the director after collection by 3198  
each electric distribution utility in this state of a temporary 3199  
rider on retail electric distribution service rates as such 3200  
rates are determined by the public utilities commission pursuant 3201  
to this chapter. The rider shall be a uniform amount statewide, 3202  
determined by the director of development, after consultation 3203  
with the public benefits advisory board created by section 3204  
4928.58 of the Revised Code. The amount shall be determined by 3205  
dividing an aggregate revenue target for a given year as 3206  
determined by the director, after consultation with the advisory 3207  
board, by the number of customers of electric distribution 3208  
utilities in this state in the prior year. Such aggregate 3209  
revenue target shall not exceed more than fifteen million 3210



dollars in any year through 2005 and shall not exceed more than 3211  
five million dollars in any year after 2005. The rider shall be 3212  
imposed beginning on the effective date of the amendment of this 3213  
section by Sub. H.B. 251 of the 126th general assembly, January 3214  
4, 2007, and shall terminate at the end of ten years following 3215  
the starting date of competitive retail electric service or 3216  
until the advanced energy fund, including interest, reaches one 3217  
hundred million dollars, whichever is first. 3218

(2) Revenues from payments, repayments, and collections 3219  
under the advanced energy program and from program income; 3220

(3) Revenues remitted to the director after collection by 3221  
a municipal electric utility or electric cooperative in this 3222  
state upon the utility's or cooperative's decision to 3223  
participate in the advanced energy fund; 3224

~~(4) Revenues from renewable energy compliance payments as~~ 3225  
~~provided under division (C) (2) of section 4928.64 of the Revised~~ 3226  
~~Code;~~ 3227

~~(5)~~ Revenue from forfeitures under division (C) of section 3228  
4928.66 of the Revised Code; 3229

~~(6)~~ (5) Funds transferred pursuant to division (B) of 3230  
Section 512.10 of S.B. 315 of the 129th general assembly; 3231

~~(7)~~ (6) Interest earnings on the advanced energy fund. 3232

(C) (1) Each electric distribution utility in this state 3233  
shall remit to the director on a quarterly basis the revenues 3234  
described in divisions (B) (1) and (2) of this section. Such 3235  
remittances shall occur within thirty days after the end of each 3236  
calendar quarter. 3237

(2) Each participating electric cooperative and 3238

participating municipal electric utility shall remit to the 3239  
director on a quarterly basis the revenues described in division 3240  
(B) (3) of this section. Such remittances shall occur within 3241  
thirty days after the end of each calendar quarter. For the 3242  
purpose of division (B) (3) of this section, the participation of 3243  
an electric cooperative or municipal electric utility in the 3244  
energy efficiency revolving loan program as it existed 3245  
immediately prior to the effective date of the amendment of this 3246  
section by Sub. H.B. 251 of the 126th general assembly, January 3247  
4, 2007, does not constitute a decision to participate in the 3248  
advanced energy fund under this section as so amended. 3249

(3) All remittances under divisions (C) (1) and (2) of this 3250  
section shall continue only until the end of ten years following 3251  
the starting date of competitive retail electric service or 3252  
until the advanced energy fund, including interest, reaches one 3253  
hundred million dollars, whichever is first. 3254

(D) Any moneys collected in rates for non-low-income 3255  
customer energy efficiency programs, as of October 5, 1999, and 3256  
not contributed to the energy efficiency revolving loan fund 3257  
authorized under this section prior to the effective date of its 3258  
amendment by Sub. H.B. 251 of the 126th general assembly, 3259  
January 4, 2007, shall be used to continue to fund cost- 3260  
effective, residential energy efficiency programs, be 3261  
contributed into the universal service fund as a supplement to 3262  
that required under section 4928.53 of the Revised Code, or be 3263  
returned to ratepayers in the form of a rate reduction at the 3264  
option of the affected electric distribution utility. 3265

**Sec. 4928.62.** (A) There is hereby created the advanced 3266  
energy program, which shall be administered by the director of 3267  
development. Under the program, the director may authorize the 3268

use of moneys in the advanced energy fund for financial, 3269  
technical, and related assistance for advanced energy projects 3270  
in this state or for economic development assistance, in 3271  
furtherance of the purposes set forth in section 4928.63 of the 3272  
Revised Code. 3273

(1) To the extent feasible given approved applications for 3274  
assistance, the assistance shall be distributed among the 3275  
certified territories of electric distribution utilities and 3276  
participating electric cooperatives, and among the service areas 3277  
of participating municipal electric utilities, in amounts 3278  
proportionate to the remittances of each utility and cooperative 3279  
under divisions (B) (1) and (3) of section 4928.61 of the Revised 3280  
Code. 3281

(2) The funds described in division (B) ~~(6)~~ (5) of section 3282  
4928.61 of the Revised Code shall not be subject to the 3283  
territorial requirements of division (A) (1) of this section. 3284

(3) The director shall not authorize financial assistance 3285  
for an advanced energy project under the program unless the 3286  
director first determines that the project will create new jobs 3287  
or preserve existing jobs in this state or use innovative 3288  
technologies or materials. 3289

(B) In carrying out sections 4928.61 to 4928.63 of the 3290  
Revised Code, the director may do all of the following to 3291  
further the public interest in advanced energy projects and 3292  
economic development: 3293

(1) Award grants, contracts, loans, loan participation 3294  
agreements, linked deposits, and energy production incentives; 3295

(2) Acquire in the name of the director any property of 3296  
any kind or character in accordance with this section, by 3297

purchase, purchase at foreclosure, or exchange, on such terms 3298  
and in such manner as the director considers proper; 3299

(3) Make and enter into all contracts and agreements 3300  
necessary or incidental to the performance of the director's 3301  
duties and the exercise of the director's powers under sections 3302  
4928.61 to 4928.63 of the Revised Code; 3303

(4) Employ or enter into contracts with financial 3304  
consultants, marketing consultants, consulting engineers, 3305  
architects, managers, construction experts, attorneys, technical 3306  
monitors, energy evaluators, or other employees or agents as the 3307  
director considers necessary, and fix their compensation; 3308

(5) Adopt rules prescribing the application procedures for 3309  
financial assistance under the advanced energy program; the 3310  
fees, charges, interest rates, payment schedules, local match 3311  
requirements, and other terms and conditions of any grants, 3312  
contracts, loans, loan participation agreements, linked 3313  
deposits, and energy production incentives; criteria pertaining 3314  
to the eligibility of participating lending institutions; and 3315  
any other matters necessary for the implementation of the 3316  
program; 3317

(6) Do all things necessary and appropriate for the 3318  
operation of the program. 3319

(C) The department of development may hold ownership to 3320  
any unclaimed energy efficiency and renewable energy emission 3321  
allowances provided for in Chapter 3745-14 of the Administrative 3322  
Code or otherwise, that result from advanced energy projects 3323  
that receive funding from the advanced energy fund, and it may 3324  
use the allowances to further the public interest in advanced 3325  
energy projects or for economic development. 3326

(D) Financial statements, financial data, and trade 3327  
secrets submitted to or received by the director from an 3328  
applicant or recipient of financial assistance under sections 3329  
4928.61 to 4928.63 of the Revised Code, or any information taken 3330  
from those statements, data, or trade secrets for any purpose, 3331  
are not public records for the purpose of section 149.43 of the 3332  
Revised Code. 3333

(E) Nothing in the amendments of sections 4928.61, 3334  
4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 3335  
126th general assembly shall affect any pending or effected 3336  
assistance, pending or effected purchases or exchanges of 3337  
property made, or pending or effected contracts or agreements 3338  
entered into pursuant to division (A) or (B) of this section as 3339  
the section existed prior to the effective date of those 3340  
amendments, January 4, 2007, or shall affect the exemption 3341  
provided under division (C) of this section as the section 3342  
existed prior to that effective date. 3343

(F) Any assistance a school district receives for an 3344  
advanced energy project, including a geothermal heating, 3345  
ventilating, and air conditioning system, shall be in addition 3346  
to any assistance provided under Chapter 3318. of the Revised 3347  
Code and shall not be included as part of the district or state 3348  
portion of the basic project cost under that chapter. 3349

**Sec. 4928.641.** (A) As used in this section, "net cost" 3350  
means a charge or a credit and constitutes the ongoing costs 3351  
including the charges incurred by the utility under each 3352  
contract, including the annual renewable energy credit inventory 3353  
amortization charge in division (E)(3) of this section, the 3354  
carrying charges, less the revenue received by the utility as a 3355  
result of liquidating into competitive markets the electrical 3356

and renewable products provided to the utility under the same 3357  
contract, including capacity, ancillary services, and renewable 3358  
energy credits. 3359

(B) All prudently incurred costs incurred by an electric 3360  
distribution utility associated with contractual obligations 3361  
that existed prior to the effective date of the amendments to 3362  
this section by H.B. 6 of the 133rd general assembly to 3363  
implement section 4928.64 of the Revised Code shall be 3364  
recoverable from the utility's retail customers as a 3365  
distribution expense if the money received from the Ohio clean 3366  
air program fund, created under section 3706.46 of the Revised 3367  
Code, is insufficient to offset those costs. Such costs are 3368  
ongoing costs and shall include costs incurred to discontinue 3369  
existing programs that were implemented by the electric 3370  
distribution utility under section 4928.64 of the Revised Code. 3371

(C) If an electric distribution utility has executed a 3372  
contract before April 1, 2014, to procure renewable energy 3373  
resources to implement section 4928.64 of the Revised Code and 3374  
there are ongoing costs associated with that contract that are 3375  
being recovered from customers through a bypassable charge as of 3376  
the effective date of S.B. 310 the amendments to this section by 3377  
H.B. 6 of the 130th-133rd general assembly, that cost recovery 3378  
shall continue on a bypassable basis, upon final 3379  
reconciliation, be replaced with the accounting mechanism 3380  
permitted under this section. The accounting mechanism shall be 3381  
effective for the remaining term of the contract and for a 3382  
subsequent reconciliation period until all the prudently 3383  
incurred costs associated with that contract are fully 3384  
recovered. 3385

~~(B) Division (A) of this section applies only to costs~~ 3386

~~associated with the original term of a contract described in~~ 3387  
~~that division and entered into before April 1, 2014. This~~ 3388  
~~section does not permit recovery of costs associated with an~~ 3389  
~~extension of such a contract. This section does not permit~~ 3390  
~~recovery of costs associated with an amendment of such a~~ 3391  
~~contract if that amendment was made on or after April 1, 2014.~~ 3392

(D) Subject to the requirements for recovery of ongoing 3393  
costs under section 4928.64 of the Revised Code, the public 3394  
utilities commission shall, in accordance with division (E) of 3395  
this section, approve an accounting mechanism for each electric 3396  
distribution utility that demonstrates that it has incurred or 3397  
will incur ongoing costs as described in division (B) of this 3398  
section. 3399

(E) All of the following shall apply to the accounting 3400  
mechanism: 3401

(1) Subject to division (F) of this section, the 3402  
accounting mechanism shall reflect the forecasted annual net 3403  
costs to be incurred by the utility under each contract 3404  
described in division (C) of this section, subject to subsequent 3405  
reconciliation to actual net costs. 3406

(2) The book value of an electric distribution utility's 3407  
inventory of renewable energy credits, as of the effective date 3408  
of the amendments to this section by H.B. 6 of the 133rd general 3409  
assembly, shall be reflected in the accounting mechanism over an 3410  
amortization period that is substantially similar to the 3411  
remaining term of any contracts described in division (C) of 3412  
this section. 3413

(3) The electric distribution utility shall, in a timely 3414  
manner, liquidate the renewable energy credits in its inventory 3415

and apply the resulting revenue against such recovery. 3416

(F) Not later than ninety days after the effective date of 3417  
the amendments to this section by H.B. 6 of the 133rd general 3418  
assembly, the commission shall approve an appropriate accounting 3419  
mechanism that is reasonable and appropriate to implement the 3420  
requirements of this section and permits a full recovery of the 3421  
utility's net costs, including the accounting authority for the 3422  
utility to establish and adjust regulatory assets and regulatory 3423  
liabilities consistent with this section. The electric 3424  
distribution utility shall be entitled to collect a carrying 3425  
charge on such regulatory assets on the effective date of the 3426  
amendments to this section by H.B. 6 of the 133rd general 3427  
assembly and continuing until the regulatory asset is completely 3428  
recovered. Such carrying charge shall include the electric 3429  
distribution utility's cost of capital including the most recent 3430  
authorized rate of return on equity. The carrying charge shall 3431  
also be applied to any regulatory liability created as a result 3432  
of the cost recovery mechanism. In each subsequent rate 3433  
proceeding under Chapter 4909. of the Revised Code or section 3434  
4928.143 of the Revised Code involving the electric distribution 3435  
utility, the commission shall permit recovery as a distribution 3436  
expense of the regulatory assets existing at that time until the 3437  
utility's net costs are fully recovered. Those costs shall be 3438  
assigned to each customer class using the base distribution 3439  
revenue allocation. 3440

(G) The electric distribution utility shall apply to the 3441  
Ohio air quality development authority for reimbursement of its 3442  
net costs, in accordance with section 3706.485 of the Revised 3443  
Code. To facilitate the authority's consideration of the 3444  
utility's application, the commission shall annually certify 3445  
each electric distribution utility's forecasted net costs under 3446



this section to the authority. The commission shall credit any 3447  
revenue received by the utility from the Ohio clean air program 3448  
fund under section 3706.485 of the Revised Code against the net 3449  
costs that would otherwise be recovered through the utility's 3450  
rates. 3451

**Sec. 4928.645.** (A) An electric distribution utility or 3452  
electric services company may use, ~~for the purpose of complying~~ 3453  
~~with the requirements under divisions (B) (1) and (2) of section~~ 3454  
~~4928.64 of the Revised Code,~~ renewable energy credits any time 3455  
in the five calendar years following the date of their purchase 3456  
or acquisition from any entity, including, but not limited to, 3457  
the following: 3458

(1) A mercantile customer; 3459

(2) An owner or operator of a hydroelectric generating 3460  
facility that is located at a dam on a river, or on any water 3461  
discharged to a river, that is within or bordering this state or 3462  
within or bordering an adjoining state, or that produces power 3463  
that can be shown to be deliverable into this state; 3464

(3) A seller of compressed natural gas that has been 3465  
produced from biologically derived methane gas, provided that 3466  
the seller may only provide renewable energy credits for metered 3467  
amounts of gas. 3468

(B) (1) The public utilities commission shall adopt rules 3469  
specifying that one unit of credit shall equal one megawatt hour 3470  
of electricity derived from renewable energy resources, except 3471  
that, for a generating facility of seventy-five megawatts or 3472  
greater that is situated within this state and has committed by 3473  
December 31, 2009, to modify or retrofit its generating unit or 3474  
units to enable the facility to generate principally from 3475

biomass energy by June 30, 2013, each megawatt hour of 3476  
electricity generated principally from that biomass energy shall 3477  
equal, in units of credit, the product obtained by multiplying 3478  
the actual percentage of biomass feedstock heat input used to 3479  
generate such megawatt hour by the quotient obtained by dividing 3480  
the ~~then existing~~ unit dollar amount used, on December 31, 2019, 3481  
to determine a renewable energy compliance payment as provided 3482  
under former division (C) (2) (b) of section 4928.64 of the 3483  
Revised Code by the then existing market value of one renewable 3484  
energy credit, but such megawatt hour shall not equal less than 3485  
one unit of credit. Renewable energy resources do not have to be 3486  
converted to electricity in order to be eligible to receive 3487  
renewable energy credits. The rules shall specify that, for 3488  
purposes of converting the quantity of energy derived from 3489  
biologically derived methane gas to an electricity equivalent, 3490  
one megawatt hour equals 3,412,142 British thermal units. 3491

(2) The rules also shall provide for this state a system 3492  
of registering renewable energy credits by specifying which of 3493  
any generally available registries shall be used for that 3494  
purpose and not by creating a registry. That selected system of 3495  
registering renewable energy credits shall allow a hydroelectric 3496  
generating facility to be eligible for obtaining renewable 3497  
energy credits and shall allow customer-sited projects or 3498  
actions the broadest opportunities to be eligible for obtaining 3499  
renewable energy credits. 3500

**Sec. 5501.311.** (A) Notwithstanding sections 123.01 and 3501  
127.16 of the Revised Code the director of transportation may 3502  
lease or lease-purchase all or any part of a transportation 3503  
facility to or from one or more persons, one or more 3504  
governmental agencies, a transportation improvement district, or 3505  
any combination thereof, and may grant leases, easements, or 3506

licenses for lands under the control of the department of 3507  
transportation. The director may adopt rules necessary to give 3508  
effect to this section. 3509

(B) Plans and specifications for the construction of a 3510  
transportation facility under a lease or lease-purchase 3511  
agreement are subject to approval of the director and must meet 3512  
or exceed all applicable standards of the department. 3513

(C) Any lease or lease-purchase agreement under which the 3514  
department is the lessee shall be for a period not exceeding the 3515  
then current two-year period for which appropriations have been 3516  
made by the general assembly to the department, and such 3517  
agreement may contain such other terms as the department and the 3518  
other parties thereto agree, notwithstanding any other provision 3519  
of law, including provisions that rental payments in amounts 3520  
sufficient to pay bond service charges payable during the 3521  
current two-year lease term shall be an absolute and 3522  
unconditional obligation of the department independent of all 3523  
other duties under the agreement without set-off or deduction or 3524  
any other similar rights or defenses. Any such agreement may 3525  
provide for renewal of the agreement at the end of each term for 3526  
another term, not exceeding two years, provided that no renewal 3527  
shall be effective until the effective date of an appropriation 3528  
enacted by the general assembly from which the department may 3529  
lawfully pay rentals under such agreement. Any such agreement 3530  
may include, without limitation, any agreement by the department 3531  
with respect to any costs of transportation facilities to be 3532  
included prior to acquisition and construction of such 3533  
transportation facilities. Any such agreement shall not 3534  
constitute a debt or pledge of the faith and credit of the 3535  
state, or of any political subdivision of the state, and the 3536  
lessor shall have no right to have taxes or excises levied by 3537

the general assembly, or the taxing authority of any political 3538  
subdivision of the state, for the payment of rentals thereunder. 3539  
Any such agreement shall contain a statement to that effect. 3540

(D) A municipal corporation, township, or county may use 3541  
service payments in lieu of taxes credited to special funds or 3542  
accounts pursuant to sections 5709.43, 5709.47, 5709.75, and 3543  
5709.80 of the Revised Code to provide its contribution to the 3544  
cost of a transportation facility, provided such facility was 3545  
among the purposes for which such service payments were 3546  
authorized. The contribution may be in the form of a lump sum or 3547  
periodic payments. 3548

(E) Pursuant to the "Telecommunications Act of 1996," 110 3549  
Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, 3550  
easement, or license in a transportation facility to a 3551  
telecommunications service provider for construction, placement, 3552  
or operation of a telecommunications facility. An interest 3553  
granted under this division is subject to all of the following 3554  
conditions: 3555

(1) The transportation facility is owned in fee simple or 3556  
easement by this state at the time the lease, easement, or 3557  
license is granted to the telecommunications provider. 3558

(2) The lease, easement, or license shall be granted on a 3559  
competitive basis in accordance with policies and procedures to 3560  
be determined by the director. The policies and procedures may 3561  
include provisions for master leases for multiple sites. 3562

(3) The telecommunications facility shall be designed to 3563  
accommodate the state's multi-agency radio communication system, 3564  
the intelligent transportation system, and the department's 3565  
communication system as the director may determine is necessary 3566

for highway or other departmental purposes. 3567

(4) The telecommunications facility shall be designed to 3568  
accommodate such additional telecommunications equipment as may 3569  
feasibly be co-located thereon as determined in the discretion 3570  
of the director. 3571

(5) The telecommunications service providers awarded the 3572  
lease, easement, or license, agree to permit other 3573  
telecommunications service providers to co-locate on the 3574  
telecommunications facility, and agree to the terms and 3575  
conditions of the co-location as determined in the discretion of 3576  
the director. 3577

(6) The director shall require indemnity agreements in 3578  
favor of the department as a condition of any lease, easement, 3579  
or license granted under this division. Each indemnity agreement 3580  
shall secure this state and its agents from liability for 3581  
damages arising out of safety hazards, zoning, and any other 3582  
matter of public interest the director considers necessary. 3583

(7) The telecommunications service provider fully complies 3584  
with any permit issued under section 5515.01 of the Revised Code 3585  
pertaining to land that is the subject of the lease, easement, 3586  
or license. 3587

(8) All plans and specifications shall meet with the 3588  
director's approval. 3589

(9) Any other conditions the director determines 3590  
necessary. 3591

(F) In accordance with section 5501.031 of the Revised 3592  
Code, to further efforts to promote energy conservation and 3593  
energy efficiency, the director may grant a lease, easement, or 3594  
license in a transportation facility to a utility service 3595

provider that has received its certificate from the Ohio power 3596  
siting board or appropriate local entity for construction, 3597  
placement, or operation of an alternative energy generating 3598  
facility service provider as defined in section 4928.64 of the 3599  
Revised Code as that section existed prior to January 1, 2020. 3600  
An interest granted under this division is subject to all of the 3601  
following conditions: 3602

(1) The transportation facility is owned in fee simple or 3603  
in easement by this state at the time the lease, easement, or 3604  
license is granted to the utility service provider. 3605

(2) The lease, easement, or license shall be granted on a 3606  
competitive basis in accordance with policies and procedures to 3607  
be determined by the director. The policies and procedures may 3608  
include provisions for master leases for multiple sites. 3609

(3) The alternative energy generating facility shall be 3610  
designed to provide energy for the department's transportation 3611  
facilities with the potential for selling excess power on the 3612  
power grid, as the director may determine is necessary for 3613  
highway or other departmental purposes. 3614

(4) The director shall require indemnity agreements in 3615  
favor of the department as a condition of any lease, easement, 3616  
or license granted under this division. Each indemnity agreement 3617  
shall secure this state from liability for damages arising out 3618  
of safety hazards, zoning, and any other matter of public 3619  
interest the director considers necessary. 3620

(5) The alternative energy service provider fully complies 3621  
with any permit issued by the Ohio power siting board under 3622  
Chapter 4906. of the Revised Code and complies with section 3623  
5515.01 of the Revised Code pertaining to land that is the 3624

subject of the lease, easement, or license. 3625

(6) All plans and specifications shall meet with the 3626  
director's approval. 3627

(7) Any other conditions the director determines 3628  
necessary. 3629

(G) Money the department receives under this section shall 3630  
be deposited into the state treasury to the credit of the 3631  
highway operating fund. 3632

(H) A lease, easement, or license granted under division 3633  
(E) or (F) of this section, and any telecommunications facility 3634  
or alternative energy generating facility relating to such 3635  
interest in a transportation facility, is hereby deemed to 3636  
further the essential highway purpose of building and 3637  
maintaining a safe, energy-efficient, and accessible 3638  
transportation system. 3639

**Section 6.** That existing sections 1710.06, 4928.142, 3640  
4928.143, 4928.20, 4928.61, 4928.62, 4928.641, 4928.645, and 3641  
5501.311 of the Revised Code are hereby repealed. 3642

**Section 7.** That sections 1710.061, 4928.64, 4928.643, 3643  
4928.644, and 4928.65 of the Revised Code are hereby repealed. 3644

**Section 8.** Sections 5, 6, and 7 of this act take effect 3645  
January 1, 2020. 3646

**Section 9.** (A) Not earlier than two years after the 3647  
effective date of this section, the Director of Environmental 3648  
Protection may apply to the Administrator of the United States 3649  
Environmental Protection Agency for an exemption from the 3650  
requirement to implement the decentralized motor vehicle 3651  
inspection and maintenance program established under section 3652

3704.14 of the Revised Code. In making the application and for 3653  
purposes of complying with the "Federal Clean Air Act," the 3654  
Director shall request the Administrator to authorize the 3655  
implementation of the Ohio Clean Air Program established by this 3656  
act as an alternative to the decentralized program in those 3657  
areas of the state where the program is currently operating. 3658

(B) As used in this section, "Federal Clean Air Act" has 3659  
the same meaning as in section 3704.01 of the Revised Code. 3660

**Section 10.** (A) In 2020, the Public Utilities Commission 3661  
shall review an electric distribution utility's or electric 3662  
services company's compliance with the benchmarks for 2019 under 3663  
division (B) (2) of section 4928.64 of the Revised Code as that 3664  
division existed on the effective date of this section, and in 3665  
the course of that review, shall identify any undercompliance or 3666  
noncompliance of the utility or company that it determines is 3667  
weather-related, related to equipment or resource shortages for 3668  
qualifying renewable energy resources as applicable, or is 3669  
otherwise outside the utility's or company's control. 3670

(B) Subject to the cost cap provisions of division (C) (3) 3671  
of section 4928.64 of the Revised Code as that section existed 3672  
on the effective date of this section, if the commission 3673  
determines, after notice and opportunity for hearing, and based 3674  
upon its findings in the review under division (A) of this 3675  
section regarding avoidable undercompliance or noncompliance, 3676  
but subject to the force-majeure provisions of division (C) (4) 3677  
(a) of section 4928.64 of the Revised Code as that section 3678  
existed on the effective date of this section, that the utility 3679  
or company has failed to comply with the benchmarks for 2019, 3680  
the commission shall impose a renewable energy compliance 3681  
payment on the utility or company. 3682



(1) The compliance payment pertaining to the solar energy 3683  
resource benchmark for 2019 shall be two hundred dollars per 3684  
megawatt hour of undercompliance or noncompliance in the period 3685  
under review. 3686

(2) The compliance payment pertaining to the renewable 3687  
energy resource benchmark for 2019 shall be assessed in 3688  
accordance with division (C) (2) (b) of section 4928.64 of the 3689  
Revised Code as that section existed on the effective date of 3690  
this section. 3691

(C) Division (C) (2) (c) of section 4928.64 of the Revised 3692  
Code as that section existed on the effective date of this 3693  
section applies to compliance payments imposed under this 3694  
section. 3695

**Section 11.** If any provisions of a section as amended or 3696  
enacted by this act, or the application thereof to any person or 3697  
circumstance is held invalid, the invalidity does not affect 3698  
other provisions or applications of the section or related 3699  
sections that can be given effect without the invalid provision 3700  
or application, and to this end the provisions are severable. 3701

**Section 12.** The amendment by this act of divisions (B) (1) 3702  
(c), (C) (2), (E), and (F) (4), (5), and (7) of section 5727.75 of 3703  
the Revised Code applies to both of the following: 3704

(A) Energy projects certified by the Director of 3705  
Development Services on or after the effective date of this 3706  
section; 3707

(B) Existing qualified energy projects that, on the 3708  
effective date of this section, have a nameplate capacity of 3709  
fewer than five megawatts. 3710

## **RESOLUTION NO. 042-19**

### **A RESOLUTION STRONGLY OPPOSING THE STATE OF OHIO HOUSE BILL 163, REGARDING MUNICIPAL WATER AND SEWER PRACTICES; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Mayor and Council have been advised of a proposal of State of Ohio House Bill 163, regarding municipal water and sewer practices; and,

**WHEREAS**, House Bill 163 (HB 163) is currently pending in the Ohio House of Representatives, which would effectively penalize a municipality for charging what the municipality calculates is a fair rate for extending and managing water and sewer services to neighboring political subdivisions; and,

**WHEREAS**, HB 163 would allow political subdivisions to sue a municipality that they deem to be a "noncompliant municipal corporation" for charging what political subdivisions would allege to be inflated water rates to extraterritorial areas; municipalities found to be "noncompliant" by a court would have their Local Government Funds withheld, in addition to water and sewer funds withheld from the Ohio EPA, the Ohio Public Works Commission, the Ohio Water Development Authority and the Ohio Development Services Agency until the municipality can prove they are no longer "noncompliant."

**Now Therefore,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON,  
OHIO:**

Section 1. That, the City of Napoleon opposes Ohio House Bill 163 and any legislation that would unduly penalize a municipality for charging what the municipality calculates is a fair rate for extending and managing water and sewer services to neighboring political subdivisions.

Section 2. That, that the City of Napoleon opposes Ohio House Bill 163 and any legislation that would allow political subdivisions to sue a municipality that they deem to be a "noncompliant municipal corporation" for charging what political subdivisions would allege to be inflated water rates to extraterritorial areas.

Section 3. That, the City of Napoleon urges our state representative and state senator to oppose this legislation unless changes are made to mitigate the impact of the bill on our community and our customers.

Section 4. That, a copy of this resolution be sent to our state representative, state senator and Governor Mike DeWine.

Section 5. That, it is found and determined that all formal actions of this City Council concerning and relating to adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 6. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further,

if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 1. Section 7. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that the City must maintain its ability of Home Rule therefore, this Resolution shall be in full force and effect immediately upon its adoption by Council. Further, the Emergency Clause is necessary to demonstrate opposition to House Bill 163 in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_Yea \_\_\_\_Nay \_\_\_\_Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 042-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, interim Clerk of Council*

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 163**

**Representatives Roegner, Riedel**

**Cosponsors: Representatives Antani, Becker, Brenner, Brinkman, Conditt, Dean, Faber, Goodman, Hagan, Henne, Hood, Keller, Kick, Koehler, Lipps, McColley, Merrin, Perales, Reineke, Romanchuk, Speaker Rosenberger, Representatives Schaffer, Scherer, Seitz, Slaby, Thompson, Vitale, Wiggam, Young, Zeltwanger**

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**A BILL**

To amend sections 164.07, 307.022, 307.671, 1 307.673, 307.674, 307.696, 351.06, 353.03, 2 1506.44, 1710.02, 4115.03, 4115.04, 4115.06, 3 5540.03, 6117.012, and 6121.061 of the Revised 4 Code to allow political subdivisions, special 5 districts, and state institutions of higher 6 education to elect to apply the Prevailing Wage 7 Law to public improvement projects. 8

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

**Section 1.** That sections 164.07, 307.022, 307.671, 9 307.673, 307.674, 307.696, 351.06, 353.03, 1506.44, 1710.02, 10 4115.03, 4115.04, 4115.06, 5540.03, 6117.012, and 6121.061 of 11 the Revised Code be amended to read as follows: 12

**Sec. 164.07.** ~~(A)~~—In awarding contracts for capital 13 improvement projects to be financed in whole or in part under 14 this chapter, a local subdivision shall comply with the 15 percentage requirements of section 125.081 of the Revised Code. 16

~~(B) A capital improvement that is financed in whole or in part under this chapter is a public improvement, and a subdivision undertaking a capital improvement is a public authority, for purposes of section 4115.03 of the Revised Code. All contractors and subcontractors working on a capital improvement financed in whole or in part under this chapter shall comply with sections 4115.03 to 4115.16 of the Revised Code.~~

**Sec. 307.022.** (A) The board of county commissioners of any county may do both of the following without following the competitive bidding requirements of section 307.86 of the Revised Code:

(1) Enter into a lease, including a lease with an option to purchase, of correctional facilities for a term not in excess of forty years. Before entering into the lease, the board shall publish, once a week for three consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, a notice that the board is accepting proposals for a lease pursuant to this division. The notice shall state the date before which the proposals are required to be submitted in order to be considered by the board.

(2) Subject to compliance with this section, grant leases, easements, and licenses with respect to, or sell, real property owned by the county if the real property is to be leased back by the county for use as correctional facilities.

The lease under division (A) (1) of this section shall require the county to contract, in accordance with Chapter 153.7—~~and sections 307.86 to 307.92, and Chapter 4115.~~ of the Revised Code, for the construction, improvement, furnishing, and equipping of correctional facilities to be leased pursuant to

this section. Prior to the board's execution of the lease, it 47  
may require the lessor under the lease to cause sufficient money 48  
to be made available to the county to enable the county to 49  
comply with the certification requirements of division (D) of 50  
section 5705.41 of the Revised Code. 51

A lease entered into pursuant to division (A)(1) of this 52  
section by a board may provide for the county to maintain and 53  
repair the correctional facility during the term of the 54  
leasehold, may provide for the county to make rental payments 55  
prior to or after occupation of the correctional facilities by 56  
the county, and may provide for the board to obtain and maintain 57  
any insurance that the lessor may require, including, but not 58  
limited to, public liability, casualty, builder's risk, and 59  
business interruption insurance. The obligations incurred under 60  
a lease entered into pursuant to division (A)(1) of this section 61  
shall not be considered to be within the debt limitations of 62  
section 133.07 of the Revised Code. 63

(B) The correctional facilities leased under division (A) 64  
(1) of this section may include any or all of the following: 65

(1) Facilities in which one or more other governmental 66  
entities are participating or in which other facilities of the 67  
county are included; 68

(2) Facilities acquired, constructed, or renovated by or 69  
on behalf of the department of rehabilitation and correction or 70  
the department of administrative services, or financed by the 71  
treasurer of state, and leased to the county pursuant to section 72  
307.021 of the Revised Code; 73

(3) Correctional facilities that are under construction or 74  
have been completed and for which no permanent financing has 75

been arranged. 76

(C) As used in this section: 77

(1) "Correctional facilities" includes, but is not limited 78  
to, jails, detention facilities, workhouses, community-based 79  
correctional facilities, and family court centers. 80

(2) "Construction" has the same meaning as in division (B) 81  
of section 4115.03 of the Revised Code. 82

**Sec. 307.671.** (A) As used in this section: 83

(1) "Bonds" means, as the context requires: general 84  
obligation bonds of the county, or notes in anticipation 85  
thereof, described in division (B) (1) (b) of this section; 86  
revenue bonds of the port authority described in division (B) (2) 87  
(a) of this section; and urban renewal bonds, or notes in 88  
anticipation thereof, of the host municipal corporation 89  
described in division (B) (3) (a) of this section. 90

(2) "Corporation" means a nonprofit corporation that is 91  
organized under the laws of this state and that includes within 92  
the purposes for which it is incorporated the authorization to 93  
lease and operate facilities such as a port authority 94  
educational and cultural facility. 95

(3) "Debt service charges" means, for any period or 96  
payable at any time, the principal of and interest and any 97  
premium due on bonds for that period or payable at that time 98  
whether due at maturity or upon mandatory redemption, together 99  
with any required deposits to reserves for the payment of 100  
principal of and interest on such bonds, and includes any 101  
payments required by the port authority to satisfy any of its 102  
obligations arising from any guaranty agreements, reimbursement 103  
agreements, or other credit enhancement agreements described in 104

division (C) of this section. 105

(4) "Host municipal corporation" means the municipal 106  
corporation within the boundaries of which the port authority 107  
educational and cultural facility is located. 108

(5) "Port authority" means a port authority created 109  
pursuant to the authority of section 4582.02 of the Revised Code 110  
by a county and a host municipal corporation. 111

(6) "Port authority educational and cultural facility" 112  
means a facility located within an urban renewal area that may 113  
consist of a museum, archives, library, hall of fame, center for 114  
contemporary music, or other facilities necessary to provide 115  
programs of an educational and cultural nature, together with 116  
all parking facilities, walkways, and other auxiliary 117  
facilities, real and personal property, property rights, 118  
easements, and interests that may be appropriate for, or used in 119  
connection with, the operation of the facility. 120

(7) "Urban renewal area" means an area of a host municipal 121  
corporation that the legislative authority of the host municipal 122  
corporation has, at any time, designated as appropriate for an 123  
urban renewal project pursuant to Chapter 725. of the Revised 124  
Code. 125

(B) The board of county commissioners of a county, a port 126  
authority, and a host municipal corporation may enter into a 127  
cooperative agreement with a corporation, under which: 128

(1) The board of county commissioners agrees to do all of 129  
the following: 130

(a) Levy a tax under division (D) of section 5739.09 of 131  
the Revised Code exclusively for the purposes described in 132  
divisions (B) (1) (c) and (d) of this section; 133



(b) Issue general obligation bonds of the county, or notes 134  
in anticipation thereof, pursuant to Chapter 133. of the Revised 135  
Code, for the purpose of acquiring, constructing, and equipping 136  
the port authority educational and cultural facility and 137  
contribute the proceeds from the issuance to the port authority 138  
for such purpose. The cooperative agreement may provide that 139  
such proceeds be deposited with and administered by the trustee 140  
pursuant to the trust agreement provided for in division (C) of 141  
this section. 142

(c) Following the issuance, sale, and delivery of the port 143  
authority revenue bonds provided for in division (B) (2) (a) of 144  
this section, and prior to the date certain stated in the 145  
cooperative agreement which shall be the date estimated for the 146  
completion of construction of the port authority educational and 147  
cultural facility, pledge and contribute to the port authority 148  
revenue from the tax levied pursuant to division (B) (1) (a) of 149  
this section, together with any investment earnings on that 150  
revenue, to pay a portion of the costs of acquiring, 151  
constructing, and equipping the port authority educational and 152  
cultural facility; 153

(d) Following such date certain, pledge and contribute to 154  
the corporation all or such portion as provided for in the 155  
cooperative agreement of the revenue from the tax, together with 156  
any investment earnings on that revenue, to pay a portion of the 157  
costs of the corporation of leasing the port authority 158  
educational and cultural facility from the port authority. 159

(2) The port authority agrees to do all of the following: 160

(a) Issue revenue bonds of the port authority pursuant to 161  
Chapter 4582. of the Revised Code for the purpose of acquiring, 162  
constructing, and equipping the port authority educational and 163

cultural facility; 164

(b) Construct the port authority educational and cultural 165  
facility; 166

(c) Lease the port authority educational and cultural 167  
facility to the corporation; 168

(d) To the extent provided for in the cooperative 169  
agreement or the lease to the corporation, authorize the 170  
corporation to administer on behalf of the port authority the 171  
contracts for acquiring, constructing, or equipping a port 172  
authority educational and cultural facility; 173

(e) Use the revenue derived from the lease of the port 174  
authority educational and cultural facility to the corporation 175  
solely to pay debt service charges on the revenue bonds of the 176  
port authority described in division (B) (2) (a) of this section. 177

(3) The host municipal corporation agrees to do both of 178  
the following: 179

(a) Issue urban renewal bonds of the host municipal 180  
corporation, or notes in anticipation thereof, pursuant to 181  
Chapter 725. of the Revised Code for the purpose of acquiring 182  
and constructing the port authority educational and cultural 183  
facility and contribute the proceeds from the issuance to the 184  
port authority for such purpose. The cooperative agreement may 185  
provide that such proceeds be deposited with and administered by 186  
the trustee pursuant to the trust agreement provided for in 187  
division (C) of this section. 188

(b) To the extent provided for in the cooperative 189  
agreement, contribute to the county, for use by the county to 190  
pay debt service charges on the bonds of the county, or notes in 191  
anticipation thereof, described in division (B) (1) (b) of this 192

section, any excess urban renewal service payments pledged by 193  
the host municipal corporation to the urban renewal bonds 194  
described in division (B) (3) (a) of this section and not required 195  
on an annual basis to pay debt service charges on the urban 196  
renewal bonds. 197

(4) The corporation agrees to do all of the following: 198

(a) Lease the port authority educational and cultural 199  
facility from the port authority; 200

(b) Operate and maintain the port authority educational 201  
and cultural facility pursuant to the lease; 202

(c) To the extent provided for in the cooperative 203  
agreement or the lease from the port authority, administer on 204  
behalf of the port authority the contracts for acquiring, 205  
constructing, or equipping a port authority educational and 206  
cultural facility. 207

(C) The pledges and contributions described in divisions 208  
(B) (1) (c) and (d) of this section and provided for in the 209  
cooperative agreement shall be for the period stated in the 210  
cooperative agreement, but shall not be in excess of the period 211  
necessary to provide for the final retirement of the port 212  
authority revenue bonds provided for in division (B) (2) (a) of 213  
this section and any bonds issued by the port authority to 214  
refund such bonds, and for the satisfaction by the port 215  
authority of any of its obligations arising from any guaranty 216  
agreements, reimbursement agreements, or other credit 217  
enhancement agreements relating to such bonds or to the revenues 218  
pledged to such bonds. The cooperative agreement shall provide 219  
for the termination of the cooperative agreement including the 220  
pledges and contributions described in divisions (B) (1) (c) and 221

(d) of this section if the port authority revenue bonds provided 222  
for in division (B) (2) (a) of this section have not been issued, 223  
sold, and delivered within two years of the effective date of 224  
the cooperative agreement. 225

The cooperative agreement shall provide that any revenue 226  
bonds of the port authority shall be secured by a trust 227  
agreement between the port authority and a corporate trustee 228  
that is a trust company or bank having the powers of a trust 229  
company within or outside the state. The county may be a party 230  
to such trust agreement for the purpose of securing the pledge 231  
by the county of its contribution to the corporation pursuant to 232  
division (B) (1) (d) of this section. A tax levied pursuant to 233  
division (B) (1) (a) of this section is not subject to diminution 234  
by initiative or referendum or diminution by statute, unless 235  
provision is made therein for an adequate substitute therefor 236  
reasonably satisfactory to the trustee under the trust agreement 237  
that secures the revenue bonds of the port authority. 238

(D) A pledge of money by a county under this section shall 239  
not be net indebtedness of the county for purposes of section 240  
133.07 of the Revised Code. 241

(E) If the terms of the cooperative agreement so provide, 242  
any contract for the acquisition, construction, or equipping of 243  
a port authority educational and cultural facility shall be made 244  
in such manner as is determined by the board of directors of the 245  
port authority, and unless the cooperative agreement provides 246  
otherwise, such a contract is not subject to division (A) of 247  
section 4582.12 of the Revised Code. The port authority may take 248  
the assignment of and assume any contracts for the acquisition, 249  
construction, and equipping of a port authority educational and 250  
cultural facility that previously have been authorized by either 251

or both the host municipal corporation or the corporation. Such 252  
contracts likewise are not subject to division (A) of section 253  
4582.12 of the Revised Code. 254

~~Any contract for the acquisition, construction, or 255  
equipping of a port authority educational and cultural facility- 256  
entered into, assigned, or assumed pursuant to this division- 257  
shall provide that all laborers and mechanics employed for the- 258  
acquisition, construction, or equipping of the port authority- 259  
educational and cultural facility shall be paid at the- 260  
prevailing rates of wages of laborers and mechanics for the- 261  
class of work called for by the port authority educational and- 262  
cultural facility, which wages shall be determined in accordance- 263  
with the requirements of Chapter 4115. of the Revised Code for- 264  
the determination of prevailing wage rates. 265~~

**Sec. 307.673.** This section applies only in a county in 266  
which a tax is levied under section 307.697, 4301.421, 5743.024, 267  
or 5743.323 of the Revised Code on July 19, 1995. 268

(A) As used in this section: 269

(1) "County taxes" means taxes levied by a board of county 270  
commissioners under division (D) of section 307.697, division 271  
(B) of section 4301.421, division (C) of section 5743.024, and 272  
section 5743.323 of the Revised Code. 273

(2) "Corporation" means a nonprofit corporation organized 274  
under the laws of this state and that includes among the 275  
purposes for which it is incorporated the authority to acquire, 276  
construct, renovate, repair, equip, lease, manage, or operate a 277  
sports facility. 278

(3) "Cooperative agreement" means an agreement entered 279  
into pursuant to this section. 280

(4) "Cost of a sports facility" means the cost of 281  
acquiring, constructing, renovating, repairing, equipping, or 282  
improving one or more sports facilities, including 283  
reconstructing, rehabilitating, remodeling, and enlarging; the 284  
cost of equipping and furnishing such a facility; and all 285  
financing costs pertaining thereto, including the cost of 286  
engineering, architectural, and other professional services, 287  
designs, plans, specifications and surveys, and estimates of 288  
costs; the costs of refinancing obligations issued by, or 289  
reimbursement of money advanced by, the parties to the 290  
cooperative agreement or other persons, the proceeds of which 291  
obligations were used to pay the costs of the sports facility; 292  
the cost of tests and inspections; the cost of any indemnity or 293  
surety bonds and premiums on insurance, all related direct and 294  
administrative costs pertaining thereto, fees and expenses of 295  
trustees, depositories, and paying agents for the obligations, 296  
capitalized interest on the obligations, amounts necessary to 297  
establish reserves as required by the obligation proceedings, 298  
the reimbursement of money advanced or applied by the parties to 299  
the cooperative agreement or other persons for the payment of 300  
any item of costs of the sports facility, and all other expenses 301  
necessary or incident to planning or determining the feasibility 302  
or practicability with respect to the sports facility; and any 303  
other such expenses as may be necessary or incident to the 304  
acquisition, construction, reconstruction, rehabilitation, 305  
remodeling, renovation, repair, enlargement, improvement, 306  
equipping, and furnishing of the sports facility, the financing 307  
of the sports facility, placing the sports facility in use and 308  
operation, including any one, part of, or combination of such 309  
classes of costs and expenses. 310

(5) "Financing costs" has the same meaning as in section 311

133.01 of the Revised Code. 312

(6) "Obligations" means obligations issued or incurred to 313  
pay the cost of a sports facility, including bonds, notes, 314  
certificates of indebtedness, commercial paper, and other 315  
instruments in writing, anticipatory securities as defined in 316  
section 133.01 of the Revised Code, issued or incurred by an 317  
issuer pursuant to Chapter 133. or 4582. of the Revised Code or 318  
this section, or otherwise, to evidence the issuer's obligation 319  
to repay borrowed money, or to pay interest, by, or to pay at 320  
any future time other money obligations of, the issuer of the 321  
obligations, including obligations of an issuer or lessee to 322  
make payments under an installment sale, lease, lease-purchase, 323  
or similar agreement. 324

(7) "Owner" means any person that owns or operates a 325  
professional athletic or sports team, that is party to a 326  
cooperative agreement, or that has a lease or other agreement 327  
with a party to a cooperative agreement, and that commits to use 328  
the sports facility that is the subject of the cooperative 329  
agreement for all of the team's home games for the period 330  
specified in that agreement. 331

(8) "Payments," when used with reference to obligations, 332  
means payments of the principal, including any mandatory sinking 333  
fund deposits and mandatory redemption payments, interest and 334  
any redemption premium, and lease rentals, lease-purchase 335  
payments and other amounts payable under obligations in the form 336  
of installment sale, lease, lease-purchase, or similar 337  
agreements. 338

(9) "Person" has the same meaning as defined in section 339  
133.01 of the Revised Code. 340

(10) "Port authority" means a port authority created under 341  
Chapter 4582. of the Revised Code. 342

(11) "Sports facility" means a facility, including a 343  
stadium, that is intended to house or provide a site for one or 344  
more major league professional athletic or sports teams or 345  
activities, together with all spectator facilities, parking 346  
facilities, walkways, and auxiliary facilities, real and 347  
personal property, property rights, easements, leasehold 348  
estates, and interests that may be appropriate for, or used in 349  
connection with, the operation of the sports facility. 350

(B) The board of county commissioners of a county, the 351  
legislative authority of a municipal corporation, a port 352  
authority, a corporation, and an owner, or any combination 353  
thereof, may enter into one or more cooperative agreements under 354  
which the parties enter into one or more of the agreements 355  
described in divisions (B) (1) to (5) of this section. 356

(1) The board of county commissioners agrees to do one or 357  
more of the following: 358

(a) Levy a tax under division (D) of section 307.697, 359  
division (B) of section 4301.421, division (C) of section 360  
5743.024, and section 5743.323 of the Revised Code and make 361  
available all or a portion of the revenue from those taxes for 362  
the payment of the cost of the sports facility or to make 363  
payments on obligations; 364

(b) Issue or incur obligations of the county pursuant to 365  
Chapter 133. of the Revised Code or this section; 366

(c) Make available all or a portion of the revenue from 367  
those taxes or of the proceeds from the issuance of those 368  
obligations to the municipal corporation, port authority, 369



corporation, or otherwise for the payment of the cost of a 370  
sports facility or the payment of obligations; 371

(d) Acquire, construct, renovate, repair, equip, lease to 372  
or from another person, and operate, directly or by a lease or 373  
management contract with another person, one or more sports 374  
facilities; 375

(e) To the extent provided in the cooperative agreement or 376  
a lease with respect to a sports facility, authorize the 377  
municipal corporation, port authority, corporation, or owner to 378  
administer contracts for designing, planning, acquiring, 379  
constructing, renovating, repairing, or equipping a sports 380  
facility. 381

(2) The port authority agrees to do one or more of the 382  
following: 383

(a) Issue or incur obligations of the port authority 384  
pursuant to Chapter 133. or 4582. of the Revised Code or this 385  
section; 386

(b) Make available all or a portion of the proceeds from 387  
the issuance of those obligations to the municipal corporation, 388  
county, or corporation for the payment of the cost of a sports 389  
facility or the payment of obligations; 390

(c) Acquire, construct, renovate, repair, equip, lease to 391  
or from another person, and operate, directly or by a lease or 392  
management contract with another person, one or more sports 393  
facilities; 394

(d) To the extent provided in the cooperative agreement or 395  
a lease with respect to a sports facility, authorize the 396  
municipal corporation, county, corporation, or owner to 397  
administer contracts for designing, planning, acquiring, 398

constructing, renovating, repairing, or equipping a sports 399  
facility. 400

(3) The legislative authority of the municipal corporation 401  
agrees to do one or more of the following: 402

(a) Make available the revenue from taxes levied by the 403  
legislative authority for the payment of the cost of a sports 404  
facility or to make payments on obligations; 405

(b) Issue or incur obligations of the municipal 406  
corporation pursuant to Chapter 133. of the Revised Code or 407  
otherwise; 408

(c) Make available all or a portion of the proceeds from 409  
the issuance of those obligations to the county, port authority, 410  
corporation, or otherwise for the payment of the cost of a 411  
sports facility or the payment of obligations; 412

(d) Acquire, construct, renovate, repair, equip, lease to 413  
or from another person, and operate, directly or by a lease or 414  
management contract with another person, one or more sports 415  
facilities; 416

(e) To the extent provided in the cooperative agreement or 417  
a lease with respect to a sports facility, authorize the county, 418  
port authority, corporation, or owner to administer contracts 419  
for designing, planning, acquiring, constructing, renovating, 420  
repairing, or equipping a sports facility. 421

(4) The corporation agrees to do one or more of the 422  
following: 423

(a) Issue or incur obligations; 424

(b) Make available all or a portion of the proceeds from 425  
the issuance of those obligations to the county, port authority, 426

municipal corporation, or otherwise for the payment of the cost 427  
of a sports facility or the payment of obligations; 428

(c) Acquire, construct, renovate, repair, equip, lease to 429  
or from another person, and operate, directly or by a lease or 430  
management contract with another person, one or more sports 431  
facilities; 432

(d) To the extent provided in the cooperative agreement or 433  
a lease with respect to a sports facility, agree that the 434  
corporation will administer contracts for designing, planning, 435  
acquiring, constructing, renovating, repairing, or equipping a 436  
sports facility. 437

(5) The owner agrees to do one or more of the following: 438

(a) Use the sports facility that is the subject of the 439  
cooperative agreement for all of the home games of the owner's 440  
professional athletic or sports team for a specified period; 441

(b) Administer contracts for designing, planning, 442  
acquiring, constructing, renovating, repairing, or equipping a 443  
sports facility. 444

(C) Any obligations may be secured by a trust agreement 445  
between the issuer of obligations and a corporate trustee that 446  
is a trust company or bank having the powers of a trust company 447  
in or outside this state and authorized to exercise corporate 448  
trust powers in this state. Proceeds from the issuance of any 449  
obligations or the taxes levied and collected by any party to 450  
the cooperative agreement may be deposited with and administered 451  
by a trustee pursuant to the trust agreement. 452

~~(D) Any contract for the acquisition, construction, 453  
renovation, repair, or equipping of a sports facility entered 454  
into, assigned, or assumed under this section shall provide that 455~~

~~all laborers and mechanics employed in the acquisition,~~ 456  
~~construction, renovation, repair, or equipping of the sports~~ 457  
~~facility shall be paid at the prevailing rates of wages of~~ 458  
~~laborers and mechanics for the class of work called for, as~~ 459  
~~those wages are determined in accordance with Chapter 4115. of~~ 460  
~~the Revised Code.~~ 461

**Sec. 307.674.** (A) As used in this section: 462

(1) "Bonds" means: 463

(a) Revenue bonds of the port authority described in 464  
division (B) (2) (a) of this section; 465

(b) Securities as defined in division (KK) of section 466  
133.01 of the Revised Code issued by the host municipal 467  
corporation, described in division (B) (3) (a) of this section; 468

(c) Any bonds issued to refund any of those revenue bonds 469  
or securities. 470

(2) "Corporation" means a nonprofit corporation that is 471  
organized under the laws of this state and that includes within 472  
the purposes for which it is incorporated the authorization to 473  
lease and operate facilities such as a port authority 474  
educational and cultural performing arts facility. 475

(3) "Cost," as applied to a port authority educational and 476  
cultural performing arts facility, means the cost of acquiring, 477  
constructing, renovating, rehabilitating, equipping, or 478  
improving the facility, or any combination of those purposes, 479  
collectively referred to in this section as "construction," and 480  
the cost of acquisition of all land, rights of way, property 481  
rights, easements, franchise rights, and interests required for 482  
those purposes, the cost of demolishing or removing any 483  
buildings or structures on land so acquired, including the cost 484

of acquiring any land to which those buildings or structures may 485  
be moved, the cost of public utility and common carrier 486  
relocation or duplication, the cost of all machinery, 487  
furnishings, and equipment, financing charges, interest prior to 488  
and during construction and for not more than three years after 489  
completion of construction, costs arising under guaranty 490  
agreements, reimbursement agreements, or other credit 491  
enhancement agreements relating to bonds, engineering, expenses 492  
of research and development with respect to such facility, legal 493  
expenses, plans, specifications, surveys, studies, estimates of 494  
costs and revenues, other expenses necessary or incident to 495  
determining the feasibility or practicability of acquiring or 496  
constructing the facility, administrative expense, and other 497  
expenses as may be necessary or incident to that acquisition or 498  
construction and the financing of such acquisition or 499  
construction, including, with respect to the revenue bonds of a 500  
port authority, amounts to be paid into any special funds from 501  
the proceeds of those bonds, and repayments to the port 502  
authority, host county, host municipal corporation, or 503  
corporation of any amounts advanced for the foregoing purposes. 504

(4) "Debt service charges" means, for any period or 505  
payable at any time, the principal of and interest and any 506  
premium due on bonds for that period or payable at that time 507  
whether due at maturity or upon mandatory redemption, together 508  
with any required deposits to reserves for the payment of 509  
principal of and interest on those bonds, and includes any 510  
payments required by the port authority to satisfy any of its 511  
obligations under or arising from any guaranty agreements, 512  
reimbursement agreements, or other credit enhancement agreements 513  
described in division (C) of this section. 514

(5) "Host county" means the county within the boundaries 515

of which the port authority educational and cultural performing 516  
arts facility is or will be located. 517

(6) "Host municipal corporation" means the municipal 518  
corporation within the boundaries of which the port authority 519  
educational and cultural performing arts facility is or will be 520  
located. 521

(7) "Port authority" means a port authority created 522  
pursuant to section 4582.22 of the Revised Code. 523

(8) "Port authority educational and cultural performing 524  
arts facility" means a facility that consists of a center for 525  
music or other performing arts, a theater or other facilities to 526  
provide programs of an educational, recreational, or cultural 527  
nature, or any combination of those purposes as determined by 528  
the parties to the cooperative agreement for which provision is 529  
made in division (B) of this section to fulfill the public 530  
educational, recreational, and cultural purposes set forth 531  
therein, together with all parking facilities, walkways, and 532  
other auxiliary facilities, real and personal property, property 533  
rights, easements, and interests that may be appropriate for, or 534  
used in connection with, the operation of the facility. 535

(B) A host county, a host municipal corporation, and a 536  
port authority may enter into a cooperative agreement with a 537  
corporation under which, as further provided for in that 538  
agreement: 539

(1) The host county may agree to do any or all of the 540  
following: 541

(a) Levy and collect a tax under division (E) and division 542  
(F) of section 5739.09 of the Revised Code for the purposes, and 543  
in an amount sufficient for those purposes, described in 544

divisions (B) (1) (b) and (c) of this section; 545

(b) Pay to the port authority all or such portion as 546  
provided for in the cooperative agreement of the revenue from 547  
the tax, together with any investment earnings on that revenue, 548  
to be used to pay a portion of the costs of acquiring, 549  
constructing, renovating, rehabilitating, equipping, or 550  
improving the port authority educational and cultural performing 551  
arts facility; 552

(c) Pledge and pay to the corporation all or such portion 553  
as provided for in the cooperative agreement of the revenue from 554  
the tax, together with any investment earnings on that revenue, 555  
to be used to pay a portion of the costs to the corporation of 556  
leasing the port authority educational and cultural performing 557  
arts facility from the port authority. 558

(2) The port authority may agree to do any or all of the 559  
following: 560

(a) Issue its revenue bonds pursuant to section 4582.48 of 561  
the Revised Code for the purpose of paying all or a portion of 562  
the costs of the port authority educational and cultural 563  
performing arts facility; 564

(b) Acquire, construct, renovate, rehabilitate, equip, and 565  
improve the port authority educational and cultural performing 566  
arts facility; 567

(c) Lease the port authority educational and cultural 568  
performing arts facility to the corporation; 569

(d) To the extent provided for in the cooperative 570  
agreement or the lease to the corporation, authorize the 571  
corporation to administer on behalf of the port authority the 572  
contracts for acquiring, constructing, renovating, 573

rehabilitating, or equipping the port authority educational and 574  
cultural performing arts facility; 575

(e) Use the revenue derived from the lease of the port 576  
authority educational and cultural performing arts facility to 577  
the corporation solely to pay debt service charges on revenue 578  
bonds of the port authority issued pursuant to division (B) (2) 579  
(a) of this section and to pay its obligations under or arising 580  
from any guaranty agreements, reimbursement agreements, or other 581  
credit enhancement agreements provided for in this section. 582

(3) The host municipal corporation may agree to do either 583  
or both of the following: 584

(a) Issue its bonds for the purpose of paying all or a 585  
portion of the costs of the port authority educational and 586  
cultural performing arts facility, and pay the proceeds from the 587  
issuance to the port authority for that purpose; 588

(b) Enter into a guaranty agreement, a reimbursement 589  
agreement, or other credit enhancement agreement with the port 590  
authority to provide a guaranty or other credit enhancement of 591  
the port authority revenue bonds referred to in division (B) (2) 592  
(a) of this section pledging taxes, other than ad valorem 593  
property taxes, or other revenues for the purpose of providing 594  
the funds required to satisfy the host municipal corporation's 595  
obligations under that agreement. 596

The cooperative agreement may provide that the proceeds of 597  
such securities or of such guaranty agreement, reimbursement 598  
agreement, or other credit enhancement agreement be deposited 599  
with and administered by the trustee pursuant to the trust 600  
agreement authorized in division (C) of this section. 601

(4) The corporation may agree to do any or all of the 602



following: 603

(a) Lease the port authority educational and cultural 604  
performing arts facility from the port authority; 605

(b) Operate and maintain the port authority educational 606  
and cultural performing arts facility pursuant to the lease; 607

(c) To the extent provided for in the cooperative 608  
agreement or the lease from the port authority, administer on 609  
behalf of the port authority the contracts for acquiring, 610  
constructing, renovating, rehabilitating, or equipping the port 611  
authority educational and cultural performing arts facility. 612

(C) The pledge and payments referred to in divisions (B) 613  
(1) (b) and (c) of this section and provided for in the 614  
cooperative agreement shall be for the period stated in the 615  
cooperative agreement but shall not extend longer than the 616  
period necessary to provide for the final retirement of the port 617  
authority revenue bonds referred to in division (B) (2) (a) of 618  
this section, and for the satisfaction by the port authority of 619  
any of its obligations under or arising from any guaranty 620  
agreements, reimbursement agreements, or other credit 621  
enhancement agreements relating to those bonds or to the 622  
revenues pledged to them. The cooperative agreement shall 623  
provide for the termination of the cooperative agreement, 624  
including the pledge and payment referred to in division (B) (1) 625  
(c) of this section, if the port authority revenue bonds 626  
referred to in division (B) (2) (a) of this section have not been 627  
issued, sold, and delivered within five years of the effective 628  
date of the cooperative agreement. 629

The cooperative agreement shall provide that any port 630  
authority revenue bonds shall be secured by a trust agreement 631

between the port authority and a corporate trustee that is a 632  
trust company or bank having the powers of a trust company 633  
within or outside the state but authorized to exercise trust 634  
powers within the state. The host county may be a party to that 635  
trust agreement for the purpose of better securing the pledge by 636  
the host county of its payment to the corporation pursuant to 637  
division (B)(1)(c) of this section. A tax levied pursuant to 638  
section 5739.09 of the Revised Code for the purposes specified 639  
in division (B)(1)(b) or (c) of this section is not subject to 640  
diminution by initiative or referendum or diminution by statute, 641  
unless provision is made for an adequate substitute reasonably 642  
satisfactory to the trustee under the trust agreement that 643  
secures the port authority revenue bonds. 644

(D) A pledge of money by a host county under this section 645  
shall not be net indebtedness of the host county for purposes of 646  
section 133.07 of the Revised Code. A guaranty or other credit 647  
enhancement by a host municipal corporation under this section 648  
shall not be net indebtedness of the host municipal corporation 649  
for purposes of section 133.05 of the Revised Code. 650

(E) If the terms of the cooperative agreement so provide, 651  
any contract for the acquisition, construction, renovation, 652  
rehabilitation, equipping, or improving of a port authority 653  
educational and cultural performing arts facility shall be made 654  
in such manner as is determined by the board of directors of the 655  
port authority, and unless the cooperative agreement provides 656  
otherwise, such a contract is not subject to division (R)(2) of 657  
section 4582.31 of the Revised Code. The port authority may take 658  
the assignment of and assume any contracts for the acquisition, 659  
construction, renovation, rehabilitation, equipping, or 660  
improving of a port authority educational and cultural 661  
performing arts facility that had previously been authorized by 662

any of the host county, the host municipality, or the 663  
corporation. Such contracts are not subject to division (R) (2) 664  
of section 4582.31 of the Revised Code. 665

~~Any contract for the acquisition, construction, 666  
renovation, rehabilitation, equipping, or improving of a port- 667  
authority educational and cultural performing arts facility- 668  
entered into, assigned, or assumed pursuant to this division- 669  
shall provide that all laborers and mechanics employed for the- 670  
acquisition, construction, renovation, rehabilitation, 671  
equipping, or improving of that facility shall be paid at the- 672  
prevailing rates of wages of laborers and mechanics for the- 673  
class of work called for by the port authority educational and- 674  
cultural performing arts facility, which wages shall be- 675  
determined in accordance with the requirements of Chapter 4115.- 676  
of the Revised Code for the determination of prevailing wage- 677  
rates. 678~~

Notwithstanding any provisions to the contrary in section 679  
123.281 of the Revised Code, construction services and general 680  
building services for a port authority educational and cultural 681  
performing arts facility funded completely or in part with money 682  
appropriated by the state to the Ohio facilities construction 683  
commission may be provided by a port authority or a corporation 684  
that occupies, will occupy, or is responsible for that facility, 685  
as determined by the commission. The construction services and 686  
general building services to be provided by the port authority 687  
or the corporation shall be specified in an agreement between 688  
the commission and the port authority or corporation. That 689  
agreement, or any actions taken under it, are not subject to 690  
Chapters 123. or 153. of the Revised Code, ~~but are subject to- 691  
Chapter 4115. of the Revised Code. 692~~

<b>Sec. 307.696.</b> (A) As used in this section:	693
(1) "County taxes" means taxes levied by the county	694
pursuant to sections 307.697, 4301.421, 5743.024, and 5743.323	695
of the Revised Code.	696
(2) "Corporation" means a nonprofit corporation that is	697
organized under the laws of this state for the purposes of	698
operating or constructing and operating a sports facility in the	699
county and that may also be organized under the laws of this	700
state for the additional purposes of conducting redevelopment	701
and economic development activities within the host municipal	702
corporation.	703
(3) "Sports facility" means a sports facility that is	704
intended to house major league professional athletic teams,	705
including a stadium, together with all parking facilities,	706
walkways, and other auxiliary facilities, real and personal	707
property, property rights, easements, and interests that may be	708
appropriate for, or used in connection with, the operation of	709
the facility.	710
(4) "Construction" includes, but is not limited to,	711
providing fixtures, furnishings, and equipment and providing for	712
capital repairs and improvements.	713
(5) "Debt service charges" means the interest, principal,	714
premium, if any, carrying and redemption charges, and expenses	715
on bonds issued by either the county or the corporation to:	716
(a) Construct a sports facility or provide for related	717
redevelopment or economic development as provided in this	718
section;	719
(b) Acquire real and personal property, property rights,	720
easements, or interests that may be appropriate for, or used in	721

connection with, the operation of the facility; and 722

(c) Make site improvements to real property, including, 723  
but not limited to, demolition, excavation, and installation of 724  
footers, pilings, and foundations. 725

(6) "Host municipal corporation" means the municipal 726  
corporation within the boundaries of which the sports facility 727  
is located, and with which a national football league, major 728  
league baseball, or national basketball association sports 729  
franchise is associated on March 20, 1990. 730

(B) A board of county commissioners of a county that 731  
levies a tax under section 307.697, 4301.421, or 5743.024 of the 732  
Revised Code may enter into an agreement with a corporation 733  
operating in the county, and, if there is a host municipal 734  
corporation all or a part of which is located in the county, 735  
shall enter into an agreement with a corporation operating in 736  
the county and the host municipal corporation, under which: 737

(1) (a) The corporation agrees to construct and operate a 738  
sports facility in the county and to pledge and contribute all 739  
or any part of the revenues derived from its operation, as 740  
specified in the agreement, for the purposes described in 741  
division (C) (1) of this section; and 742

(b) The board agrees to levy county taxes and pledge and 743  
contribute any part or all of the revenues therefrom, as 744  
specified in the agreement, for the purposes described in 745  
division (C) (1) of this section; or 746

(2) (a) The corporation agrees to operate a sports facility 747  
constructed by the county and to pledge and contribute all or 748  
any part of the revenues derived from its operation, as 749  
specified in the agreement, for the purposes described in 750

division (C) (2) of this section; and 751

(b) The board agrees to issue revenue bonds of the county, 752  
use the proceeds from the sale of the bonds to construct a 753  
sports facility in the county, and to levy county taxes and 754  
pledge and contribute all or any part of the revenues therefrom, 755  
as specified in the agreement, for the purposes described in 756  
division (C) (2) of this section; and, if applicable 757

(3) The host municipal corporation agrees to expend the 758  
unused pledges and contributions and surplus revenues as 759  
described in divisions (C) (1) and (2) of this section for 760  
redevelopment and economic development purposes related to the 761  
sports facility. 762

(C) (1) The primary purpose of the pledges and 763  
contributions described in division (B) (1) of this section is 764  
payment of debt service charges. To the extent the pledges and 765  
contributions are not used by the county or corporation for 766  
payment of debt service charges, the county or corporation, 767  
pursuant to the agreement provided for in division (B) of this 768  
section, shall provide the unused pledges and contributions, 769  
together with surplus revenues of the sports facility not needed 770  
for debt service charges or the operation and maintenance of the 771  
sports facility, to the host municipal corporation, or a 772  
nonprofit corporation, which may be the corporation acting on 773  
behalf of the host municipal corporation, for redevelopment and 774  
economic development purposes related to the sports facility. If 775  
the county taxes are also levied for the purpose of making 776  
permanent improvements, the agreement shall include a schedule 777  
of annual pledges and contributions by the county for the 778  
payment of debt service charges. The county's pledge and 779  
contribution provided for in the agreement shall be for the 780

period stated in the agreement but not to exceed twenty years. 781  
The agreement shall provide that any such bonds and notes shall 782  
be secured by a trust agreement between the corporation or other 783  
bond issuer and a corporate trustee that is a trust company or 784  
bank having the powers of a trust company within or without the 785  
state, and the trust agreement shall pledge or assign to the 786  
retirement of the bonds or notes, all moneys paid by the county 787  
for that purpose under this section. A county tax, all or any 788  
part of the revenues from which are pledged under an agreement 789  
entered into by a board of county commissioners under this 790  
section shall not be subject to diminution by initiative or 791  
referendum, or diminution by statute, unless provision is made 792  
therein for an adequate substitute therefor reasonably 793  
satisfactory to the trustee under the trust agreement that 794  
secures the bonds and notes. 795

(2) The primary purpose of the pledges and contributions 796  
described in division (B)(2) of this section is payment of debt 797  
service charges. To the extent the pledges and contributions are 798  
not used by the county for payment of debt service charges, the 799  
county or corporation, pursuant to the agreement provided for in 800  
division (B) of this section, shall provide the unused pledges 801  
and contributions, together with surplus revenues of the sports 802  
facility not needed for debt service charges or the operation 803  
and maintenance of the sports facility, to the host municipal 804  
corporation, or a nonprofit corporation, which may be the 805  
corporation, acting on behalf of the host municipal corporation, 806  
for redevelopment and economic development purposes related to 807  
the sports facility. The corporation's pledge and contribution 808  
provided for in the agreement shall be until all of the bonds 809  
issued for the construction of the facility have been retired. 810

(D) A pledge of money by a county under this section shall 811

not be indebtedness of the county for purposes of Chapter 133. 812  
of the Revised Code. 813

(E) If the terms of the agreement so provide, the board of 814  
county commissioners may acquire, make site improvements to, 815  
including, but not limited to, demolition, excavation, and 816  
installation of footers, pilings, and foundations, and lease 817  
real property for the sports facility to a corporation that 818  
constructs a sports facility under division (B)(1) of this 819  
section. The agreement shall specify the term, which shall not 820  
exceed thirty years and shall be on such terms as are set forth 821  
in the agreement. The purchase, improvement, and lease may be 822  
the subject of an agreement between the county and a municipal 823  
corporation located within the county pursuant to section 153.61 824  
or 307.15 of the Revised Code, and are not subject to the 825  
limitations of sections 307.02 and 307.09 of the Revised Code. 826

(F) The corporation shall not enter into any construction 827  
contract or contract for the purchase of services for use in 828  
connection with the construction of a sports facility prior to 829  
the corporation's adoption and implementation of a policy on the 830  
set aside of contracts for bidding by or award to minority 831  
business enterprises, as defined in division (E)(1) of section 832  
122.71 of the Revised Code. ~~Sections 4115.03 to 4115.16 of the~~ 833  
~~Revised Code apply to a sports facility constructed under this~~ 834  
~~section.~~ 835

(G) Not more than one-half of the total costs, including 836  
debt service charges and cost of operation, of a project 837  
undertaken pursuant to an agreement entered into under division 838  
(B) of this section shall be paid from county taxes. Nothing in 839  
this section authorizes the use of revenues from county taxes or 840  
proceeds from the sale of bonds issued by the board of county 841



commissioners for payment of costs of operation of a sports 842  
facility. 843

**Sec. 351.06.** ~~A facility to be constructed pursuant to this~~ 844  
~~chapter is a public improvement and a convention facilities~~ 845  
~~authority is a public authority for purposes of section 4115.03~~ 846  
~~of the Revised Code. All contractors and subcontractors working~~ 847  
~~on such facilities are subject to and shall comply with sections~~ 848  
~~4115.03 to 4115.16 of the Revised Code. A convention facilities~~ 849  
authority is a contracting authority for purposes of sections 850  
307.86 to 307.91 of the Revised Code. 851

No convention facilities authority shall construct a 852  
facility under this chapter unless the plans for the facility 853  
provide for parking and transportation determined by the board 854  
of county commissioners as adequate to serve that facility. 855

A convention facilities authority may do all of the 856  
following: 857

(A) Adopt bylaws for the regulation of its affairs and the 858  
conduct of its business; 859

(B) Adopt an official seal; 860

(C) Maintain a principal office within its territory; 861

(D) Acquire, purchase, construct, reconstruct, enlarge, 862  
furnish, equip, maintain, repair, sell, exchange, lease or rent 863  
to, lease or rent from, operate, or contract for the operation 864  
by others of, facilities within its territory, and make charges 865  
for the use of the facilities; 866

(E) Make available the use or services of any facility to 867  
persons or governmental agencies on such terms and conditions as 868  
the authority shall determine; 869

(F) By resolution of its board of directors, issue 870  
convention facilities authority revenue bonds beyond the limit 871  
of bonded indebtedness provided by law, payable solely from 872  
revenues as provided in section 351.14 of the Revised Code, 873  
unless the bonds are refunded by refunding bonds, for the 874  
purpose of providing funds to pay the costs of any facility or 875  
facilities or parts of any facility or facilities, and, if 876  
moneys raised by taxation are not obligated or pledged for the 877  
payment of those revenue bonds, to pay the costs of any facility 878  
or facilities or parts of any facility or facilities pursuant to 879  
Section 13 of Article VIII, Ohio Constitution, and in order to 880  
create or preserve jobs and employment opportunities and improve 881  
the economic welfare of the people of the state; 882

(G) Maintain such funds as it determines necessary; 883

(H) Direct its agents or employees, when properly 884  
identified in writing and after at least five days' written 885  
notice, to enter upon lands within its territory in order to 886  
make surveys and examinations preliminary to location and 887  
construction of facilities, or other work for the purposes of 888  
the convention facilities authority, without liability of the 889  
authority or its agents or employees except for actual damage 890  
done; 891

(I) Promote, advertise, and publicize the authority and 892  
its facilities; 893

(J) (1) Adopt rules, not in conflict with general law, 894  
governing the use of its property, grounds, buildings, 895  
equipment, and facilities, and the conduct of its employees and 896  
the public, in order to promote the public safety and 897  
convenience in and about its facilities and grounds, and to 898  
maintain order. Any such rule shall be posted at a prominent 899

place in each of the buildings or facilities to which it 900  
applies. 901

(2) No person shall violate any lawful rule adopted and 902  
posted as provided in this division. 903

(K) Acquire by gift or purchase, hold, lease, and dispose 904  
of real and personal property and interests in the property in 905  
the exercise of its powers and the performance of its duties 906  
under this chapter; 907

(L) Acquire, in the name of the authority, by purchase or 908  
otherwise, on such terms and in such manner as the authority 909  
finds proper, or by the exercise of the right of appropriation 910  
in the manner provided by section 351.22 of the Revised Code, 911  
such public or private lands, including public parks, 912  
playgrounds, or reservations, or parts thereof or rights 913  
therein, rights-of-way, rights, franchises, easements, and 914  
interests as it finds necessary or proper for carrying out this 915  
chapter, and compensation shall be paid for public or private 916  
lands so taken; 917

(M) Make and enter into all contracts and agreements and 918  
execute all instruments necessary or incidental to the 919  
performance of its duties and the execution of its powers under 920  
this chapter provided that no construction contract or contract 921  
for the purchase of goods or services shall be approved or 922  
entered into by the authority prior to the adoption and 923  
implementation of a policy on the set aside of contracts for 924  
bidding by or award to minority business enterprises, as defined 925  
in division (E) (1) of section 122.71 of the Revised Code; 926

(N) Employ managers, superintendents, and other employees 927  
and retain or contract with consulting engineers, financial 928

consultants, accounting experts, architects, attorneys, and such 929  
other consultants and independent contractors as are necessary 930  
in its judgment to carry out this chapter, and fix their 931  
compensation. All expenses of doing so shall be payable solely 932  
from the proceeds of convention facilities authority bonds and 933  
notes issued under this chapter, or from excise taxes and 934  
revenues. 935

(O) Receive and accept from any governmental agency grants 936  
for or in aid of the purposes of the authority, and receive and 937  
accept aid or contributions from any source of money, property, 938  
labor, or other things of value, to be held, used, and applied 939  
only for the purposes for which such grants and contributions 940  
are made; 941

(P) Engage in research and development with respect to 942  
facilities; 943

(Q) Purchase fire and extended coverage and liability 944  
insurance for any facility and for the offices of the authority, 945  
insurance protecting the authority and its officers and 946  
employees against liability for damage to property or injury to 947  
or death of persons arising from its operations, and any other 948  
insurance the authority may agree to provide under any 949  
resolution authorizing its convention facilities authority 950  
revenue bonds or in any trust agreement securing the same; 951

(R) Charge, alter, and collect rentals and other charges 952  
for the use or services of any facility as provided in section 953  
351.09 of the Revised Code; 954

(S) If a tax proposed under section 5739.026 of the 955  
Revised Code is disapproved by the electors, request the board 956  
of county commissioners to dissolve the authority pursuant to 957

section 351.03 of the Revised Code; 958

(T) By resolution of its board of directors, levy any of 959  
the excise taxes authorized by division (B) or (C) of section 960  
351.021 of the Revised Code if authorized by the county 961  
commissioners, and issue convention facilities authority tax 962  
anticipation bonds beyond any limit of bonded indebtedness 963  
provided by law, payable solely from excise taxes levied 964  
pursuant to division (B) or (C) of section 351.021 of the 965  
Revised Code and revenues as provided in section 351.141 of the 966  
Revised Code. 967

(U) Do all acts necessary or proper to carry out the 968  
powers expressly granted in this chapter. 969

**Sec. 353.03.** A lake facilities authority may do all of the 970  
following: 971

(A) Acquire by purchase, lease, gift, or otherwise, on 972  
such terms and in such manner as it considers proper, real and 973  
personal property necessary for an authorized purpose or any 974  
estate, interest, or right therein, within or without the 975  
impacted lake district; 976

(B) Improve, remediate, maintain, sell, lease, or 977  
otherwise dispose of real and personal property on such terms 978  
and in such manner as it considers proper; 979

(C) Request that the department of natural resources, the 980  
environmental protection agency, or the department of 981  
agriculture adopt, modify, and enforce reasonable rules and 982  
regulations governing impacted watersheds; 983

(D) Employ such managers, administrative officers, agents, 984  
engineers, architects, attorneys, contractors, subcontractors, 985  
and employees as may be appropriate in the exercise of the 986

rights, powers, and duties conferred on it, prescribe the duties 987  
and compensation for such persons, require bonds to be given by 988  
any such persons and by officers of the authority for the 989  
faithful performance of their duties, and fix the amount and 990  
surety therefor, and pay the surety; 991

(E) Sue and be sued in its corporate name; 992

(F) (1) Make and enter into all contracts and agreements 993  
and execute all instruments relating to the provisions of this 994  
chapter; 995

(2) Except as provided otherwise under divisions (F) (2) 996  
and (3) of this section, when the cost of a contract for the 997  
construction of any building, structure, or other improvement 998  
undertaken by a lake facilities authority involves an 999  
expenditure exceeding fifty thousand dollars, and the lake 1000  
facilities authority is the contracting authority, the lake 1001  
facilities authority shall make a written contract after notice 1002  
calling for bids for the award of the contract has been given by 1003  
publication twice, with at least seven days between 1004  
publications, in a newspaper of general circulation in the 1005  
impacted lake district. Each such contract shall be awarded to 1006  
the lowest responsive and responsible bidder in accordance with 1007  
section 9.312 of the Revised Code. The board of directors by 1008  
rule may provide criteria for the negotiation and award without 1009  
competitive bidding of any contract as to which the lake 1010  
facilities authority is the contracting authority for the 1011  
construction of any building or structure or other improvement 1012  
under any of the following circumstances: 1013

(a) There exists a real and present emergency that 1014  
threatens damage to property or injury to persons of the lake 1015  
facilities authority or other persons, provided that a statement 1016

specifying the nature of the emergency that is the basis for the 1017  
negotiation and award of a contract without competitive bidding 1018  
shall be signed at the time of the contract's execution by the 1019  
officer of the lake facilities authority that executes the 1020  
contract and shall be attached to the contract. 1021

(b) A commonly recognized industry or other standard or 1022  
specification does not exist and cannot objectively be 1023  
articulated for the improvement. 1024

(c) The contract is for any energy conservation measure as 1025  
defined in section 307.041 of the Revised Code. 1026

(d) With respect to material to be incorporated into the 1027  
improvement, only a single source or supplier exists for the 1028  
material. 1029

(e) A single bid is received by the lake facilities 1030  
authority after complying with the above provisions. 1031

(3) In addition to the exceptions to competitive bidding 1032  
requirements under division (F) (2) of this section, a lake 1033  
facilities authority may contract for the acquisition or 1034  
construction of any property for an authorized purpose and for 1035  
the leasing, subleasing, sale, or other disposition of the 1036  
property in a manner determined by the lake facilities authority 1037  
in its sole discretion, without necessity for competitive 1038  
bidding or performance bonds. 1039

~~(4) With respect to any public improvement undertaken by, 1040~~  
~~or under contract for, the lake facilities authority, the 1041~~  
~~authority may elect to apply sections 4115.03 to 4115.21 of the 1042~~  
~~Revised Code. 1043~~

(G) Accept aid or contributions from any source of money, 1044  
property, labor, or other things of value, to be held, used, and 1045

applied only for the purposes for which the grants and 1046  
contributions are made; 1047

(H) Apply for and accept grants, loans, or commitments of 1048  
guarantee or insurance, including any guarantees of lake 1049  
facilities authority bonds and notes, from the United States, 1050  
the state, or other public body or other sources, and provide 1051  
any consideration which may be required in order to obtain such 1052  
grants, loans, or contracts of guarantee or insurance; 1053

(I) Procure insurance against loss to the lake facilities 1054  
authority by reason of damage to its properties resulting from 1055  
fire, theft, accident, or other casualties, or by reason of its 1056  
liability for any damages to persons or property occurring in 1057  
the construction or operation of facilities or areas under its 1058  
jurisdiction or the conduct of its activities; 1059

(J) Maintain such funds or reserves as it considers 1060  
necessary for the efficient performance of its duties; 1061

(K) Enforce any covenants, of which the lake facilities 1062  
authority is the beneficiary, running with the land. 1063

(L) Issue securities for the remediation of an impacted 1064  
watershed and directly related permanent improvements in 1065  
compliance with Chapter 133. of the Revised Code, except that 1066  
such bonds or notes may be issued only pursuant to a vote of the 1067  
electors residing within the impacted lake district. The net 1068  
indebtedness incurred by a lake facilities authority pursuant to 1069  
this division may not exceed one-tenth of one per cent of the 1070  
total value of all property within the territory comprising the 1071  
impacted lake district as listed and assessed for taxation. 1072

(M) Issue lake facilities authority revenue bonds beyond 1073  
the limit of bonded indebtedness provided by law, payable solely 1074



from revenues as provided in section 353.09 of the Revised Code 1075  
for the purpose of providing funds to pay costs of any facility 1076  
or facilities or parts thereof; 1077

(N) Advise and provide input to political subdivisions 1078  
within the impacted lake district with respect to zoning and 1079  
land use planning within the impacted lake district; 1080

(O) Enter into agreements for the management, ownership, 1081  
possession, or control of lands or property to be used for 1082  
wetland mitigation banking; 1083

(P) Adopt and modify rules and regulations to carry out 1084  
the authority granted to the lake facilities authority under 1085  
this section. 1086

**Sec. 1506.44.** (A) A board of county commissioners may use 1087  
a loan obtained under division (C) of this section to provide 1088  
financial assistance to any person who owns real property in a 1089  
coastal erosion area and who has received a permit under section 1090  
1506.40 of the Revised Code to construct an erosion control 1091  
structure in that coastal erosion area. The board shall enter 1092  
into an agreement with the person that complies with all of the 1093  
following requirements: 1094

(1) The agreement shall identify the person's real 1095  
property for which the erosion control structure is being 1096  
constructed and shall include a legal description of that 1097  
property and a reference to the volume and page of the deed 1098  
record in which the title of that person to that property is 1099  
recorded. 1100

(2) In accordance with rules adopted by the Ohio water 1101  
development authority under division (V) of section 6121.04 of 1102  
the Revised Code for the purposes of division (C) of this 1103

section and pursuant to an agreement between the board and the 1104  
authority under that division, the board shall agree to cause 1105  
payments to be made by the authority to the contractor hired by 1106  
the person to construct an erosion control structure in amounts 1107  
not to exceed the total amount specified in the agreement 1108  
between the board and the person. 1109

(3) The person shall agree to pay to the board, or to the 1110  
authority as the assignee pursuant to division (C) of this 1111  
section, the total amount of the payments plus administrative or 1112  
other costs of the board or the authority at times, in 1113  
installments, and bearing interest as specified in the 1114  
agreement. 1115

The agreement may contain additional provisions that the 1116  
board determines necessary to safeguard the interests of the 1117  
county or to comply with an agreement entered into under 1118  
division (C) of this section. 1119

(B) Upon entering into an agreement under division (A) of 1120  
this section, the board shall do all of the following: 1121

(1) Cause the agreement to be recorded in the county deed 1122  
records in the office of the county recorder of the county in 1123  
which the real property is situated. Failure to record the 1124  
agreement does not affect the validity of the agreement or the 1125  
collection of any amounts due under the agreement. 1126

(2) Establish by resolution an erosion control repayment 1127  
fund into which shall be deposited all amounts collected under 1128  
division (B)(3) of this section. Moneys in that fund shall be 1129  
used by the board for the repayment of the loan and for 1130  
administrative or other costs of the board or the authority as 1131  
specified in an agreement entered into under division (C) of 1132

this section. If the amount of money in the fund is inadequate 1133  
to repay the loan when due, the board of county commissioners, 1134  
by resolution, may advance money from any other fund in order to 1135  
repay the loan if that use of the money from the other fund is 1136  
not in conflict with law. If the board so advances money in 1137  
order to repay the loan, the board subsequently shall reimburse 1138  
each fund from which the board advances money with moneys from 1139  
the erosion control repayment fund. 1140

(3) Bill and collect all amounts when due under the 1141  
agreement entered into under division (A) of this section. The 1142  
board shall certify amounts not paid when due to the county 1143  
auditor, who shall enter the amounts on the real property tax 1144  
list and duplicate against the property identified under 1145  
division (A)(1) of this section. The amounts not paid when due 1146  
shall be a lien on that property from the date on which the 1147  
amounts are placed on the tax list and duplicate and shall be 1148  
collected in the same manner as other taxes. 1149

(C) A board may apply to the authority for a loan for the 1150  
purpose of entering into agreements under division (A) of this 1151  
section. The loan shall be for an amount and on the terms 1152  
established in an agreement between the board and the authority. 1153  
The board may assign any agreements entered into under division 1154  
(A) of this section to the authority in order to provide for the 1155  
repayment of the loan and may pledge any lawfully available 1156  
revenues to the repayment of the loan, provided that no moneys 1157  
raised by taxation shall be obligated or pledged by the board 1158  
for the repayment of the loan. Any agreement with the authority 1159  
pursuant to this division is not subject to Chapter 133. of the 1160  
Revised Code or any requirements or limitations established in 1161  
that chapter. 1162

(D) The authority, as assignee of any agreement pursuant 1163  
to division (C) of this section, may enforce and compel the 1164  
board and the county auditor by mandamus pursuant to Chapter 1165  
2731. of the Revised Code to comply with division (B) of this 1166  
section in a timely manner. 1167

(E) The construction of an erosion control structure by a 1168  
contractor hired by an individual homeowner, group of individual 1169  
homeowners, or homeowners association that enters into an 1170  
agreement with a board under division (A) of this section ~~is not~~ 1171  
~~a public improvement, as defined in section 4115.03 of the~~ 1172  
~~Revised Code, and~~ is not subject to competitive bidding or 1173  
public bond laws. 1174

**Sec. 1710.02.** (A) A special improvement district may be 1175  
created within the boundaries of any one municipal corporation, 1176  
any one township, or any combination of contiguous municipal 1177  
corporations and townships for the purpose of developing and 1178  
implementing plans for public improvements and public services 1179  
that benefit the district. A district may be created by petition 1180  
of the owners of real property within the proposed district, or 1181  
by an existing qualified nonprofit corporation. If the district 1182  
is created by an existing qualified nonprofit corporation, the 1183  
purposes for which the district is created may be supplemental 1184  
to the other purposes for which the corporation is organized. 1185  
All territory in a special improvement district shall be 1186  
contiguous; except that the territory in a special improvement 1187  
district may be noncontiguous if at least one special energy 1188  
improvement project is designated for each parcel of real 1189  
property included within the special improvement district. 1190  
Additional territory may be added to a special improvement 1191  
district created under this chapter for the purpose of 1192  
developing and implementing plans for special energy improvement 1193

projects if at least one special energy improvement project is 1194  
designated for each parcel of real property included within such 1195  
additional territory and the addition of territory is authorized 1196  
by the initial plan proposed under division (F) of this section 1197  
or a plan adopted by the board of directors of the special 1198  
improvement district under section 1710.06 of the Revised Code. 1199

The district shall be governed by the board of trustees of 1200  
a nonprofit corporation. This board shall be known as the board 1201  
of directors of the special improvement district. No special 1202  
improvement district shall include any church property, or 1203  
property of the federal or state government or a county, 1204  
township, or municipal corporation, unless the church or the 1205  
county, township, or municipal corporation specifically requests 1206  
in writing that the property be included within the district, or 1207  
unless the church is a member of the existing qualified 1208  
nonprofit corporation creating the district at the time the 1209  
district is created. More than one district may be created 1210  
within a participating political subdivision, but no real 1211  
property may be included within more than one district unless 1212  
the owner of the property files a written consent with the clerk 1213  
of the legislative authority, the township fiscal officer, or 1214  
the village clerk, as appropriate. The area of each district 1215  
shall be contiguous; except that the area of a special 1216  
improvement district may be noncontiguous if all parcels of real 1217  
property included within such area contain at least one special 1218  
energy improvement thereon. 1219

(B) Except as provided in division (C) of this section, a 1220  
district created under this chapter is not a political 1221  
subdivision. A district created under this chapter shall be 1222  
considered a public agency under section 102.01 ~~and a public~~ 1223  
~~authority under section 4115.03~~ of the Revised Code. Each member 1224

of the board of directors of a district, each member's designee 1225  
or proxy, and each officer and employee of a district shall be 1226  
considered a public official or employee under section 102.01 of 1227  
the Revised Code and a public official and public servant under 1228  
section 2921.42 of the Revised Code. Districts created under 1229  
this chapter are not subject to sections 121.81 to 121.83 of the 1230  
Revised Code. Districts created under this chapter are subject 1231  
to sections 121.22 and 121.23 of the Revised Code. 1232

(C) Each district created under this chapter shall be 1233  
considered a political subdivision for purposes of section 1234  
4905.34 of the Revised Code. 1235

Membership on the board of directors of the district shall 1236  
not be considered as holding a public office. Directors and 1237  
their designees shall be entitled to the immunities provided by 1238  
Chapter 1702. and to the same immunity as an employee under 1239  
division (A)(6) of section 2744.03 of the Revised Code, except 1240  
that directors and their designees shall not be entitled to the 1241  
indemnification provided in section 2744.07 of the Revised Code 1242  
unless the director or designee is an employee or official of a 1243  
participating political subdivision of the district and is 1244  
acting within the scope of the director's or designee's 1245  
employment or official responsibilities. 1246

District officers and district members and directors and 1247  
their designees or proxies shall not be required to file a 1248  
statement with the Ohio ethics commission under section 102.02 1249  
of the Revised Code. All records of the district shall be 1250  
treated as public records under section 149.43 of the Revised 1251  
Code, except that records of organizations contracting with a 1252  
district shall not be considered to be public records under 1253  
section 149.43 or section 149.431 of the Revised Code solely by 1254

reason of any contract with a district. 1255

(D) Except as otherwise provided in this section, the 1256  
nonprofit corporation that governs a district shall be organized 1257  
in the manner described in Chapter 1702. of the Revised Code. 1258  
Except in the case of a district created by an existing 1259  
qualified nonprofit corporation, the corporation's articles of 1260  
incorporation are required to be approved, as provided in 1261  
division (E) of this section, by resolution of the legislative 1262  
authority of each participating political subdivision of the 1263  
district. A copy of that resolution shall be filed along with 1264  
the articles of incorporation in the secretary of state's 1265  
office. 1266

In addition to meeting the requirements for articles of 1267  
incorporation set forth in Chapter 1702. of the Revised Code, 1268  
the articles of incorporation for the nonprofit corporation 1269  
governing a district formed under this chapter shall provide all 1270  
the following: 1271

(1) The name for the district, which shall include the 1272  
name of each participating political subdivision of the 1273  
district; 1274

(2) A description of the territory within the district, 1275  
which may be all or part of each participating political 1276  
subdivision. The description shall be specific enough to enable 1277  
real property owners to determine if their property is located 1278  
within the district. 1279

(3) A description of the procedure by which the articles 1280  
of incorporation may be amended. The procedure shall include 1281  
receiving approval of the amendment, by resolution, from the 1282  
legislative authority of each participating political 1283

subdivision and filing the approved amendment and resolution 1284  
with the secretary of state. 1285

(4) The reasons for creating the district, plus an 1286  
explanation of how the district will be conducive to the public 1287  
health, safety, peace, convenience, and welfare of the district. 1288

(E) The articles of incorporation for a nonprofit 1289  
corporation governing a district created under this chapter and 1290  
amendments to them shall be submitted to the municipal 1291  
executive, if any, and the legislative authority of each 1292  
municipal corporation or township in which the proposed district 1293  
is to be located. Except in the case of a district created by an 1294  
existing qualified nonprofit corporation, the articles or 1295  
amendments shall be accompanied by a petition signed either by 1296  
the owners of at least sixty per cent of the front footage of 1297  
all real property located in the proposed district that abuts 1298  
upon any street, alley, public road, place, boulevard, parkway, 1299  
park entrance, easement, or other existing public improvement 1300  
within the proposed district, excluding church property or 1301  
property owned by the state, county, township, municipal, or 1302  
federal government, unless a church, county, township, or 1303  
municipal corporation has specifically requested in writing that 1304  
the property be included in the district, or by the owners of at 1305  
least seventy-five per cent of the area of all real property 1306  
located within the proposed district, excluding church property 1307  
or property owned by the state, county, township, municipal, or 1308  
federal government, unless a church, county, township, or 1309  
municipal corporation has specifically requested in writing that 1310  
the property be included in the district. Pursuant to Section 20 1311  
of Article VIII, Ohio Constitution, the petition required under 1312  
this division may be for the purpose of developing and 1313  
implementing plans for special energy improvement projects, and, 1314



in such case, is determined to be in furtherance of the purposes 1315  
set forth in Section 2o of Article VIII, Ohio Constitution. If a 1316  
special improvement district is being created under this chapter 1317  
for the purpose of developing and implementing plans for special 1318  
energy improvement projects, the petition required under this 1319  
division shall be signed by one hundred per cent of the owners 1320  
of the area of all real property located within the proposed 1321  
special improvement district, at least one special energy 1322  
improvement project shall be designated for each parcel of real 1323  
property within the special improvement district, and the 1324  
special improvement district may include any number of parcels 1325  
of real property as determined by the legislative authority of 1326  
each participating political subdivision in which the proposed 1327  
special improvement district is to be located. For purposes of 1328  
determining compliance with these requirements, the area of the 1329  
district, or the front footage and ownership of property, shall 1330  
be as shown in the most current records available at the county 1331  
recorder's office and the county engineer's office sixty days 1332  
prior to the date on which the petition is filed. 1333

Each municipal corporation or township with which the 1334  
petition is filed has sixty days to approve or disapprove, by 1335  
resolution, the petition, including the articles of 1336  
incorporation. In the case of a district created by an existing 1337  
qualified nonprofit corporation, each municipal corporation or 1338  
township has sixty days to approve or disapprove the creation of 1339  
the district after the corporation submits the articles of 1340  
incorporation or amendments thereto. This chapter does not 1341  
prohibit or restrict the rights of municipal corporations under 1342  
Article XVIII of the Ohio Constitution or the right of the 1343  
municipal legislative authority to impose reasonable conditions 1344  
in a resolution of approval. The acquisition, installation, 1345

equipping, and improvement of a special energy improvement 1346  
project under this chapter shall not supersede any local zoning, 1347  
environmental, or similar law or regulation. 1348

(F) Persons proposing creation and operation of the 1349  
district may propose an initial plan for public services or 1350  
public improvements that benefit all or any part of the 1351  
district. Any initial plan shall be submitted as part of the 1352  
petition proposing creation of the district or, in the case of a 1353  
district created by an existing qualified nonprofit corporation, 1354  
shall be submitted with the articles of incorporation or 1355  
amendments thereto. 1356

An initial plan may include provisions for the following: 1357

(1) Creation and operation of the district and of the 1358  
nonprofit corporation to govern the district under this chapter; 1359

(2) Hiring employees and professional services; 1360

(3) Contracting for insurance; 1361

(4) Purchasing or leasing office space and office 1362  
equipment; 1363

(5) Other actions necessary initially to form, operate, or 1364  
organize the district and the nonprofit corporation to govern 1365  
the district; 1366

(6) A plan for public improvements or public services that 1367  
benefit all or part of the district, which plan shall comply 1368  
with the requirements of division (A) of section 1710.06 of the 1369  
Revised Code and may include, but is not limited to, any of the 1370  
permissive provisions described in the fourth sentence of that 1371  
division or listed in divisions (A)(1) to (7) of that section; 1372

(7) If the special improvement district is being created 1373

under this chapter for the purpose of developing and 1374  
implementing plans for special energy improvement projects, 1375  
provision for the addition of territory to the special 1376  
improvement district. 1377

After the initial plan is approved by all municipal 1378  
corporations and townships to which it is submitted for approval 1379  
and the district is created, each participating subdivision 1380  
shall levy a special assessment within its boundaries to pay for 1381  
the costs of the initial plan. The levy shall be for no more 1382  
than ten years from the date of the approval of the initial 1383  
plan; except that if the proceeds of the levy are to be used to 1384  
pay the costs of a special energy improvement project, the levy 1385  
of a special assessment shall be for no more than thirty years 1386  
from the date of approval of the initial plan. In the event that 1387  
additional territory is added to a special improvement district, 1388  
the special assessment to be levied with respect to such 1389  
additional territory shall commence not earlier than the date 1390  
such territory is added and shall be for no more than thirty 1391  
years from such date. For purposes of levying an assessment for 1392  
this initial plan, the services or improvements included in the 1393  
initial plan shall be deemed a special benefit to property 1394  
owners within the district. 1395

(G) Each nonprofit corporation governing a district under 1396  
this chapter may do the following: 1397

(1) Exercise all powers of nonprofit corporations granted 1398  
under Chapter 1702. of the Revised Code that do not conflict 1399  
with this chapter; 1400

(2) Develop, adopt, revise, implement, and repeal plans 1401  
for public improvements and public services for all or any part 1402  
of the district; 1403

(3) Contract with any person, political subdivision as 1404  
defined in section 2744.01 of the Revised Code, or state agency 1405  
as defined in section 1.60 of the Revised Code to develop and 1406  
implement plans for public improvements or public services 1407  
within the district; 1408

(4) Contract and pay for insurance for the district and 1409  
for directors, officers, agents, contractors, employees, or 1410  
members of the district for any consequences of the 1411  
implementation of any plan adopted by the district or any 1412  
actions of the district. 1413

The board of directors of a special improvement district 1414  
may, acting as agent and on behalf of a participating political 1415  
subdivision, sell, transfer, lease, or convey any special energy 1416  
improvement project owned by the participating political 1417  
subdivision upon a determination by the legislative authority 1418  
thereof that the project is not required to be owned exclusively 1419  
by the participating political subdivision for its purposes, for 1420  
uses determined by the legislative authority thereof as those 1421  
that will promote the welfare of the people of such 1422  
participating political subdivision; to improve the quality of 1423  
life and the general and economic well-being of the people of 1424  
the participating political subdivision; better ensure the 1425  
public health, safety, and welfare; protect water and other 1426  
natural resources; provide for the conservation and preservation 1427  
of natural and open areas and farmlands, including by making 1428  
urban areas more desirable or suitable for development and 1429  
revitalization; control, prevent, minimize, clean up, or mediate 1430  
certain contamination of or pollution from lands in the state 1431  
and water contamination or pollution; or provide for safe and 1432  
natural areas and resources. The legislative authority of each 1433  
participating political subdivision shall specify the 1434

consideration for such sale, transfer, lease, or conveyance and 1435  
any other terms thereof. Any determinations made by a 1436  
legislative authority of a participating political subdivision 1437  
under this division shall be conclusive. 1438

Any sale, transfer, lease, or conveyance of a special 1439  
energy improvement project by a participating political 1440  
subdivision or the board of directors of the special improvement 1441  
district may be made without advertising, receipt of bids, or 1442  
other competitive bidding procedures applicable to the 1443  
participating political subdivision or the special improvement 1444  
district under Chapter 153. or 735. or section 1710.11 of the 1445  
Revised Code or other representative provisions of the Revised 1446  
Code. 1447

**Sec. 4115.03.** As used in sections 4115.03 to 4115.16 of 1448  
the Revised Code: 1449

(A) (1) "Public authority" means any officer, board, or 1450  
commission of the state, ~~or any political subdivision of the~~ 1451  
~~state,~~ authorized to enter into a contract for the construction 1452  
of a public improvement or to construct the same by the direct 1453  
employment of labor, or any institution supported in whole or in 1454  
part by public funds and said sections apply to expenditures of 1455  
such institutions made in whole or in part from public funds. 1456

(2) "Public authority" does not mean any of the following: 1457

(a) A political subdivision, unless the political 1458  
subdivision elects under section 4115.04 of the Revised Code to 1459  
be subject to the requirements of sections 4115.03 to 4115.21 of 1460  
the Revised Code; 1461

(b) A special district, unless the special district elects 1462  
under section 4115.04 of the Revised Code to be subject to the 1463

requirements of sections 4115.03 to 4115.21 of the Revised Code; 1464

(c) A state institution of higher education, unless the 1465  
state institution elects under section 4115.04 of the Revised 1466  
Code to be subject to the requirements of sections 4115.03 to 1467  
4115.21 of the Revised Code. 1468

(B) "Construction" means any of the following: 1469

(1) Except as provided in division (B) (3) of this section, 1470  
any new construction of a public improvement, the total overall 1471  
project cost of which is fairly estimated to be more than the 1472  
following amounts and performed by other than full-time 1473  
employees who have completed their probationary periods in the 1474  
classified service of a public authority: 1475

(a) One hundred twenty-five thousand dollars, beginning on 1476  
September 29, 2011, and continuing for one year thereafter; 1477

(b) Two hundred thousand dollars, beginning when the time 1478  
period described in division (B) (1) (a) of this section expires 1479  
and continuing for one year thereafter; 1480

(c) Two hundred fifty thousand dollars, beginning when the 1481  
time period described in division (B) (1) (b) of this section 1482  
expires. 1483

(2) Except as provided in division (B) (4) of this section, 1484  
any reconstruction, enlargement, alteration, repair, remodeling, 1485  
renovation, or painting of a public improvement, the total 1486  
overall project cost of which is fairly estimated to be more 1487  
than the following amounts and performed by other than full-time 1488  
employees who have completed their probationary period in the 1489  
classified civil service of a public authority: 1490

(a) Thirty-eight thousand dollars, beginning on September 1491

29, 2011, and continuing for one year thereafter; 1492

(b) Sixty thousand dollars, beginning when the time period 1493  
described in division (B) (2) (a) of this section expires and 1494  
continuing for one year thereafter; 1495

(c) Seventy-five thousand dollars, beginning when the time 1496  
period described in division (B) (2) (b) of this section expires. 1497

(3) Any new construction of a public improvement that 1498  
involves roads, streets, alleys, sewers, ditches, and other 1499  
works connected to road or bridge construction, the total 1500  
overall project cost of which is fairly estimated to be more 1501  
than seventy-eight thousand two hundred fifty-eight dollars 1502  
adjusted biennially by the director of commerce pursuant to 1503  
section 4115.034 of the Revised Code and performed by other than 1504  
full-time employees who have completed their probationary 1505  
periods in the classified service of a public authority; 1506

(4) Any reconstruction, enlargement, alteration, repair, 1507  
remodeling, renovation, or painting of a public improvement that 1508  
involves roads, streets, alleys, sewers, ditches, and other 1509  
works connected to road or bridge construction, the total 1510  
overall project cost of which is fairly estimated to be more 1511  
than twenty-three thousand four hundred forty-seven dollars 1512  
adjusted biennially by the director ~~of commerce~~ pursuant to 1513  
section 4115.034 of the Revised Code and performed by other than 1514  
full-time employees who have completed their probationary 1515  
periods in the classified service of a public authority. 1516

(C) "Public improvement" includes all buildings, roads, 1517  
streets, alleys, sewers, ditches, sewage disposal plants, water 1518  
works, and all other structures or works constructed by a public 1519  
authority ~~of the state or any political subdivision thereof or~~ 1520

by any person who, pursuant to a contract with a public 1521  
authority, constructs any structure for a public authority ~~of~~ 1522  
~~the state or a political subdivision thereof.~~ When a public 1523  
authority rents or leases a newly constructed structure within 1524  
six months after completion of such construction, all work 1525  
performed on such structure to suit it for occupancy by a public 1526  
authority is a "public improvement." ~~"Public improvement" does~~ 1527  
~~not include an improvement authorized by section 940.06 of the~~ 1528  
~~Revised Code that is constructed pursuant to a contract with a~~ 1529  
~~soil and water conservation district, as defined in section~~ 1530  
~~940.01 of the Revised Code, or performed as a result of a~~ 1531  
~~petition filed pursuant to Chapter 6131., 6133., or 6135. of the~~ 1532  
~~Revised Code, wherein no less than seventy five per cent of the~~ 1533  
~~project is located on private land and no less than seventy five~~ 1534  
~~per cent of the cost of the improvement is paid for by private~~ 1535  
~~property owners pursuant to Chapter 940., 6131., 6133., or 6135.~~ 1536  
~~of the Revised Code.~~ 1537

(D) "Locality" means the county wherein the physical work 1538  
upon any public improvement is being performed. 1539

(E) "Prevailing wages" means the sum of the following: 1540

(1) The basic hourly rate of pay; 1541

(2) The rate of contribution irrevocably made by a 1542  
contractor or subcontractor to a trustee or to a third person 1543  
pursuant to a fund, plan, or program; 1544

(3) The rate of costs to the contractor or subcontractor 1545  
which may be reasonably anticipated in providing the following 1546  
fringe benefits to laborers and mechanics pursuant to an 1547  
enforceable commitment to carry out a financially responsible 1548  
plan or program which was communicated in writing to the 1549



laborers and mechanics affected: 1550

    (a) Medical or hospital care or insurance to provide such; 1551

    (b) Pensions on retirement or death or insurance to 1552  
provide such; 1553

    (c) Compensation for injuries or illnesses resulting from 1554  
occupational activities if it is in addition to that coverage 1555  
required by Chapters 4121. and 4123. of the Revised Code; 1556

    (d) Supplemental unemployment benefits that are in 1557  
addition to those required by Chapter 4141. of the Revised Code; 1558

    (e) Life insurance; 1559

    (f) Disability and sickness insurance; 1560

    (g) Accident insurance; 1561

    (h) Vacation and holiday pay; 1562

    (i) Defraying of costs for apprenticeship or other similar 1563  
training programs which are beneficial only to the laborers and 1564  
mechanics affected; 1565

    (j) Other bona fide fringe benefits. 1566

None of the benefits enumerated in division (E) (3) of this 1567  
section may be considered in the determination of prevailing 1568  
wages if federal, state, or local law requires contractors or 1569  
subcontractors to provide any of such benefits. 1570

(F) "Interested party," with respect to a particular 1571  
contract for construction of a public improvement, means: 1572

    (1) Any person who submits a bid for the purpose of 1573  
securing the award of the contract; 1574

    (2) Any person acting as a subcontractor of a person 1575

described in division (F) (1) of this section; 1576

(3) Any bona fide organization of labor which has as 1577  
members or is authorized to represent employees of a person 1578  
described in division (F) (1) or (2) of this section and which 1579  
exists, in whole or in part, for the purpose of negotiating with 1580  
employers concerning the wages, hours, or terms and conditions 1581  
of employment of employees; 1582

(4) Any association having as members any of the persons 1583  
described in division (F) (1) or (2) of this section. 1584

(G) Except as used in division (A) of this section, 1585  
"officer" means an individual who has an ownership interest or 1586  
holds an office of trust, command, or authority in a 1587  
corporation, business trust, partnership, or association. 1588

(H) "Political subdivision" has the same meaning as in 1589  
section 9.23 of the Revised Code. 1590

(I) "State institution of higher education" has the same 1591  
meaning as in section 3345.011 of the Revised Code. 1592

**Sec. 4115.04.** (A) (1) Every public authority authorized to 1593  
contract for or construct with its own forces a public 1594  
improvement, before advertising for bids or undertaking such 1595  
construction with its own forces, shall have the director of 1596  
commerce determine the prevailing rates of wages of mechanics 1597  
and laborers in accordance with section 4115.05 of the Revised 1598  
Code for the class of work called for by the public improvement, 1599  
in the locality where the work is to be performed. Except as 1600  
provided in division (A) (2) of this section, that schedule of 1601  
wages shall be attached to and made part of the specifications 1602  
for the work, and shall be printed on the bidding blanks where 1603  
the work is done by contract. A copy of the bidding blank shall 1604

be filed with the director before the contract is awarded. A 1605  
minimum rate of wages for common laborers, on work coming under 1606  
the jurisdiction of the department of transportation, shall be 1607  
fixed in each county of the state by the department of 1608  
transportation, in accordance with section 4115.05 of the 1609  
Revised Code. 1610

(2) In the case of contracts that are administered by the 1611  
department of natural resources, the director of natural 1612  
resources or the director's designee shall include language in 1613  
the contracts requiring wage rate determinations and updates to 1614  
be obtained directly from the department of commerce through 1615  
electronic or other means as appropriate. Contracts that include 1616  
this requirement are exempt from the requirements established in 1617  
division (A)(1) of this section that involve attaching the 1618  
schedule of wages to the specifications for the work, making the 1619  
schedule part of those specifications, and printing the schedule 1620  
on the bidding blanks where the work is done by contract. 1621

(B) Sections 4115.03 to 4115.16 of the Revised Code do not 1622  
apply to: 1623

(1) Public improvements in any case where the federal 1624  
government or any of its agencies furnishes by loan or grant all 1625  
or any part of the funds used in constructing such improvements, 1626  
provided that the federal government or any of its agencies 1627  
prescribes predetermined minimum wages to be paid to mechanics 1628  
and laborers employed in the construction of such improvements; 1629

(2) A participant in a work activity, developmental 1630  
activity, or an alternative work activity under sections 5107.40 1631  
to 5107.69 of the Revised Code when a public authority directly 1632  
uses the labor of the participant to construct a public 1633  
improvement if the participant is not engaged in paid employment 1634

or subsidized employment pursuant to the activity; 1635

(3) ~~Public~~ Except as provided in division (C) of this 1636  
section, public improvements undertaken by, or under contract 1637  
for, ~~the board of education of any school district or the~~ 1638  
~~governing board of any educational service center;~~ 1639

~~(4) Public improvements undertaken by, or under contract~~ 1640  
~~for, a county hospital operated pursuant to Chapter 339. of the~~ 1641  
~~Revised Code or a municipal hospital operated pursuant to~~ 1642  
~~Chapter 749. of the Revised Code if none of the funds used in~~ 1643  
~~constructing the improvements are the proceeds of bonds or other~~ 1644  
~~obligations that are secured by the full faith and credit of the~~ 1645  
~~state, a county, a township, or a municipal corporation and none~~ 1646  
~~of the funds used in constructing the improvements, including~~ 1647  
~~funds used to repay any amounts borrowed to construct the~~ 1648  
~~improvements, are funds that have been appropriated for that~~ 1649  
~~purpose by the state, a board of county commissioners, a~~ 1650  
~~township, or a municipal corporation from funds generated by the~~ 1651  
~~levy of a tax, provided that a county hospital or municipal~~ 1652  
~~hospital may elect to apply sections 4115.03 to 4115.16 of the~~ 1653  
~~Revised Code to a public improvement undertaken by, or under~~ 1654  
~~contract for, the hospital~~ a political subdivision, special 1655  
district, or state institution of higher education; 1656

~~(5)~~ (4) Any project described in divisions (D) (1) (a) to 1657  
(D) (1) (e) of section 176.05 of the Revised Code; 1658

~~(6) Public improvements undertaken by, or under contract~~ 1659  
~~for, a port authority as defined in section 4582.01 or 4582.21~~ 1660  
~~of the Revised Code;~~ 1661

~~(7)~~ (5) Any portion of a public improvement undertaken and 1662  
completed solely with labor donated by the individuals 1663

performing the labor, by a labor organization and its members, 1664  
or by a contractor or subcontractor that donates all labor and 1665  
materials for that portion of the public improvement project. 1666

(C) Subject to division (D) of this section, nothing in 1667  
sections 4115.03 to 4115.21 of the Revised Code or any other 1668  
provision of the Revised Code prohibits a political subdivision, 1669  
special district, or state institution of higher education from 1670  
electing to apply sections 4115.03 to 4115.21 of the Revised 1671  
Code to any public improvement undertaken by, or under contract 1672  
for, the political subdivision, special district, or state 1673  
institution of higher education. 1674

(D) Under no circumstances shall a public authority, 1675  
political subdivision, special district, or state institution of 1676  
higher education apply the prevailing wage requirements of this 1677  
chapter to ~~a~~ any of the following: 1678

(1) A public improvement that is ~~exempt under division (B)~~ 1679  
~~(3) of this section~~ undertaken by, or under contract for, a 1680  
board of education of any school district or the governing board 1681  
of any educational service center; 1682

(2) An improvement authorized by section 940.06 of the 1683  
Revised Code that is constructed pursuant to a contract with a 1684  
soil and water conservation district, as defined in section 1685  
940.01 of the Revised Code, or performed as a result of a 1686  
petition filed pursuant to Chapter 6131., 6133., or 6135. of the 1687  
Revised Code, wherein not less than seventy-five per cent of the 1688  
project is located on private land and not less than seventy- 1689  
five per cent of the cost of the improvement is paid for by 1690  
private property owners pursuant to Chapter 940., 6131., 6133., 1691  
or 6135. of the Revised Code; 1692

(3) The construction of an erosion control structure under 1693  
section 1506.44 of the Revised Code; 1694

(4) An improvement undertaken by, or under contract for, a 1695  
transportation improvement district created under Chapter 5540. 1696  
of the Revised Code. 1697

**Sec. 4115.06.** In all cases where any public authority 1698  
fixes a prevailing rate of wages under section 4115.04 of the 1699  
Revised Code, and the work is done by contract, the contract 1700  
executed between the public authority and the successful bidder 1701  
shall contain a provision requiring the successful bidder and 1702  
all ~~his~~ subcontractors to pay a rate of wages which shall not be 1703  
less than the rate of wages so fixed. The successful bidder and 1704  
all ~~his~~ subcontractors shall comply strictly with the wage 1705  
provisions of the contract. 1706

Where a public authority constructs a public improvement 1707  
with its own forces, such public authority shall pay a rate of 1708  
wages which shall not be less than the rate of wages fixed as 1709  
provided in section 4115.04 of the Revised Code, except in those 1710  
instances provided for in ~~sections 723.52, section~~ 5517.02, ~~5575.01, and 5543.19~~ 1711  
of the Revised Code. 1712

**Sec. 5540.03.** (A) A transportation improvement district 1713  
may: 1714

(1) Adopt bylaws for the regulation of its affairs and the 1715  
conduct of its business; 1716

(2) Adopt an official seal; 1717

(3) Sue and be sued in its own name, plead and be 1718  
impleaded, provided any actions against the district shall be 1719  
brought in the court of common pleas of the county in which the 1720  
principal office of the district is located, or in the court of 1721

common pleas of the county in which the cause of action arose, 1722  
and all summonses, exceptions, and notices of every kind shall 1723  
be served on the district by leaving a copy thereof at its 1724  
principal office with the secretary-treasurer; 1725

(4) Purchase, construct, maintain, repair, sell, exchange, 1726  
police, operate, or lease projects; 1727

(5) Issue either or both of the following for the purpose 1728  
of providing funds to pay the costs of any project or part 1729  
thereof: 1730

(a) Transportation improvement district revenue bonds; 1731

(b) Bonds pursuant to Section 13 of Article VIII, Ohio 1732  
Constitution<sup>+</sup>. 1733

(6) Maintain such funds as it considers necessary; 1734

(7) Direct its agents or employees, when properly 1735  
identified in writing and after at least five days' written 1736  
notice, to enter upon lands within its jurisdiction to make 1737  
surveys and examinations preliminary to the location and 1738  
construction of projects for the district, without liability of 1739  
the district or its agents or employees except for actual damage 1740  
done; 1741

(8) Make and enter into all contracts and agreements 1742  
necessary or incidental to the performance of its functions and 1743  
the execution of its powers under this chapter; 1744

(9) Employ or retain or contract for the services of 1745  
consulting engineers, superintendents, managers, and such other 1746  
engineers, construction and accounting experts, financial 1747  
advisers, trustees, marketing, remarketing, and administrative 1748  
agents, attorneys, and other employees, independent contractors, 1749

or agents as are necessary in its judgment and fix their 1750  
compensation, provided all such expenses shall be payable solely 1751  
from the proceeds of bonds or from revenues; 1752

(10) Receive and accept from the federal or any state or 1753  
local government, including, but not limited to, any agency, 1754  
entity, or instrumentality of any of the foregoing, loans and 1755  
grants for or in aid of the construction, maintenance, or repair 1756  
of any project, and receive and accept aid or contributions from 1757  
any source or person of money, property, labor, or other things 1758  
of value, to be held, used, and applied only for the purposes 1759  
for which such loans, grants, and contributions are made. 1760  
Nothing in division (A)(10) of this section shall be construed 1761  
as imposing any liability on this state for any loan received by 1762  
a transportation improvement district from a third party unless 1763  
this state has entered into an agreement to accept such 1764  
liability. 1765

(11) Acquire, hold, and dispose of property in the 1766  
exercise of its powers and the performance of its duties under 1767  
this chapter; 1768

(12) Establish and collect tolls or user charges for its 1769  
projects; 1770

(13) Subject to section 5540.18 of the Revised Code, enter 1771  
into an agreement with a contiguous board of county 1772  
commissioners other than the board of county commissioners that 1773  
created the transportation improvement district, for the 1774  
district to exercise all or any portion of its powers with 1775  
respect to a project that is located wholly or partially within 1776  
the county that is party to the agreement; 1777

(14) Do all acts necessary and proper to carry out the 1778



powers expressly granted in this chapter. 1779

(B) Chapters 123., 124., 125., and 153., ~~and 4115.,~~ and 1780  
sections 9.331 to 9.335 and 307.86 of the Revised Code do not 1781  
apply to contracts or projects of a transportation improvement 1782  
district. 1783

**Sec. 6117.012.** (A) A board of county commissioners may 1784  
adopt rules requiring owners of property within the district 1785  
whose property is served by a connection to sewers maintained 1786  
and operated by the board or to sewers that are connected to 1787  
interceptor sewers maintained and operated by the board to do 1788  
any of the following: 1789

(1) Disconnect storm water inflows to sanitary sewers 1790  
maintained and operated by the board and not operated as a 1791  
combined sewer, or to connections with those sewers; 1792

(2) Disconnect non-storm water inflows to storm water 1793  
sewers maintained and operated by the board and not operated as 1794  
a combined sewer, or to connections with those storm water 1795  
sewers; 1796

(3) Reconnect or relocate any such disconnected inflows in 1797  
compliance with board rules and applicable building codes, 1798  
health codes, or other relevant codes; 1799

(4) Prevent sewer back-ups into properties that have 1800  
experienced one or more back-ups of sanitary or combined sewers 1801  
maintained and operated by the board; 1802

(5) Prevent storm water from entering a combined sewer and 1803  
causing an overflow or an inflow to a sanitary sewer, which 1804  
prevention may include projects or programs that separate the 1805  
storm water from a combined sewer or that utilize a prevention 1806  
or replacement facility to prevent or minimize storm water from 1807

entering a combined sewer or a sanitary sewer. 1808

(B) Any inflow required to be disconnected or any sewer 1809  
back-up required to be prevented under a rule adopted pursuant 1810  
to divisions (A) (1) to (4) of this section constitutes a 1811  
nuisance subject to injunctive relief and abatement pursuant to 1812  
Chapter 3767. of the Revised Code or as otherwise permitted by 1813  
law. 1814

(C) A board of county commissioners may use sewer district 1815  
funds; county general fund moneys; the proceeds of bonds issued 1816  
under Chapter 133. or 165. of the Revised Code; and, to the 1817  
extent permitted by their terms, loans, grants, or other moneys 1818  
from appropriate state or federal funds, for either of the 1819  
following: 1820

(1) The cost of disconnections, reconnections, 1821  
relocations, combined sewer overflow prevention, or sewer back- 1822  
up prevention required by rules adopted pursuant to division (A) 1823  
of this section, performed by the county or under contract with 1824  
the county; 1825

(2) Payments to the property owner or a contractor hired 1826  
by the property owner pursuant to a competitive process 1827  
established by district rules, for the cost of disconnections, 1828  
reconnections, relocations, combined sewer overflow prevention, 1829  
or sewer back-up prevention required by rules adopted pursuant 1830  
to division (A) of this section after the board, pursuant to its 1831  
rules, has approved the work to be performed and after the 1832  
county has received from the property owner a statement 1833  
releasing the county from all liability in connection with the 1834  
disconnections, reconnections, relocations, combined sewer 1835  
overflow prevention, or sewer back-up prevention. 1836

(D) Except as provided in division (E) of this section, 1837  
the board of county commissioners shall require in its rules 1838  
regarding disconnections, reconnections, relocations of sewers, 1839  
combined sewer overflow prevention, or sewer back-up prevention 1840  
the reimbursement of moneys expended pursuant to division (C) of 1841  
this section by either of the following methods: 1842

(1) A charge to the property owner in the amount of the 1843  
payment made pursuant to division (C) of this section for 1844  
immediate payment or payment in installments with interest as 1845  
determined by the board not to exceed ten per cent, which 1846  
payments may be billed as a separate item with the rents charged 1847  
to that owner for use of the sewers. The board may approve 1848  
installment payments for a period of not more than fifteen 1849  
years. If charges are to be paid in installments, the board 1850  
shall certify to the county auditor information sufficient to 1851  
identify each subject parcel of property, the total of the 1852  
charges to be paid in installments, and the total number of 1853  
installments to be paid. The auditor shall record the 1854  
information in the sewer improvement record until these charges 1855  
are paid in full. Charges not paid when due shall be certified 1856  
to the county auditor, who shall place the charges upon the real 1857  
property tax list and duplicate against that property. Those 1858  
charges shall be a lien on the property from the date they are 1859  
placed on the tax list and duplicate and shall be collected in 1860  
the same manner as other taxes. 1861

(2) A special assessment levied against the property, 1862  
payable in the number of years the board determines, not to 1863  
exceed fifteen years, with interest as determined by the board 1864  
not to exceed ten per cent. The board shall certify the 1865  
assessments to the county auditor, stating the amount and time 1866  
of payment. The auditor shall record the information in the 1867

county sewer improvement record, showing separately the 1868  
assessments to be collected, and shall place the assessments 1869  
upon the real property tax list and duplicate for collection. 1870  
The assessments shall be a lien on the property from the date 1871  
they are placed on the tax list and duplicate and shall be 1872  
collected in the same manner as other taxes. 1873

(E) The county may adopt a resolution specifying a maximum 1874  
amount of the cost of any disconnection, reconnection, 1875  
relocation, combined sewer overflow prevention, or sewer back-up 1876  
prevention required pursuant to division (A) of this section 1877  
that may be paid by the county for each affected parcel of 1878  
property without requiring reimbursement. That amount may be 1879  
allowed only if there is a building code, health code, or other 1880  
relevant code, or a federally imposed or state-imposed consent 1881  
decree that is filed or otherwise recorded in a court of 1882  
competent jurisdiction, applicable to the affected parcel that 1883  
prohibits in the future any inflows, combined sewer overflows, 1884  
or sewer back-ups not allowed under rules adopted pursuant to 1885  
division (A) (1), (4), or (5) of this section. The board, by 1886  
rule, shall establish criteria for determining how much of the 1887  
maximum amount for each qualifying parcel need not be 1888  
reimbursed. 1889

~~(F) Disconnections, reconnections, relocations, combined-~~ 1890  
~~sewer overflow prevention, or sewer back up prevention required-~~ 1891  
~~under this section and performed by a contractor under contract-~~ 1892  
~~with the property owner shall not be considered a public-~~ 1893  
~~improvement, and those performed by the county shall be-~~ 1894  
~~considered a public improvement as defined in section 4115.03 of~~ 1895  
~~the Revised Code.~~ 1896

Disconnections, reconnections, relocations, combined sewer 1897

overflow prevention, or sewer back-up prevention required under 1898  
this section performed by a contractor under contract with the 1899  
property owner shall not be subject to competitive bidding or 1900  
public bond laws. 1901

(G) Property owners shall be responsible for maintaining 1902  
any improvements made or facilities constructed on private 1903  
property to reconnect or relocate disconnected inflows, for 1904  
combined sewer overflow prevention, or for sewer back-up 1905  
prevention pursuant to this section unless a public easement or 1906  
other agreement exists for the county to maintain that 1907  
improvement or facility. 1908

(H) A board of county commissioners may provide rate 1909  
reductions of and credits against charges for the use of sewers 1910  
to a property owner that implements a project or program that 1911  
prevents storm water from entering a combined sewer and causing 1912  
an overflow. Such a project or program may include the use of a 1913  
prevention or replacement facility to handle storm water that 1914  
has been separated from a combined sewer. The revised rates or 1915  
charges shall be collected and paid to the county treasurer in 1916  
accordance with section 6117.02 of the Revised Code. 1917

**Sec. 6121.061.** The Ohio water development authority shall 1918  
not issue any bonds or otherwise participate in any project 1919  
authorized by this chapter or Chapter 6123. of the Revised Code 1920  
unless the contract, resolution, or other written document 1921  
setting forth the board's participation specifies that all wages 1922  
paid to laborers and mechanics employed on the projects shall be 1923  
paid at the prevailing rates of wages of laborers and mechanics 1924  
for the class of work called for by the project, which wages 1925  
shall be determined in accordance with the requirements of 1926  
Chapter 4115. of the Revised Code for determination of 1927

prevailing wage rates, provided that the requirements of this 1928  
section do not apply ~~to loans made to boards of county~~ 1929  
~~commissioners under division (V) of section 6121.04 of the~~ 1930  
~~Revised Code or~~ where the federal government or any of its 1931  
agencies furnishes by loan or grant all or any part of the funds 1932  
used in connection with the project and prescribes predetermined 1933  
minimum wages to be paid to the laborers and mechanics, and 1934  
provided that if a non-public user beneficiary of the project 1935  
undertakes, as part of the project, construction to be performed 1936  
by its regular bargaining unit employees who are covered under a 1937  
collective bargaining agreement that was in existence prior to 1938  
the date of the commitment instrument setting forth the board's 1939  
participation, the rate of pay provided under the collective 1940  
bargaining agreement may be paid to those employees. 1941

**Section 2.** That existing sections 164.07, 307.022, 1942  
307.671, 307.673, 307.674, 307.696, 351.06, 353.03, 1506.44, 1943  
1710.02, 4115.03, 4115.04, 4115.06, 5540.03, 6117.012, and 1944  
6121.061 of the Revised Code are hereby repealed. 1945

**Section 3.** The amendments made by this act to sections 1946  
164.07, 307.022, 307.671, 307.673, 307.674, 307.696, 351.06, 1947  
353.03, 1506.44, 1710.02, 4115.03, 4115.04, 4115.06, 5540.03, 1948  
6117.012, and 6121.061 of the Revised Code apply to contracts 1949  
entered into, renewed, or extended on or after the effective 1950  
date of this act. 1951

## **RESOLUTION NO. 038-19**

### **A RESOLUTION ADOPTING THE 2020 TAX BUDGET FOR THE CITY OF NAPOLEON, OHIO, AS REQUIRED IN SECTIONS 5705.28 AND 5705.281 OF THE OHIO REVISED CODE (ORC) AND DIRECTING THE FINANCE DIRECTOR TO FILE THE SAME WITH THE COUNTY AUDITOR; AND DECLARING AN EMERGENCY**

**WHEREAS**, at least two (2) copies of the Tax Budget have been on file with the Finance Director for public inspection not less than ten (10) days before its adoption; and,

**WHEREAS**, the Finance and Budget Committee of Council, by and through the Finance Director, has prepared a Tax Budget pursuant to Article II, Sec. 2.13 of the City of Napoleon, Ohio's Charter, and Sections 5705.28 and 5705.281 of the Ohio Revised Code (ORC); and,

**WHEREAS**, a Public Hearing was held on June 3, 2019, concerning this 2020 Tax Budget.

**WHEREAS**, the 2020 Tax Budget must be adopted on or before July 15, 2019;  
**Now Therefore,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the City Council of Napoleon, Ohio adopts the 2020 Tax Budget, as required by ORC Sections 5705.28 and 5705.281, in the form presented to Council and currently on file in the Office of the Finance Director and marked as the 2020 Tax Budget.

Section 2. That, the Finance Director is hereby directed to file the 2020 Tax Budget with the County Auditor on or before July 20, 2019.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to meet the July 15 and July 20, 2019 deadlines as noted above; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to adopt and file the Tax Budget in a timely manner

which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_\_ Yea \_\_\_\_\_ Nay \_\_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 038-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, interim Clerk of Council*



**ORDINANCE NO. 034-19**

**AN ORDINANCE AMENDING SECTION 143.01 OF THE CITY OF  
NAPOLEON'S CODIFIED ORDINANCES, "COMPOSITION AND  
CONTROL OF THE CITY FIRE/RESCUE DEPARTMENT," AND  
REPEALING ORDINANCE NO. 012-11**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON,  
OHIO:**

Section 1. That, Section 143.01 of the Codified Ordinances of the City of Napoleon, Ohio shall be amended and enacted as follows:

**"143.01 COMPOSITION AND CONTROL OF THE CITY FIRE/RESCUE  
DEPARTMENT.**

(a) The regular Fire/Rescue Department of the City shall be composed of a department head known as the "Fire Chief," and such other officers, fire fighters, fire rescue personnel, drivers, emergency medical personnel, fire safety inspectors, paramedics, secretaries, clerks and other employees as provided by legislation of the City, the Organizational Chart of the City, and/or the Administrative Code of the City.

(b) Definitions. For purposes of this Chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

(1) "Fire Chief" means the Chief of the regular Fire/Rescue Department.

(2) "Regular Fire/Rescue Department" means the Fire/Rescue Department of the City composed of the full-time and part-time paid personnel and its auxiliary.

(c) Notwithstanding any prior Ordinance or Resolution to the contrary, the regular Fire/Rescue Department shall be composed of the following:

- 1 Fire Chief (full-time)
- 3 Officer of the supervisory grade (full-time)
- 6 Fire Fighter/Paramedics or  
Fire Fighter/Emergency Medical technicians, or  
combination thereof (full-time)
- 5 Officers of supervisory grade (part-time)

1 (not to exceed ~~50~~70) Staff of any combination of the following:

Fire fighters, paramedics, emergency medical technicians (any level), fire fighter/paramedics, firefighter/emergency medical technicians, secretary, communication officers, ~~instructors~~ (all of part-time status as approved by the City Manager)

1 (not to exceed 20) Auxiliary members.

(d) The making of an assignment by the Chief of one or more officers to any job or division such as fire fighters, drivers, fire safety inspectors, paramedics, arson investigators, and other similar positions shall not be construed as disturbing the composition of the regular Fire/Rescue Department or violating subsection (c) hereof; moreover, temporary vacancies in the regular Fire/Rescue Department shall not be construed as a departure from this section; finally, adding or eliminating secretaries,

clerks, communication and the like positions shall not be construed as disturbing the composition of the regular Fire/Rescue Department.

(e) Nothing in this chapter shall be construed as limiting the number of additional officers that may be required in case of an emergency.”

Section 2. That, Section 143.01 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance, is repealed upon the effective date of this Ordinance.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon, Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 5. That, this Ordinance shall be in full force and effect at the earliest time permitted by law.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 034-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, interim Clerk of Council*

## **ORDINANCE NO. 035-19**

### **AN ORDINANCE CREATING THE NON-BARGAINING POSITIONS OF ADJUNCT EMS INSTRUCTOR AND ADJUNCT FIRE INSTRUCTOR FOR THE FIRE DEPARTMENT OF THE CITY OF NAPOLEON, OHIO, AND AMENDING ORDINANCE NO. 075-18; AND DECLARING AN EMERGENCY**

**WHEREAS**, Council previously adopted Ordinance No. 075-18, creating a 2019 Classification Pay Plan for its non-bargaining employees; and,

**WHEREAS**, the positions of Adjunct EMS Instructor and Adjunct Fire Instructor for the Fire Department of the City of Napoleon, Ohio were approved by the Safety and Human Resources Committee of Council at the April 22, 2019 meeting; and,

**WHEREAS**, the Safety and Human Resources Committee subsequently approved the job description and wage scale for the positions of Adjunct EMS Instructor and Adjunct Fire Instructor for the Fire Department of the City of Napoleon, Ohio, and unanimously recommended said positions be approved by Council, and added to the previously adopted 2019 Classification Pay Plan, Ordinance No. 075-18; and,

**WHEREAS**, Council now desires to create the non-bargaining positions entitled “Adjunct EMS Instructor” and “Adjunct Fire Instructor” for the Fire Department of the City of Napoleon, Ohio, adding said positions and associated wage scales to the current 2019 Classification Pay Plan, Ordinance No. 075-18; **Now Therefore**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, this Council desires to create new positions, pursuant to Article II, Section 2.14 of the Charter of the City of Napoleon, entitled “Adjunct EMS Instructor” and “Adjunct Fire Instructor” for the Fire Department of the City of Napoleon, Ohio.

Section 2. That, said positions are hereby created and established in and for the City of Napoleon and each position shall be considered a non-bargaining, part-time regular employee having an hourly, non-exempt status. The job descriptions as included in the Pay Plan, as prepared and/or revised by the City Manager, are hereby approved by this Council. Neither the Adjunct EMS Instructor nor the Adjunct Fire Instructor shall be entitled to any longevity pay.

Section 3. That, the pay scales for the Adjunct EMS Instructor and the Adjunct Fire Instructor for the Fire Department of the City of Napoleon shall be set in the City of Napoleon’s 2019 Classification Pay Plan, Ordinance No. 075-18.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 6. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow the positions to be in place to effectively and efficiently train the City of Napoleon Fire Department employees, all of which are related to public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper payment of wages to employees, proper payment being essential to the harmony of the necessary workforce, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 035-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

## **ORDINANCE NO. 075-18**

### **AN ORDINANCE ESTABLISHING A NEW POSITION CLASSIFICATION PAY PLAN FOR EMPLOYEES OF THE CITY OF NAPOLEON, OHIO FOR THE YEAR 2019; REPEALING ORDINANCE NO. 086-17; AND DECLARING AN EMERGENCY**

**WHEREAS**, Council reviewed the proposed Year 2019 annual appropriation measure and finds, in general, as it relates to non-bargaining employees of the City of Napoleon, Ohio, that a compensation increase of two percent (2.0%), is generally warranted subject to various considerations as contained herein; and,

**WHEREAS**, Exhibits A, B, and C attached hereto and incorporated herein, reflect pay scales for City of Napoleon non-bargaining employees. The pay scales noted in these Exhibits generally contain a two percent (2.0%) pay increase from the 2018 pay scales; and,

**WHEREAS**, Council desires to make said compensation increases effective on the pay period commencing on or about December 17, 2018; and,

**WHEREAS**, Council desires to adopt a new 2019 Classification Pay Plan for its non-bargaining employees as stated in this Ordinance and Exhibits A, B, and C; **Now Therefore,**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, notwithstanding any Ordinance or Resolution to the contrary, the City of Napoleon, Ohio, (the "City") establishes a new 2019 Position Classification Pay Plan ("Pay Plan") for its non-bargaining employees.

Section 2. That, effective with the first pay period for the Year 2019, that commences on or about December 17, 2018, the pay scale (steps) for the City's non bargaining employees (full time) shall be established as provided in Exhibit "A." Exhibit "A" contains base hourly rates. Subject to the provisions of the City's Personnel Code, the Employment Policy Manual as Amended 2014-1 (Ordinance No. 042-14), and Section 3 of this Ordinance, the Department Director or Appointing Authority may place any employee affected by this Ordinance at the level of compensation the Department Director or Appointing Authority deems appropriate as listed in Exhibit "A." Additionally, the base hourly rate of the position of Assistant Water Superintendent is hereby amended, and the pay is set as expressed in Exhibit "A." The duties of the Assistant Water Superintendent are currently defined in a job description which was previously approved this Council in Ordinance No. 017-19; any changes to the job description would need to be made by simple vote or the passage of appropriate legislation, either or which must clearly define the changes and new effective date. Said job description is currently on file with the City of Napoleon, Ohio Human Resources Department.

Section 3. That, effective with the first pay period for the Year 2019, which commences on or about December 17, 2018, each non-bargaining employee (full time regular) (hourly), subject to Employment Policy Manual Policy Section 8.10 (Compensation Reviews), is eligible on such employee's annual hiring anniversary date of uninterrupted full time service with the City, to be advanced one (1) step in the Pay

Plan until the maximum step is reached. The non-bargaining employee's (full time regular) (hourly) step location prior to advancement in the Pay Plan shall be determined by contrasting the base hourly rate said employee received prior to the enactment of this Ordinance with the table found in Exhibit "A" for the respective year. For new hires, the Department Director or Appointing Authority may place an employee within the scale where the Department Director or Appointing Authority deems appropriate considering merit and fitness. Nothing in this Section shall be construed to prohibit a decrease in pay. Step increases for transfer employees shall be in accordance with Section 197.09(e) of the Personnel Code. A mere reclassification of a current position, where job duties are substantially the same, does not constitute a transfer.

Section 4. That, effective with the first pay period for the Year 2019, that commences on or about December 17, 2018, the pay scale for non-bargaining employee (salaried) (full time) positions of this City which are exempt under the Fair Labor Standards Act (FLSA) as it relates to overtime, shall be provided, unless modified, as established in Exhibit "B," attached and incorporated herein, (expressed in base biweekly salary amounts). Subject to the provisions of the City's Personnel Code, the Employment Policy Manual as Amended 2014-1 (Ordinance No. 084-14), and Section 5 of this Ordinance, the Department Director or Appointing Authority may place any employee affected by this Ordinance at the level the Department Director or Appointing Authority deems appropriate as listed in Exhibit "B."

Section 5. That, effective with the first pay period for the Year 2019, that commences on or about December 17, 2018, each non bargaining employee (salaried) (full time) position of this City as defined in Section 4 of this Ordinance, is eligible to have a minimum salary increase of two percent (2.0%) for Year 2019, subject to Employment Policy Manual "Policy Section 8.10 (Compensation Reviews)," calculated from what the employee is making at the time just prior to the proposed increase period, and as reflected in the amounts expressed in Exhibit "B." In no event shall any increase place the employee above the top scale as established in Section 4 of this Ordinance. For new hires or current employees, the Department Director or Appointing Authority may place an employee, at any time, within the scale where the Department Director or Appointing Authority deems appropriate considering merit and fitness. Nothing in this Section shall be construed to prohibit a decrease in pay.

Section 6. That, effective with the first pay period of the Year 2019, that commences on or about December 17, 2018, the Pay Scale (steps) for part time, permanent part time, and temporary employees of this City shall be provided unless modified, as stated in the table found in Exhibit "C" (attached and incorporated herein), except when Federal or State minimum wage of a higher amount is required, then the higher amount of the Federal or State minimum wage shall apply. Subject to the provisions of the City's Personnel Code and Employment Policy Manual as Amended 2014-1 (Ordinance No. 084-14), the Department Director or Appointing Authority may place any employee affected by this Ordinance at the level the Department Director or Appointing Authority deems appropriate as listed in Exhibit "C." Employment Policy Manual 2014-1, Policy Section 8.10, (compensation reviews), is applicable only to permanent part time employees, not part time or temporary employees.

Additionally, the base hourly rate of the positions of Adjunct EMS Instructor and Adjunct Fire Instructor are hereby created, and the pay is set as expressed in Exhibit "C." The duties of the Adjunct EMS Instructor and Adjunct Fire Instructor are currently defined in

job descriptions which were previously approved this Council in Ordinance No. 035-19; any changes to the job descriptions would need to be made by simple vote or the passage of appropriate legislation, either or which must clearly define the changes and new effective date. Said job descriptions are currently on file with the City of Napoleon, Ohio Human Resources Department.

Section 7. All paid part time, permanent part time, and temporary employees of the City shall, effective with the first pay period of the Year 2019, that commences on or about December 17, 2018, have a minimum hourly base pay increase of two percent (2.0%) for Year 2019 calculated from what the employee's base rate was just prior to this proposed increase, and as is reflected in the amounts expressed in Exhibit "C" (the amounts include the two percent (2.0%) increase). Only permanent part time employees are subject to Employment Policy Manual 2014-1 Policy Section 8.10 (compensation reviews), when applicable. Part time employees of the Fire/Rescue Department will remain on probationary/trainee status until removed by the City Manager upon recommendation of the Fire Chief. For new hires or current employees of the City, the Appointing Authority or Department Director may place an employee within the scale where the Appointing Authority or Department Director deems appropriate considering merit and fitness. Nothing in this section shall be construed to prohibit a decrease in pay. The non-full time status positions found in Exhibit "C" (i.e. temporary part time or permanent part time) may be modified by the Appointing Authority or Department Director at any time, except that Council shall approve any modification to a full time status. Additionally, the position of Probation Officer PIIG Grant is hereby set as expressed in Exhibit "C."

Section 8. That, compensation for employees' appointments made in order to fill temporarily vacant positions shall be at a rate established by the Department Director or Appointing Authority, except that it shall not exceed the top pay scale established in this Ordinance for the position being filled. Temporary positions being filled by temporary employees for whom no pay scale has been established shall be at a pay scale established by the Department Director or Appointing Authority by comparing the temporary position created to the most similar position established within the same department that is utilizing the temporary employee. In the event no such similar position exists, then it shall be paid in an amount as determined appropriate by the Department Director or Appointing Authority so long as the amount paid may be accomplished without exceeding the department's annual budget.

Section 9. That, the position of Executive Assistant/Paralegal to the Law Director is hereby created and established in and for the City for the Napoleon and shall be considered a full time regular employee having a salary, non-exempt status. The job description as included in the Pay Plan, as prepared and/or revised by the Law Director, is hereby approved by this Council. The Executive Assistant/Paralegal to the Law Director shall not be entitled to any longevity pay.

Section 10. That, notwithstanding any section of this Ordinance to the contrary, compensation of the Clerk of the Napoleon Municipal Court shall be as found in Section 4 of this Ordinance and as stated in Exhibit "B" unless otherwise set by the Municipal Court Judge pursuant to ORC Section 1901.31 (C).

Section 11. That, compensation for the Chief Deputy Clerk and all other Deputy Clerks of the Napoleon Municipal Court shall be as set by the Clerk of the

Napoleon Municipal Court pursuant to ORC Section 1901.31 and as stated in Exhibits “A, B, and C.”

Section 12. That, the compensation for Municipal Court Bailiff and/or Deputy Bailiff shall be established by the Municipal Court pursuant to ORC Section 1901.32 and as stated in Exhibits “A, B, and C.”

Section 13. That, the position of Chief Probation Officer as established in and for the City for the Napoleon Municipal Court shall be considered a full time regular employee having a salary, non-exempt status. The job description as included in the Pay Plan, as prepared and/or revised by the Municipal Court Judge, is continued to be approved by this Council. The Chief Probation Officer shall not be entitled to any longevity pay; moreover, the Municipal Court Judge may adjust the Chief Probation Officer’s salary at any time so long as within the limits of the CCA Grant or as may be otherwise supplemented by the Municipal Court. Notwithstanding any other provision of this Ordinance, in no event shall the Chief Probation Officer’s pay and benefits exceed the amount of the CCA Grant or as otherwise may be supplemented by the Municipal Court. Nothing shall be construed in this Ordinance as mandating that the position be filled or continued to be filled each year.

Section 14. That, all positions and/or classifications found in this Ordinance shall be deemed created, established, and existing in and for the City of Napoleon, Ohio. The status of part time employees may be further defined by the Department Director or Appointing Authority as permanent part time, temporary, seasonal, or intermittent employees without affecting the compensation status as stated in this Ordinance. Nothing in this Ordinance shall be construed as mandating that each and every position and/or classification be filled by this City.

Section 15. That, those employees who are covered by collective bargaining agreements shall be paid in accordance with the respective collective bargaining agreement.

Section 16. That, all compensation paid under this Ordinance is subject to appropriation of funds by Council.

Section 17. That, the Finance Director may adjust compensation for all affected employees to meet the intent of this Ordinance.

Section 18. That, all pay scales reflected in this Pay Plan shall be rounded, utilizing the five rule, to the nearest penny.

Section 19. That, no position mentioned in this Ordinance shall receive longevity benefit unless specified in this City's adopted longevity plan unless otherwise specifically provided for herein, or except as may be permitted by the City's longevity policy.

Section 20. That, any employee who is employed by the City in more than one position shall be paid overtime in accordance with State and Federal wage and salary laws (specifically, after forty hours of work within one week the person should receive overtime based on the salary or wage for the position they are working when they surpass forty hours for that work week). However, but for the employee’s normal scheduled employment, the department that causes the overtime shall be liable for the payment of overtime regardless of where the hours were worked.



Section 21. That, Ordinance No. 086-17 is repealed in its entirety effective December 31, 2018.

Section 22. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 23. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 24. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for proper payment of wages to employees, proper payment being essential to the harmony of the necessary workforce; therefore, provided the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper payment of wages to employees, proper payment being essential to the harmony of the necessary workforce, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 075-18 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Deitrich, interim Clerk of Council*

**EXHIBIT "A"**

(BASE HOURLY RATE)

<u>Title</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Clerk-Typist II	\$12.01	\$13.82	\$14.84	\$15.94
Receptionist	\$13.58	\$15.58	\$16.70	\$17.96
Administrative Assistant	\$16.55	\$19.10	\$20.51	\$22.08
Front Desk Administrator	\$12.01	\$13.55	\$14.22	\$15.03
Service Building Secretary	\$12.01	\$13.55	\$14.22	\$15.03
Senior Service Building Secretary	\$14.92	\$17.12	\$18.41	\$19.87
Executive Assistant to Appointing Authority	\$20.10	\$21.42	\$22.80	\$24.24
Executive Assistant/Paralegal to the Law Director	\$24.24	\$26.48	\$28.44	\$30.41
Account Clerk I	\$12.01	\$13.55	\$14.22	\$15.02
Account Clerk II	\$14.92	\$17.12	\$18.42	\$19.87
Utility Billing Administrator	\$16.95	\$19.51	\$20.90	\$24.82
Senior Account Clerk	\$16.55	\$19.10	\$20.52	\$24.25
Records Clerk/Recorder	\$14.92	\$17.12	\$18.41	\$19.86
Accounts Payable Clerk	\$14.92	\$17.12	\$18.41	\$20.90
Tax Administrator	\$16.95	\$19.51	\$20.90	\$24.82
Engineering Technician	\$18.20	\$20.90	\$22.39	\$24.02
Senior Engineering Technician	\$21.61	\$24.89	\$26.64	\$28.58
Senior Engineering Technician/Zoning Administrator	\$21.61	\$24.89	\$26.64	\$31.44
Staff Engineer	\$20.09	\$23.16	\$24.89	\$26.73
Licensed Staff Engineer	\$27.19	\$29.24	\$31.45	\$35.17
Construction Inspector	\$23.64	\$27.16	\$29.11	\$31.98
Senior Electric Engineering Technician	\$21.61	\$24.89	\$26.64	\$28.58
Electrical Construction/Maintenance Inspector	\$26.21	\$30.16	\$32.34	\$34.67
Zoning Administrator	\$23.65	\$27.16	\$29.11	\$31.21
Chief Water Treatment Operator	\$21.61	\$24.89	\$26.64	\$30.12
Chief Wastewater Treatment Operator	\$21.61	\$24.40	\$26.64	\$30.12
Assistant Water Superintendent	\$29.02	\$30.09	\$31.75	\$33.41
Police Lieutenant		\$31.60	\$33.09	\$34.75
Deputy Court Clerk	\$16.04	\$17.47	\$18.74	\$20.08
Chief Probation Officer	\$19.38			\$21.42
IT Specialist	\$17.84	\$19.74	\$21.64	\$23.55

## EXHIBIT "B"

(BASED ON AN 80 HOUR PAY PERIOD)

<u>Title</u>	<u>BOTTOM</u>	<u>TOP</u>
Assistant to the City Engineer	\$2,705.04	\$3,121.20
City Engineer	\$3,173.22	\$3,849.48
Public Works Director	\$3,849.48	\$4,608.97
Golf Course & Grounds Superintendent	\$1,927.34	\$2,590.75
Parks & Recreation Director/Cemetery	\$1,746.62	\$3,035.65
Assistant Finance Director	\$2,882.36	\$3,345.93
Electrical Engineer	\$3,001.80	\$3,495.95
Electric Distribution Superintendent	\$3,060.47	\$3,770.05
IT Administrator	\$1,888.22	\$2,805.00
Human Resources Director	\$2,152.82	\$3,266.99
Municipal Court Bailiff		\$1,347.71
Municipal Court Clerk	\$1,824.55	\$2,040.79
Assistant Fire Chief	\$2,132.82	\$3,121.20
Fire Chief	\$2,653.02	\$3,502.60
Operations Superintendent	\$2,200.84	\$3,121.20
Water Superintendent	\$2,409.57	\$3,247.45
Wastewater Superintendent	\$2,409.57	\$3,247.45
Chief of Police	\$2,797.06	\$3,606.64

## EXHIBIT "C"

(BASE HOURLY RATE)

<u>Title</u>	<u>Bottom</u>	<u>Top</u>
Front Desk Administrator (Part Time)	\$9.66	\$13.20
Legal Clerk (Temporary)	\$13.89	\$22.32
All Fire/Rescue Department (Part Time)	\$8.60	\$17.09
Deputy Court Clerk (Part Time)	\$10.71	\$14.71
Deputy Court Bailiff (Part Time)		\$14.09
Probation Officer PIIG Grant		\$15.92
Construction Inspection (Temporary)	\$12.98	\$13.91
Construction Engineer (Temporary) Engineering Dept.	\$39.41	\$42.24
Income Tax/Collection Clerk (Part Time)	\$9.66	\$17.04
Lifeguard (Seasonal)	\$8.60	\$14.43
Seasonal Laborer – Other	\$8.60	\$14.43
Recreation Worker (Seasonal)	\$8.60	\$14.43
Parks Maintenance Worker (Seasonal)	\$8.60	\$14.43
Golf Course Clubhouse Attendant (Seasonal)	\$8.60	\$14.43
Senior Center Fitness Coordinator (Part Time)	\$8.60	\$14.43
Code Enforcement Inspector	\$18.73	\$29.13
Adjunct EMS Instructor for the Fire Department (Part Time)		\$20.00
Adjunct Fire Instructor for the Fire Department (Part Time)		\$20.00

## **RESOLUTION NO. 036-19**

### **A RESOLUTION AUTHORIZING THE CITY OF NAPOLEON TO EXECUTE A LOAN AGREEMENT WITH THE HENRY COUNTY COMMISSIONERS FOR FUNDS TO PURCHASE THE CITY SHARE OF THE COUNTYWIDE COMMUNICATIONS SYSTEM; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Henry County Commissioners have purchased mobile and portable radios for use on the countywide communications system; and,

**WHEREAS**, the Henry County Commissioners have agreed to split the cost of these radios with various cities, townships, and villages of Henry County, Ohio, including the City of Napoleon; and,

**WHEREAS**, the City has requested four (4) mobile and/or twenty-eight (28) portable radios for use on the countywide communications system; and,

**WHEREAS**, the City has been qualified as eligible for a zero percent interest loan from the Henry County Commissioners in the amount of sixty thousand five hundred fifty-four dollars and sixty-eight cents (\$60,554.68) to be utilized to purchase the City share of the Countywide Communications System; **Now Therefore**,

#### **BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the City Manager is authorized and directed to execute a loan agreement with the Henry County Commissioners for funds to purchase the City share of the Countywide Communications System, said Agreement and Loan currently on file in the office of the City Finance Director.

Section 2. That, the City Manager is authorized to execute the necessary documents associated with the Loan Agreement with the Henry County Commissioners.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to qualify for the zero percent interest loan that will be used to expedite the countywide communications system, a project associated with public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Further, the Emergency Clause is necessary to enter into the stated agreement in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_\_ Yea \_\_\_\_\_ Nay \_\_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, interim Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 036-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, interim Clerk of Council*

## LOAN AGREEMENT

THIS AGREEMENT is entered into by and between the Henry County Commissioners, Henry County, Ohio, (hereinafter referred to as "Lender") and the City of Napoleon (hereinafter referred to as "Borrower"). The Lender is prepared to offer a loan to the Borrower in the amount of sixty thousand five hundred fifty-four and 68/100 dollars (\$60,554.68). The effective date of this commitment is \_\_\_\_, 2019.

### WITNESSETH:

WHEREAS, the Lender has purchased mobile and portable radios for use on the county-wide communications system and has agreed to split the price of the radios with the various cities, townships, and villages, of Henry County, Ohio; and,

WHEREAS, the Borrower requests four (4) mobile and/or twenty-eight (28) portable radios, as well as a loan in the amount of sixty thousand five hundred fifty-four and 68/100 dollars (\$60,554.68) from the Lender for the purpose of purchasing its share of the price of the radios; and,

WHEREAS, the Lender desires to loan to the Borrower the amount of sixty thousand five hundred fifty-four and 68/100 dollars (\$60,554.68) on the terms and conditions contained herein.

### STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises herein contained, the parties hereto agree as follows:

1. Loan Amount. The Lender agrees to loan the Borrower the principal amount of sixty thousand five hundred fifty-four and 68/100 dollars (\$60,554.68), (hereinafter referred to as the "Loan"), for payment of its share of the price of the radios.
2. Evidence of the Loan. The Loan shall be evidenced by the cognovit promissory note of even date, (hereinafter the "Note") a copy of which is attached hereto, and incorporated herein as **Exhibit "A"**, bearing interest at the rate of zero percent (0%) per annum for the term of the Loan. The term of the Loan shall be no longer than ten (10) years. The Loan may all be paid up front or spread out over the course of no more than ten (10) years, payable annually or biennially.
3. Repayment of the Loan. The terms of repayment of the Loan shall be as set forth in the Note, and the Borrower shall make all payments required to be made under the Note as and when due. The sale or transfer of the radios will cause the payment of the entire principal balance of the Loan to be immediately due and payable.



4. Representations of the Borrower. The Borrower hereby represents and warrants that:

a) It has full power and authority to execute, deliver and perform this Loan Agreement and Note, and to enter into and carry out the transactions contemplated thereby. Such execution, delivery and performance do not, and will not, violate any provision of law applicable to the Borrower and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it or any of its property or assets is or may be bound. All of the documents necessary to document this transaction have by proper action, been duly authorized, executed and delivered and all necessary actions have been taken to constitute the documents valid and binding obligations of the Borrower.

b) There are no actions, suits, or proceedings pending or threatened against or affecting the Borrower which, if adversely determined, would materially impair the ability of the Borrower to perform any of its obligations under the Loan Agreement or Note or adversely affect the financial condition of the Borrower.

c) The Borrower is not in default under any of the Loan Agreement or the Note or in the payment of any indebtedness for borrowed money or under any agreement or instrument evidencing any such indebtedness, and in no event has occurred which by notice, the passage of time or otherwise would constitute any such event of default.

d) The Borrower acknowledges and agrees that nothing contained in this Loan Agreement or the Note, nor any act of the Lender, shall be deemed or construed by the Borrower, or any of the parties or by the third person, to create the relationship of third-party beneficiary, or of principal and agent, or of a joint venture, or of any association or relationship involving the Lender.

e) All proceeds of the Loan shall be used for the payment of costs relating to the payment of Borrower's share of the price of the radios. No part of any such proceeds shall be knowingly paid to or retained by the Borrower or any officer or employee of the Borrower as a fee, kick-back or consideration of any type.

5. Events of Default. Each of the following shall be an "Event of Default":

a) The Borrower shall fail to pay any amount payable pursuant to this Loan Agreement or under the Note on the date on which such payment is due and payable; or,

b) The Borrower shall fail to observe and perform any agreement, term or condition contained in this Loan Agreement other than as required pursuant to subsection (a) above, and such failure continues for a period of thirty (30) days after notice of such failure is given to the Borrower by the Lender, or for such longer period as the Lender may agree to in writing; provided, that if the failure is

of such nature that it can be corrected but not within the applicable period, such failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues such action to completion; or,

c) Any representation or warranty made by the Borrower herein or in the Note or in connection herewith shall prove to have been incorrect in any material respect when made; or,

d) The Borrower shall fail to pay any indebtedness of the Borrower, when due and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness; or,

e) The Borrower commences a voluntary case concerning it under titles of the United States Code entitled "Bankruptcy" as now or hereafter in effect, (the "Bankruptcy Code"), or any successor thereto or an involuntary case is commenced against the Borrower under the Bankruptcy Code and relief is ordered against the Borrower; or the Borrower is not paying its debts as such debts become due.

6. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

a) The Lender may declare all payments under the Note to be immediately due and payable, whereupon the same shall become immediately due and payable; or

b) The Lender may have access to, inspect, examine and make copies of the books and records accounts and financial data of the Borrower; or

c) The Lender may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement or the Note.

7. No Remedy Exclusive. No remedy conferred upon or reserved to the Lender by this Agreement is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, each other loan document, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lender to exercise any remedy reserved to it in this section, it shall not be necessary to give any notice, other than such notice as may be expressly provided for herein or required by law.

8. Uses of Loan Amount. It is further agreed that the funds loaned by the Lender

hereunder will be used by the Borrower to pay for its share of the price of the radios.

9. Notification. The Borrower shall immediately notify the Lender of any change in its financial position, which would relate to the ability of the Borrower to fulfill its responsibilities under this Loan Agreement or the Note.
10. Indemnification. To the extent allowable by law, the Borrower shall defend, indemnify and hold the Lender and any officials of the State of Ohio harmless against any and all cost, expense, claims or actions arising out of or connected with the execution and delivery of this Loan Agreement or the Note. The provisions related to this section shall survive the termination of this Loan Agreement.
11. Other Agreements. The Borrower shall not enter into any agreement containing any provision which would be violated hereunder or under any instrument or document delivered or to be delivered by it hereunder or in connection herewith.
12. Miscellaneous.

a) Term of Agreement. This Agreement shall be and remain in full force and effect from the date of its delivery until (a) the termination of this Agreement pursuant to section 6 hereof or (b) such time as the Loan shall have been fully repaid and all other sums payable by the Borrower under this Agreement and the Note have been satisfied, but not to exceed the period of ten (10) years.

b) Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate address. The Borrower or the Lender may, by notice given hereunder, designate any further or different addresses to which subsequent notice, certificates, requests or other communications shall be sent.

c) Extent of Covenants of the Lender. All covenants, obligations and agreements of the Lender contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future Henry County Commissioners in other than his/her official capacity.

d) Binding Effect. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Lender, the Borrower and their respective successors and assigns.

e) Amendments and Supplements. This Agreement may not be amended or supplemented except by an instrument in writing executed by the Lender and the

Borrower.

f) Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained herein is determined by a court to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable portion were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

g) Captions. The captions and headings in this Agreement shall be solely for convenience or reference and shall in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

h) Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State of Ohio and for all purposes shall be governed by and construed in accordance with the laws of the State of Ohio.

**[SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first above written.

**HENRY COUNTY COMMISSIONERS:**

**CITY OF NAPOLEON, OHIO:**

\_\_\_\_\_  
Glenn Miller, President  
Henry County, Ohio

\_\_\_\_\_  
Joel Mazur, City Manager  
City of Napoleon, Ohio

\_\_\_\_\_  
Thomas H. VonDeylen, Vice Chairman  
Henry County, Ohio

\_\_\_\_\_  
Robert E. Hastedt, Commissioner  
Henry County, Ohio

ATTEST:

\_\_\_\_\_  
Kristi Schultheis, Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM & LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Katie Nelson  
Assistant Henry County Prosecutor

\_\_\_\_\_  
Billy D. Harmon, Law Director  
City of Napoleon, Ohio

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019

**CERTIFICATION OF FUNDS:**

The undersigned, being the Finance Director of the City of Napoleon, Ohio, hereby certifies that in the case of this continuing contract to be performed in whole or in part in the current and ensuing fiscal year(s), the amount required to meet the obligation in the current fiscal year in which the contract is made has currently been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances; and, in future years is subject to appropriation by the legislative authority.

\_\_\_\_\_  
Kent Seemann, Finance Director  
City of Napoleon, Ohio

**COGNOVIT PROMISSORY NOTE**  
(Loan Only)

\$60,554.68

\_\_\_\_\_, 2019

For value received, the City of Napoleon (the "Borrower") promises to pay to the order of the Henry County Commissioners (the "Lender"), located at 1853 Oakwood Avenue, Napoleon, Ohio 43545, or at such other address as may be designated in writing by the Lender, the principal sum of sixty thousand five hundred fifty-four and 68/100 Dollars (\$60,554.68), or such lesser amount as is the Loan Amount, as defined in the Loan Agreement by and between the Lender and the Borrower, of even date (the "Loan Agreement") with interest on the amount of principal from time to time outstanding from the Disbursement Date as defined in the Loan Agreement at the rate of zero percent (0.0%) per annum until paid. The principal of this Note may all be paid up front or spread out over the course of no more than ten (10) years, payable annually or biennially.

The covenants, conditions and agreements contained in the Loan Agreement are hereby made a part of this Note.

If a default shall occur in the payment of any installment of principal, under this Note, in either case continuing for a period of ten (10) days after written notice of the failure to make any such payment when due and payable, or if an Event of Default (as defined in any of the Loan Agreement) shall have occurred and be continuing, then, at the option of the Lender, the entire principal sum accrued hereon shall become due and payable at once, without demand or notice.

If any provision hereof is in conflict with any statute or rule of law of the State of Ohio or is otherwise unenforceable for any reason whatsoever, then such provision shall be deemed separable from and shall not invalidate any other provision of this Note.

If this Note is placed in an attorney's hands for collection or collected by suit or through the bankruptcy or probate, or any other court, either before or after maturity, there shall be paid to the holder of this Note reasonable attorney fees, costs and other expenses incurred by the holder in enforcing the terms of this Note.

The undersigned hereby authorizes any attorney-at-law to appear in any court of record situated in Henry County in the State of Ohio, or elsewhere, where the undersigned resides or has its principal place of business, signed this Note, or can be found, after the obligation evidenced hereby, or any part thereof becomes due and is

unpaid, and waives the issuance and service of process and confesses judgment against the undersigned in favor of the holder of this Note for the amount then appearing due, together with the costs of the suit, and thereupon to release all errors and waive all right to appeal and stay of execution.

This Note is executed in Napoleon, Ohio, and shall be construed in accordance with the laws of the State of Ohio.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE, AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT OR ANY OTHER CAUSE (Section 2323.13, Ohio Revised Code).**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first above written.

**HENRY COUNTY COMMISSIONERS:      CITY OF NAPOLEON, OHIO:**

\_\_\_\_\_  
Glenn Miller, President  
Henry County, Ohio

\_\_\_\_\_  
Joel Mazur, City Manager  
City of Napoleon, Ohio

\_\_\_\_\_  
Thomas H. VonDeylen, Vice Chairman  
Henry County, Ohio

\_\_\_\_\_  
Robert E. Hastedt, Commissioner  
Henry County, Ohio

ATTEST:

\_\_\_\_\_  
Kristi Schultheis, Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM & LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Katie Nelson  
Assistant Henry County Prosecutor

\_\_\_\_\_  
Billy D. Harmon, Law Director  
City of Napoleon, Ohio

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2019

**CERTIFICATION OF FUNDS:**

The undersigned, being the Finance Director of the City of Napoleon, Ohio, hereby certifies that in the case of this continuing contract to be performed in whole or in part in the current and ensuing fiscal year(s), the amount required to meet the obligation in the current fiscal year in which the contract is made has currently been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances; and, in future years is subject to appropriation by the legislative authority.

\_\_\_\_\_  
Kent Seemann, Finance Director  
City of Napoleon, Ohio

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, Finance Director the City of Napoleon, Ohio, who acknowledged that he did sign the foregoing instrument as authorized representative of the City of Napoleon, herein and that such signing is the free act and deed of said \_\_\_\_\_, Financial Director of the City of Napoleon, for the uses and purposes therein mentioned.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_



*City of Napoleon, Ohio*

## **ELECTRIC COMMITTEE**

MAJORITY REPORT

**Monday, June 10, 2019**

The Electric Committee met on Monday, June 10, 2019, and:

1. Accepted the BOPA Recommendation to Approve the June 2019 PSCA as Three Month Averaged Factor \$0.02051 and JV2 \$0.025436.
2. Recommend City Council Oppose House Bill 6 due to it Negatively Impacting Our Renewable Portfolio and Prior Investments made by the City for Economic Development.
3. Recommend City Council Approve Option 2 for Short-Term Financing on the New Pool with Payback to the Electric Development Fund to include Staff Time to make sure the City is covered whole.

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Lori Siclair, Chairman

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Joseph D. Bialorucki, Committee Member

---

Jeff Mires, Committee Member

---

Jason Maassel, Committee Member

*City of Napoleon, Ohio*

**MUNICIPAL PROPERTIES, BUILDING, LAND USE AND  
ECONOMIC DEVELOPMENT COMMITTEE**

MAJORITY REPORT

**Monday, June 10, 2019**

The Municipal Properties, Building, Land Use and Economic Development Committee met on Monday, June 10, 2019, and:

1. Recommend Council Restrict NORA All Day on Friday, June 28, 2019 for Henry County Rib Fest as Requested by the Henry County Chamber of Commerce; and
2. Approved the Eagle Scout Project presented by Alex Birkhold to Replace the City Entrance Sign at Glenwood and U.S. 24.

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Lori Siclair, Chairman

---

Joseph D. Bialorucki, Committee Member (*absent*)

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Jeff Mires, Committee Member

---

Jason Maassel, Committee Member



# City of Napoleon, Ohio

## Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

[www.napoleonohio.com](http://www.napoleonohio.com)

## Memorandum

**To:** Joel L. Mazur, City Manager  
**From:** Chad E. Lulfs, P.E., P.S., Director of Public Works  
**cc:** Mayor & City Council  
Kent Seemann, Finance Director  
Roxanne Dietrich, Council Clerk  
**Date:** June 12, 2019  
**Subject:** American Road & Oakwood Avenue Improvements

City staff have been working with multiple agencies in an effort to secure funding for the above referenced project. With ongoing development in the industrial park area, we chose to pursue additional resources to help offset the costs associated with upgrading the streets.

The project will consist of replacing the existing pavement on American Road from Industrial Drive to Oakwood Avenue and on Oakwood Avenue from American Road to Freedom Drive. The pavement section will be upgraded to allow for the additional truck traffic that is projected in this area.

Recently the City was awarded a Roadwork Development (629) Grant from the Ohio Development Services Agency (DSA) in the amount of \$250,000.00. Also, the Ohio Department of Transportation's Division of Jobs & Commerce has committed \$150,000.00 towards the project. Other funding opportunities are being actively pursued to offset the remaining costs associated with the project.

The estimated project cost is \$3.0 MM. As additional funds are secured, more information will be provided. If you have any questions, please contact me at your convenience.

CEL

**NAPOLEON AREA CITY SCHOOL DISTRICT  
CAMPUS IMPROVEMENT AGREEMENT**

This NAPOLEON AREA CITY SCHOOL DISTRICT CAMPUS IMPROVEMENT AGREEMENT (this “*Agreement*”) is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2019 (the “*Effective Date*”), by and between the CITY OF NAPOLEON (the “*City*”), an Ohio municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the “*State*”) and its Charter and THE NAPOLEON AREA CITY SCHOOL DISTRICT BOARD OF EDUCATION (the “*District*”) a political subdivision. The City and the District may hereinafter be referred to individually as a “*Party*”, or collectively as the “*Parties*.”

**Recitals**

WHEREAS, the Parties desire to work together to make improvements to the traffic and parking areas around the District’s campus for the betterment of students, faculty, visitors and general public; and

WHEREAS, based on the conditions of the Clairmont Avenue, the Parties desire to improve the conditions and appearance of the roadway; and

WHEREAS, the Parties see the benefits of improving traffic patterns around the bus parking lot and student drop-off area, the baseball and softball field parking areas and pedestrian traffic in and around the District campus; and

WHEREAS, pursuant to Ordinance No. \_\_\_\_\_ passed on \_\_\_\_\_, 2019 (the “*Ordinance*”), the City has determined to enter into this Agreement with the District; and

Whereas, pursuant to Resolution No. \_\_\_\_\_ passed on \_\_\_\_\_, 2019 (the “*Resolution*”), the District has determined to enter into this Agreement with the City.

**End of Recitals**

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the District covenant, agree and obligate themselves to the foregoing Background Information and as follows:

## **ARTICLE I GENERAL AGREEMENT AND TERM**

**Section 1. General Agreement Among Parties.** For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended arrangements between the Parties, the Parties intend to and shall cooperate in the manner described herein to provide certain incentives to the District and facilitate the reconstruction of that portion of Clairmont Avenue owned by the District.

**Section 2. Term of Agreement.** This Agreement shall become effective as of the Effective Date and will continue until the Parties' respective obligations set forth herein have been fulfilled, unless earlier terminated in accordance with this Agreement.

**Section 3. No Implied Obligations for Future Improvement.** Except as otherwise expressly provided herein, the rights and obligations of the Parties under this Agreement pertain only to the provision of certain obligations described herein and facilitating the improvements. This Agreement creates no obligation by any Party to cooperate in the design, financing or construction of any development other than the project described herein.

**Section 4. No Partnership or Joint Venture.** This Agreement does not and may not be construed to create a partnership or joint venture between or among any of the Parties.

## **ARTICLE II REPRESENTATIONS OF THE PARTIES**

### **Section 1. Representations by the District.**

(a) The District is an Ohio School District duly organized and validly existing under the laws of the State.

(b) The District has the power and authority to enter into and perform this Agreement.

(c) This Agreement has been duly authorized, executed and delivered by the District and constitutes the legal, valid and binding obligation of the District enforceable in accordance with its terms.

(d) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, contract or agreement by which the District is bound or any legal requirement applicable to the District.

(e) There is no action, proceeding or investigation pending or, to the District's actual knowledge, threatened, which questions, directly or indirectly, the validity or enforceability of this

Agreement or any action taken or to be taken pursuant to this Agreement, or which might result in any material adverse change in the condition (financial or otherwise) or business of the District.

(f) No representation or warranty of the District in this Agreement contains any untrue statement of material fact or omits a statement of a material fact necessary in order to make such representation or warranty not misleading in light of the circumstances under which it is made.

**Section 2. Representations by the City.**

(a) The City is a municipal corporation duly organized and validly existing under the Constitution and the applicable laws of the State and its Charter.

(b) The City has the power and authority to enter into and perform this Agreement.

(c) This Agreement has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms.

(d) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, contract or agreement by which the City is bound or any legal requirement applicable to the City.

(e) There is no action, proceeding or investigation pending or, to the City's actual knowledge, threatened, which questions, directly or indirectly, the validity or enforceability of this Agreement or any action taken or to be taken pursuant to this Agreement.

(f) No representation or warranty of the City in this Agreement contains any untrue statement of material fact or omits a statement of a material fact necessary in order to make such representation or warranty not misleading in light of the circumstances under which it is made.

(g) Ordinance No. \_\_\_\_\_ passed by City Council on \_\_\_\_\_, 2019, authorizing the execution and delivery of this Agreement, has been duly passed and is in full force and effect as of the Effective Date.

**ARTICLE III  
RESPONSIBILITIES OF THE DISTRICT**

**Section 1. Clairmont Avenue.** The District agrees to repair and reconstruct the segment of Clairmont Avenue, which consists of the roadway, concrete curbing and other appurtenances, that the City has deemed is owned by the District and is located within the property boundaries of the property owned by the District to the standards that are acceptable to the City as outlined in the Engineering Department Rules & Regulations adopted by the Napoleon City Council on July 15, 1998 by Ordinance No. 30-98 and last amended on June 6, 2016 by Ordinance No. 020-16 at an estimated cost of \$275,000 of which costs are detailed in Exhibit A: Engineer's Estimate, by the end of calendar year 2020.

**Section 2. Roadway Dedication.** Upon successful completion to the satisfaction of the City, the District shall dedicate the section of Clairmont Avenue to the City. The dedication shall take place within 90 days of completion.

**Section 3. Grant Funding for Pedestrian Improvements.** The District agrees to be an active partner in seeking grant funds for pedestrian improvements on and around the District's campus. This includes in participating in events and performing tasks that would enhance any application for grant funds and would increase the score of a grant application which would improve the likelihood of having a grant awarded either Party. This includes participating in national and state recognized walk and bike to school days and updating the District's Pedestrian Transportation Plan. Additionally, the District agrees to pay for 50% of the consulting costs for any application that is applied for by the City.

**Section 4. Engineering Study and Recommendations.** The District shall undertake an Engineering Study to address the traffic flow of the area on Westmoreland Avenue between the intersection of Clairmont Avenue to the southernmost entrance to the elementary school to identify any improvements needed to improve safety and mitigate any potential traffic hazards around the District Transportation Lot and the unpaved portion of the turn lane at the North entrance to the elementary school. The District and City shall review the recommendations outlined by the Engineering Study as a part of this Agreement and determine which option(s) provide the best and most cost effective solution(s) to alleviate traffic hazards and improve safety.

**Section 5. Softball and Baseball Field Parking.** The District shall develop a Plan to address the parking at the Softball and Baseball fields to mitigate illegal parking taking place on Westmoreland Avenue during events. The District shall work with the City Police Department to implement the Plan.

#### **ARTICLE IV RESPONSIBILITIES OF THE CITY**

**Section 1. Inspection Services.** The City shall provide inspection services during the construction of the repair and reconstruction of the segment of Clairmont Avenue, which consists of the roadway, concrete curbing and other appurtenances, that the City has deemed is owned by the District and is located within the property boundaries of the property owned by the District to the standards that are acceptable to the City as outlined in the Engineering Department Rules & Regulations.

**Section 2. Roadway Dedication.** Upon successful completion to the satisfaction of the City, the City shall accept the dedication of the section of Clairmont Avenue to the City. The dedication shall take place within 90 days of completion.

**Section 3. Grant Funding for Pedestrian Improvements.** The City agrees to be an active partner in seeking grant funds for pedestrian transportation improvements on and around the District's campus. This includes participating in events and performing tasks that would enhance any application for grant funds and would increase the score of a grant application which would improve the likelihood of having a grant awarded either Party. Additionally, the City agrees

to pay for 50% of the consulting costs for any application that is applied for by the City or the District.

**Section 4. Compensation.** In consideration of the District completing the tasks listed in Article III of this Agreement, the City agrees to compensate the District in the amount of \$50,000 in calendar year 2020, \$50,000 in calendar year 2021 and \$50,000 in calendar year 2022. The payments for the calendar years 2020 and 2021 shall be made within 45 days of the City receiving an invoice from the District in each respective year. For the final payment in 2022, the District shall send an invoice to the City, which will then be reviewed by the City Council. The final payment shall be made within 45 days after the City Council reviews and confirms that the provisions of this Agreement have been met.

## **ARTICLE V MISCELLANEOUS PROVISIONS**

**Section 1. Assignment.** This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

**Section 2. Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

**Section 3. Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 4. Day for Performance.** Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

**Section 5. Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

**Section 6. Events of Default.** In the event of any default in or breach of this Agreement, or any of its terms or conditions, by any Party hereto, the non-defaulting Party shall provide written notice to the defaulting Party of such default or breach. The defaulting Party shall have thirty (30) days following receipt of such written notice to cure or remedy such default or breach.

**Section 7. Executed Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.



**Section 8. Extent of Covenants; No Personal Liability.** All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the District or City other than in his or her official capacity, and neither the members of the legislative body of the District or City official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the District or City contained in this Agreement.

**Section 9. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the District, its agents and employees, and the City, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Henry County, Ohio.

**Section 10. Limitation on Liability.** Notwithstanding any clause or provision of this Agreement to the contrary, in no event shall the Parties be liable to each other for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.

**Section 11. Notices.** Notice from one Party to another relating to this Agreement shall be deemed effective if made in writing and delivered to the recipient's address set forth below by any of the following means: (a) hand delivery, (b) registered or certified U.S. mail, postage prepaid, with return receipt requested, or (c) Federal Express, UPS, or like overnight courier service. Notice made in accordance with this Section shall be deemed delivered when delivered by hand, upon receipt or refusal of receipt if mailed by registered or certified U.S. mail, or the next business day after deposit with an overnight courier service if delivered for next day delivery. The Parties agree that electronic mail shall not constitute a permitted form of notice under this Section. All notices shall be addressed as follows:

If intended for the City, to:

City of Napoleon, Ohio  
255 W. Riverview Avenue  
Napoleon, Ohio 43545  
Attention: City Manager

With a copy to:

City of Napoleon, Ohio  
255 W. Riverview Avenue  
Napoleon, Ohio 43545  
Attention: Law Director

If intended for the District, to:

The Napoleon Area City School District  
701 Briarheath Drive  
Napoleon, Ohio 43545  
Attention: Treasurer

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices; certificates, requests or other communications shall be sent.

**Section 12. No Recordation of Agreement.** Neither this Agreement nor any memorandum of this Agreement may be recorded in the real property records.

**Section 13. No Waiver.** The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

**Section 14. Recitals.** The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

**Section 15. Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 16. Survival of Representations and Warranties.** The warranties, representations, covenants and agreements set forth in this Agreement shall not be cancelled by performance under this Agreement, but shall survive the Closing and the delivery of the deed of conveyance hereunder.

**Section 17. Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 18. Time of Essence.** Time is of the essence of this Agreement in all respects.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

DRAFT

IN WITNESS WHEREOF, the City, the CIC and the District have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

**CITY:**

**CITY OF NAPOLEON, OHIO**  
an Ohio municipal corporation

By: \_\_\_\_\_

Printed: Joel Mazur

Title: City Manager

**DISTRICT:**

**NAPOLEON AREA CITY SCHOOL DISTRICT**  
a political subdivision

By: \_\_\_\_\_

Printed: Ty Otto

Title: Board President

By: \_\_\_\_\_

Printed: Michael Bostelman

Title: Treasurer

Approved as to Form:

By: \_\_\_\_\_

Printed: Billy D. Harmon

Title: Law Director

### **FISCAL OFFICER'S CERTIFICATE**

The undersigned, Director of Finance of the City under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement during Fiscal Year 2019 have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
Kent Seemann  
Director of Finance  
City of Napoleon, Ohio

### **TREASURER'S CERTIFICATION**

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the Board of Education of the Napoleon Area City School district under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the Napoleon Area City School District or are in the process of collection to an appropriate fund, free from any previous encumbrance.

\_\_\_\_\_  
Signature

Michael Bostelman

Printed Name

School District Board Treasurer

Title

**EXHIBIT A**

**Engineer's Estimate**

DRAFT

DRAFT

## 1285

56-132/412

DATE 6-7-79

CITY OF NAPOLEON

PAY TO THE ORDER OF

One thousand Dollars and no

\$ 1000.00

DOLLARS 61

**Security Features  
Included.  
Details on Back**



NAPOLEON OFFICE  
**The Henry County Bank**  
NAPOLEON, OHIO 43545

FOR K-9 PROGRAM - DONATION

Scott T. Lee M.D.  
Gary Cooper





# City of Napoleon, Ohio

255 West Riverview Avenue, P.O. Box 151  
Napoleon, OH 43545  
Telephone: (419) 599-1235 Fax: (419) 599-8393  
[www.napoleonohio.com](http://www.napoleonohio.com)

## Memorandum

**To:** City Council, Mayor, City Manager, City Law  
Director, Department Supervisors, News media  
**From:** Kent Seemann, Finance Director/Clerk of  
Council  
**Date:** June 13, 2019  
**Subject:** Tree Commission – Cancellation

The regularly scheduled meeting of the City Tree Commission for Monday, June 17, 2019 at 6:00 pm has been CANCELED due to lack of agenda items.



# *City of Napoleon, Ohio*

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Telephone: (419) 599-1235 Fax: (419) 599-8393

[www.napoleonohio.com](http://www.napoleonohio.com)

## *Memorandum*

**To:** Mayor and City Council, City Manager, City Law  
Director, Department Supervisors, News media  
**From:** Kent Seemann, Finance Director/Clerk of Council  
**Date:** June 13, 2019  
**Subject:** Parks & Recreation Committee – Cancellation

The regularly scheduled meeting of the Parks and Recreation Committee for Monday, June 17, 2019 at 6:00 pm has been CANCELED due to the lack of agenda items.

*City of Napoleon, Ohio*  
**BOARD OF ZONING APPEALS**  
**MEETING MINUTES**

Tuesday, June 11, 2019 at 4:30 PM

**BZA 19-05 – Appeal to Zoning Administrator’s Decision for 125 West Clinton Street**

(Meeting continued after consideration of BZA 19-04)

<b>PRESENT</b>	
Board Members	Tom Mack-Chairman, Laurie Sans, Lynn Rausch
Recording Secretary	Roxanne Dietrich
Zoning Administrator	Mark Spiess
City Staff	Billy D. Harmon-City Law Director, Clayton O’Brien-Acting City Manager, David J. Mack-Chief of Police, Jason Maassel-Mayor, Jeff Mires-Councilmember, Lori Sicclair-Councilmember
Others	Northwest Signal, Tom Manahan, Katie Meyers, Steve Lankenau, Rodger and Cathy Hefflinger
<b>ABSENT</b>	
BZA Members	Steve Small, David Dill
<b>BZA 19-05 Background</b>	<p>Mack read the background for BZA 19-05: An application for public hearing has been filed by Dolgen Midwest, LLC (Dollar General) 100 Mission Ridge, Goodlettsville, TN 37072. The applicant is requesting an appeal to the Zoning Administrator’s decision to deny a zoning permit in a C-1 General Commercial Zone. The appeal process is pursuant to code section 175.04 Appeals of the Codified Ordinances.</p>
<b>Research and Findings</b>	<p>Spiess read his Research and Findings: Upon review of the zoning application, it was determined a Dollar General store falls under the definition of a “Grocery Store” as defined in code section 1101.01 Definitions. <u>GROCERY STORES.</u> Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores. According to section 1145.01 Table of Permissible Uses, a grocery store is not permitted in a C-1 Zone. (See Attached) Spiess explained the discrepancy is the definition, whether the store falls under it or not, my determination is they do as the definition is written.</p> <p>Mack stated as a point of clarification, I asked the City Law Director to be here as this appeal is a different matter than what we’ve had before us, we do not have latitude to say that this doesn’t make sense to us, that it is not logical, I want the committee to be aware this is much different than what we have looked at before.</p> <p>Harmon stated under Section 175.04 it specifies grounds for the appeal should be listed, I will note there were no grounds listed in the documentation I received just today that was too quick for my office to fully respond. Spiess said they have a quicker timeline than we do and I wanted to get this in front of you otherwise, they would have to wait until July and I did not want to put this off any longer.</p>

Mack stated basically this comes down to either it is defined as a grocery store or retail operation or am I overly simplifying.

Spiess replied you are not overly simplifying, you have to find in the table grocery store and it did not fit and to me that is where they fall.

Mack clarified you are saying it did not fit in the zoning? Spiess said it does not in C1, that is why this came to you to get a decision to see am I interpreting the definition correctly or not. Mack asked what made your interpretation that it is a grocery store?

Spiess said the definition. Mack asked Spiess to pull up the definition of a grocery store for all to see. Spiess read the definition *stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.* Mack asked Spiess did you think there were any other options to classify other than a grocery store? Spiess said he has not found anything. Harmon intercepted what Mark is saying he scheduled this very quickly in an attempt to get this in front of you, upon bringing it to my attention today it was determined, at least in my opinion, in order to give everyone a fair shake it might be helpful to have a little bit more time. I do not feel like I had a sufficient amount of time to look at this particular issue in order to say it was fair one way or another, unfortunately this information come to me at the last minute and I don't feel comfortable one way or another it seems the grocery store definition fits but to give advice one way another to say absolutely was too short of time, to give everyone a fair shake I would ask that this be tabled.

Mack said since we are here let's go ahead and hear from the parties that are here and see if we can form some conclusion today or if we have to table it. If someone would like to speak on behalf of this request, please come to the mike and state your name.

**Testimony**  
**Tom Manahan**

I have Todd Bertin from Dollar General here to answer any specific questions you may have on the floor plan things. I want to let you know Mark Spiess has been very helpful and tried to work with us to get things taken care of, I do want to clarify this has not been in just the last week or two I think the process started over a month or two ago that we have been trying to work with this, again Mark has always gotten back with me and always tried to be helpful. Our contention is the grocery store definition doesn't fit and again it's a matter of how you read it, the way we read it, the definition really does not fit our scenario and that is why Todd will answer any questions as far as the grocery store aspect of the definition. We have a timeline and with due diligence we can't truly wait another month or so unless we get permission from Family Video is my understanding. I understand what Mr. Harmon is saying, I think we just interpret that section a little differently.

**Todd Bertin**  
**Dollar General**

I'm the real estate manager for the State of Ohio. To give some additional context Mark, and I spoke before we started the portfolio process around two months ago when I made the initial call to get on the zoning. This is the actual merchandise plan the store plan areas are the red hash-mark areas, actual sales area of space is 5,593 sq. ft., the total area for food is 1,680 sq. ft., that's 30% and does not meet the majority threshold is how we are interpreting it on our end, to me 50% majority. Wall Street defines Dollar General as a mixed merchant that's a 32 billion-dollar organization that has people investing in its stock and the analysts are calling us a mixed merchant not a grocer. We operate 16,000 stores only 134 of those are what we call gain markets and they are 21,000 sq. ft. with a full meat department and a full produce department, this is not what this store is, it is more of a convenience store. Dollar General has a new format that we call the DG Urban,

you take a 7-Eleven and you take a standard Dollar General and mix the two is probably the best way to describe it. Frankly, in our opinion, we can see Walgreens as a greater competitor to us than a grocery store is, if you take the pharmacy out of the CVS and Walgreens the assortment mix are similar. That is where the disconnect is on our interpretation relative to what Mark's is and again it is not to be combative it is just stating the facts at this point and why I was asked to come out to this meeting to explain and answer any questions the public or Council might have.

Mack asked if anybody had any questions or wanted to speak on behalf of the request? Manahan said I think if you look around town and look around the cities the single purpose store is gone it is always going to be a multi-purpose type of store so if you take the interpretation of that code section and they sold 5% of food would it still qualify under their interpretation of a grocery store. You look at WalMart, the new Krogers they have everything so we are asking you to realize what is happening in today's world, they are trying to offer a service to the community downtown.

Harmon stated we understand some of the complications, the issue with Family Video, based on this new information some that is coming to me today I feel it is prudent to try to get more information to potentially work this out one way or another.

Mack stated Billy help me out, the definition says *stores where most of the floor area is devoted to the sale of food products for home preparation and consumption* that is what is defining the 30% right, so the rest of his statement is inclusive of that percentage or is that just helping to define what a grocery store usually is.

Harmon responded in my opinion I would say it is conjunctive I could see this to be we are looking at a grocery store definition and in my opinion, at this point would be offering sale of food products for preparation and consumption along with

Mack-so you are saying in your interpretation that is inclusive.

Harmon-I would say that.

Mack-I have a real problem with grocery stores, I went into one the other day and the first thing I came across is flowers and mulch so is that a grocery store, a hardware or a garden center? I had a conversation with somebody if you go into most stores and they got food in there could be 5% and with the rest of those items could all get them over 50% so all of a sudden that is a grocery store?

Harmon-as Mark stated perhaps there is a need for some updating for some of the code, maybe not, the way I read it I think it is inclusive of all those items.

Sans-to me it looks like a list.

Mack-every time I have looked at this, and admittedly I have spent more time than I wanted to, I keep coming back to *defined as grocery or retail* you talk about more time would it come down to something different, are there other options that I'm not seeing here?

Harmon-there is the potential for other options I can't speculate exactly what I might find these two options do seem to be the logical start based on this code, again I would ask for some time.

Manahan-and again we don't have time.

**Katie Meyers**

Why does this matter I'm confused I'm going to be his neighbor, I hope to be his neighbor because I own a business downtown also, I look at the wording and I think that stores where most is also a trigger question because it could also be some and why does this little glitch matter so much he wants to have his business here and we are looking at holding them up getting there and that building is not in use now and I'm befuddled that

you just don't say can we just go ahead and then fix this, unless there is somebody who doesn't want them there, but I'm not hearing that at all.

Sans asked when was the last time you think, if you know, something did not fit the definition but was still allowed to put their business in without changing the zoning? Spiess replied I cannot speak before me, I've been in the chair for two years now I do not want to set a precedent is my fear, if we let this one slide it becomes a slippery slope why do we have rules at all, it's not I'm trying to stop it I wanted to get this in front of you and did not realize their timeframe was tomorrow.

Sans added I know there was an instance some years back when Walmart put in their gas station, it was not zoned for it they moved it a few feet and said let's change the zoning there to accommodate Walmart.

Mack said we need to stay within the guidelines, when we come back will it hinge on a grocery store and what all gets included. What is the definition of most? I would say it is 51%, to include all items I'm not sure that was intended other than for definition purpose.

Manahan asked about zoning on West Washington Street.

Spiess replied it is a C1 zone.

Manahan said I don't want to through anyone under the bus, but the places selling donuts, cupcakes, coffee and candy are they a grocery store?

Spiess said there may be another definition they fell under we used.

Mack asked if there were any other questions or comments. Being none, Mack said he appreciates and respects the good faith everybody has worked on this project with and I think that in the end this just comes down to people reading that phrase and determining what that means to them and I think it falls on us to make that determination. I think the other option that you have is to table and I don't think that resolves the issue before us today.

Rausch commented if you look at the fact that they are only 30% food consumption they are not a grocery store, I don't know who came up with that regulation to begin with, years ago was there was a hospital there, it's not like we are asking to put a junkyard in place, we're utilizing an existing building and the adjoining people and businesses are not against it and personally I do not have anything against it.

**Motion to Approve the  
Appeal and Overturn  
the Zoning  
Administrator's  
Decision for BZA 19-05**

Motion: Rausch

Second: Sans

to Approve the Appeal and Overturn the Zoning Administrator's decision to deny a Zoning Permit for 125 West Clinton Street.

**Passed  
Yea-3  
Nay-0**

Roll call vote on the above motion:

Yea-Mack, Rausch, Sans

Nay-

**Adjournment**

Motion: Sans

Second: Rausch

to adjourn the Board of Zoning Appeals meeting at 5:03 p.m.

**Passed**  
**Yea-3**  
**Nay-0**

Roll call vote on the above motion:  
Yea-Mack, Rausch, Sans  
Nay-

---

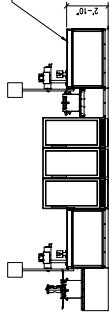
Tom Mack, Chairman

DRAFT



A - SERVICE COUNTER PLAN

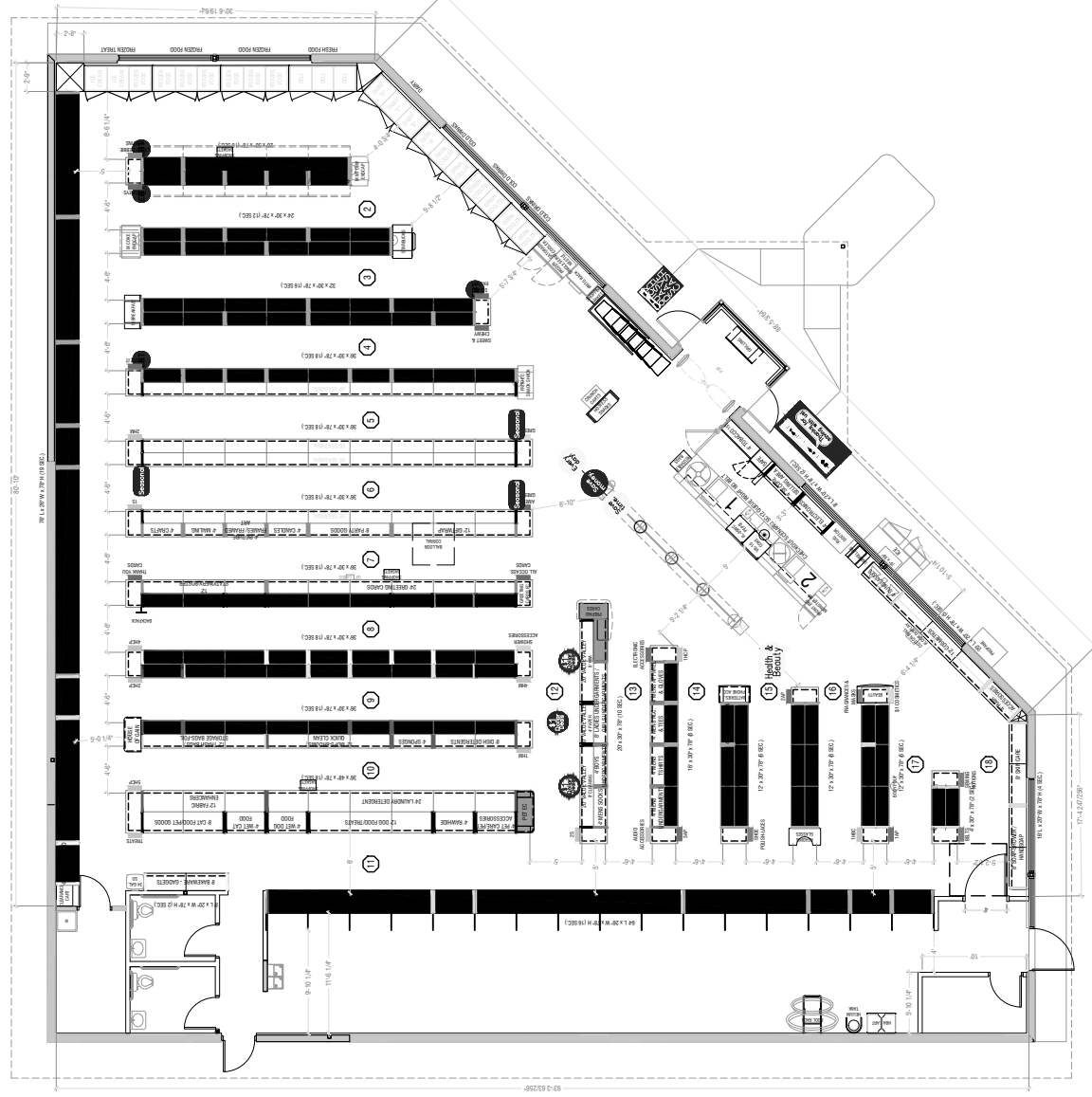
B - ELEVATION



2 SERVICE COUNTER DETAILS

SCALE: 1/4"=1'-0"

NOTE: PLANT AND/OR EQUIPMENT TO BE INDICATED BY DOLLAR SIGN (\$) AND INCLUDED AT DOLLAR GENERAL'S DIRECTION. COUNTERS SHALL INCLUDE A PORTION OF AT LEAST 18" OF ACCESSIBLE ROUTE. FLOOR COUNTERS SHALL BE ON AN ACCESSIBLE ROUTE.



1 F100 SCALE: 3/16"=1'-0"



7550 48th Street S.E.  
Grand Rapids, MI 49512  
P 616 634 2253  
Glen@rdc-llc.com

DOLLAR GENERAL

125 W. CLINTON ST  
NAPOLÉON, OH 43545

DATE ISSUED FOR  
04.02.2019 REVIEW



THIS DRAWING IS THE  
Sole Property of  
DOLLAR GENERAL  
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F100





# Napoleon Parks and Recreation

## Fourth of July Celebration

### 2019

#### Tuesday, July 2:

12:00 p.m. - 9:00 p.m.

**Hole In One Contest** - sponsored by the Napoleon American Legion. Any person scoring a hole-in-one will receive \$1,000 compliments of the American Legion. (Two or more winners shall split the prize). Gift certificates will be awarded daily to persons closest to the pin. Located near wooden shelterhouse at Glenwood Park.

10:00 am – 8:00 p.m.

#### **3 on 3 Basketball Tournament – Glenwood Park**

Age groups – 13- 15 (boys and girls) 10:00 a.m. start  
Open Division 5:00 p.m. start

Teams shall consist of a maximum of four (4) players.  
Double elimination format. \$20.00 entry fee per team.  
Trophies and shirts awarded to winners. Registration deadline is Monday, July 1st.



#### Wednesday, July 3:

9:00 a.m. - 9:00 p.m.

**Hole In One Contest** - sponsored by the Napoleon American Legion. Located near wooden shelter house at Glenwood Park.

6:00 p.m. – 8:00 p.m.

**Big Wheel Race** - Oakwood Park parking lot. Age groups for those 7 and under. Prizes for winners. Register at the site.



## Thursday, July 4:

8:00 a.m.

### **Red, White, and Blue Golf Scramble – Golf Course**

This is a unique 4 person scramble where teams play from the red, white, and blue tees. Prizes will be awarded to winning teams as well as individual awards for closest to the pin, long drive, and longest putt. Entry fee will be \$100.00 per team (10 team minimum). Contact the clubhouse at 592-5526 to enter your team or for more information.



9:00 a.m. - 6:00 p.m.

### **Hole-In-One Contest - Glenwood Park**

9:00 a.m. - 1:00 p.m.

**Basketball Hotshot Contest** - Glenwood Park Basketball Court. Boys and Girls age groups are 9-12, 13-15, and 16-18. Registration at 9:00 a.m. with competition to begin at 9:30 a.m. Trophies to winners in each age group

10:00 a.m. - 6:00 p.m.

### **Free Open Swim** at the Napoleon Municipal Pool



***BE SURE TO VISIT OUR FOOD VENDORS***



**10:00 a.m. – 6:00 p.m.**

**Girls Softball Skill Challenge and All-Star Games** - All Stars from the Girls Softball Major and Minor League programs will compete in skills challenges and All-Star games. Coaches vs Coaches game at 5:00 pm. Sworden Smoke on the River will have BBQ from 10:00 am. – 5:00 pm. – Napoleon High School softball field

**12:00 p.m.**

**Chicken Barbecue** - located inside at the American Legion. Chicken dinners and bratwurst sandwiches. Eat in or carry-outs available.

**1:00 p.m.**

**Junior Little League All-Star Game** – Glenwood Park.

**2:00 - 3:00 p.m.**

**Kids Games at the Municipal Pool** - prizes and candy donated by the American Legion.

**5:00 p.m.**

**Sr. Little League Baseball All-Star Game** – Glenwood Park



**7:00 – 8:00 p.m.**

**Live Music – featuring Dave Grahn Live.** Acoustic guitar performance playing hits of the 60s, 70s, & 80s. Glenwood Park

**8:00 p.m.**

**Napoleon Community Band** - Glenwood Park  
Local instrumental band playing all of the traditional Independence Day music leading up to the fireworks display.

**10:00 p.m.**

**Fireworks Display** - Glenwood Park  
(There will be no parking on Bales Road from Briarheath Dr. to Chelsea Ave. and on Briarheath Dr. from Kenilworth to Bales Road)



# AMP Update for June 7, 2019

American Municipal Power, Inc.

Fri 6/7/2019 2:40 PM

To: Roxanne Dietrich <rdietrich@napoleonohio.com>;

Having trouble viewing this email? [Click here to view web page version](#)



## Peak shaving season begins

*By Kyle Lux - power supply planning engineer*

Summer has arrived, and with it another peaking season. This is the time of year that many of our members transmission and capacity (RPM) rates will be set for the following year. One way to help control these costs is through peak shaving. Peak shaving is voluntary and can be done by running generation or through loads reduction, which results in lower costs.



Transmission rates are calculated based on the municipality's tie line at the time of the local utilities (AEP, FirstEnergy or others) highest load hour of the year, also known as the Coincident Peak (CP). This hour will typically occur in the afternoon/evenings of the summer or in the mornings of the winter.

RPM rates are calculated based on the five highest PJM loads of the year, known as 5 CP, and each municipality's share of that is based off of the municipality's tie line during those five hours. Peak shaving during these events lowers your RPM costs for the following June through May planning year.

As it is impossible to know the exact timing of the CP's, we will generally recommend shaving roughly between five to 10 times over the course of the season, typically for four hours during each event. Reducing your load during this time lowers your transmission and capacity charges for the following year.

The primary method for communicating these events to our members is by email, and these will have differing terms depending on the likelihood of a peak event and the urgency of participation. A **Peak Shaving Advisory** is meant to convey the possibility of a peaking event in the coming days, and members should prepare for the possibility. A **Peak Shaving Alert** is meant to convey that we are confident that a peaking event will happen and to begin implementation of peaking procedures for the forecasted hours.

Members are encouraged to utilize the Community Energy Savings Day materials available on the [member extranet](#) (login required). These materials help utilities to communicate to their customers the importance of lowering their energy usage during peak energy events.

Below is a summary of our current 1CP peak standings. If any member is currently not receiving the Peak Shaving email alerts and would like to be added to the distribution list please email me at [klux@amppartners.org](mailto:klux@amppartners.org).

Zone	PJM Forecasted Peak	Peak YTD	Peak Date and Hour	Peak Shaving Target
APS	8,721	9,596	1/31/19 08	9,596
AEP	22,945	22,514	1/31/19 08	22,514
ATSI	12,872	11,091	1/30/19 19	12,000
Dayton	3,408	3,168	1/30/19 11	3,168
Duke	5,480	4,866	1/31/19 08	5,000
PENELEC	2,897	3,015	1/30/19 19	3,015
Delmarva	3,933	3,838	1/31/19 08	3,838
PPL	7,431	7,939	1/31/19 08	7,939
Dominion	19,391	19,930	1/31/19 08	19,930
PJM	151,358	138,069	1/31/19 08	135,000

## AMP holds lineworker training

*By Scott McKenzie - director of member training and safety*

AMP held a Lineworker Training Basic 2 course in Columbus, June 3-7. The training course provides apprentice lineworkers in their second year with the opportunity to expand their knowledge and skills, exploring topics including enhanced climbing skills, installation of equipment, and underground and overhead conductors, substations, live-line equipment and further explanation of transformer basics.

Lineworkers in attendance included: Alex Haught, New Martinsville; Alex Myer, Orrville; Brandon Edgell, Grafton; Brian Lantz, Celina; Chris Swartz, Cuyahoga Falls; Dustin Harris, Yellow Springs; Evan Schoffner, Wapakoneta; Garrett Fetzer, Wadsworth; Gil Moorhart, Cuyahoga Falls; James Kelley, Wadsworth; Jarred Hintz, Plymouth; Jerrame Allgire, Bradner; Mark Gingerich, Orrville; Mike Doty, Wapakoneta.

Throughout the year, AMP offers high-quality training designed to improve employee performance and enhance safety. Members are encouraged to browse the [2019 training catalog](#) on the [member extranet](#) (login required) and sign up for any courses that might benefit their community.

If you have questions about training, please contact Jennifer Flockerzie at [jflockerzie@amppartners.org](mailto:jflockerzie@amppartners.org) or 614.540.0853.



## **Controversial pole attachments bill reintroduced in the U.S. Senate**

*By Jolene Thompson - executive vice president of member services and external affairs and OMEA executive director*

On June 3, U.S. Senate Commerce Committee Chairman John Thune (R-SD) and Sen. Brian Schatz (D-HI) reintroduced their controversial broadband deployment bill, which would effectively strip public power of its exemption from federal pole attachment regulations. Specifically, the bill would give the Federal Communications Commission (FCC) jurisdiction over all public facilities in public rights-of-way, including public power pole attachments, and it would allow the FCC to designate attachment rates.

The bill is identical to the small cell deployment bill that was introduced in the last Congress, but never considered by the Commerce Committee due to significant opposition the committee received on the bill. You may view the text of the bill [here](#).

The FCC issued an order preempting state and local laws, regulations and agreements, including those related to pole attachments, using its existing authority. It is likely that the bill would give the FCC the legal cover it needs to survive a legal challenge of this order.

AMP and OMEA will monitor this problematic legislation and will provide updates on the issue. If you have questions, please feel free to contact me at [jthompson@amppartners.org](mailto:jthompson@amppartners.org) or 614.540.0992, or Michael Beirne at [mbeirne@amppartners.org](mailto:mbeirne@amppartners.org) or 614.540.0835.

## **Delmarva customers to see 5 percent increase in transmission rate in June 2019**

*By Mike Migliore - vice president of power supply planning*

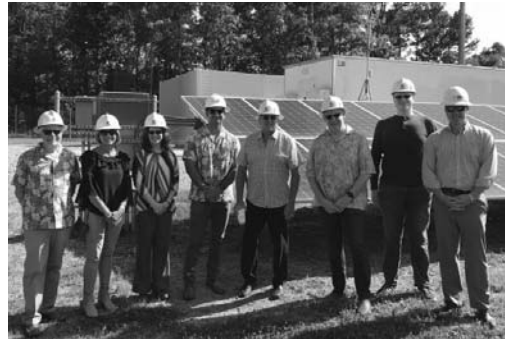
Delmarva Power & Light (DP&L) and Old Dominion Electric Cooperative (ODEC) have filed their updated transmission rate that will be in effect starting June 2019. Although DP&L's revenue requirement rose by 12 percent, the 1 CP peak load, which is the denominator for the formula rate, rose by 5 percent to offset

some of the increase. ODEC's revenue requirement contributes to approximately 2 percent of the total transmission rate.

## **AMP staff tours Alabama Power's Smart Neighborhood and microgrid**

*By Erin Miller - director of energy policy and sustainability*

On May 31, AMP President and CEO Marc Gerken, members of AMP's Innovation Team and members of the Gen Ops division toured Alabama Power's Reynolds Landing Smart Neighborhood and microgrid.



Alabama Power's Smart Neighborhood is a future-focused community consisting of 62 high-performance homes with energy efficient systems and appliances, connected devices, interconnected to a five-acre microgrid with solar, battery storage and a back-up natural gas generator. The microgrid has the capability of generating more than 600,000 kWh of energy annually. The microgrid is used to provide back-up power to the neighborhood and ancillary services to the grid.

The Smart Neighborhood is part of Southern Company's research and development strategy to learn about emerging technologies and how to best position the company in the future.

Alabama Power partnered with home builder Signature Homes, researchers at Southern Company, U.S. Department of Energy's Oak Ridge National Laboratory and the Electric Power Research Institute, its subsidiary PowerSecure and technology vendors Carrier, Rheem and Vivint, among others. To learn more about the project, click [here](#).

## **Purple Sector Mutual Aid meeting scheduled for June 12**

*By Scott McKenzie*

At the recommendation of the Mutual Aid Committee, AMP is hosting Mutual Aid meetings for each of the different sectors. These meetings provide participants an opportunity to meet the communities within their Mutual Aid sector, as well as to discuss Mutual Aid procedures in a small group setting.



The Purple Sector meeting will be held on June 12, at the Borough of Kutztown Water Facility/Plant from 10 a.m. to 1 p.m. Lunch will be provided. This will be an excellent networking opportunity for communities in the Purple/Brown Sector to meet their neighbors and put faces with names as we discuss Mutual Aid procedures.

Topics of discussion will be:

- How to request Mutual Aid
- Who to contact
- Assessing storm damage
- Responding to Mutual Aid
- And any other questions or concerns you may have about the program

If you have any questions please contact me at [smckenzie@amppartners.org](mailto:smckenzie@amppartners.org) or 614.306.4269.

## **Deadline to nominate for 2019 AMP Award Program is July 19**

*By Jodi Allalen - manager of member events and programs*

The deadline to nominate for the 2019 AMP Awards Program is July 19. The program offers an excellent public relations opportunity for participating members, with some awards even leading to possible national

recognition.

AMP is encouraging members to put forward deserving candidates for the following Awards:

- Electric System Sustainability Award (more than one award may be given)
- Credit Score Award (one award for each of three categories)
- Hard Hat Safety Award (more than one award may be given)
- Innovation Award (one award for each of four categories)
- Public Power Promotion Award (more than one award may be given)
- Safety Award (more than one award may be given)
- Seven Hats Award (only one award given each year)
- System Improvement Award (one award for each of four categories)



Details about each award and nomination forms are available on the [member extranet](#) (login required).

Award recipients will be recognized at the 2019 AMP/OMEA Annual Conference, Sept. 23-25, at the Hilton Columbus at Easton.

If you have questions about the AMP Awards Program or would like the program brochure via email, please contact me at [jallalen@amppartners.org](mailto:jallalen@amppartners.org) or 614.540.0916.

## 2019-2020 MEP program information

*By Jodi Allalen*

Information about the 2019-2020 Municipal Electric Partner (MEP) program is now available. New this year, registration for the program will be completed online. To reach the registration site, click [here](#) or visit the [AMP website](#). The program runs annually from July 1 through June 30. Cost is \$450 per year and includes access to the AMP member directory, opportunities to have an exhibit at the annual conference in September and Technical Services Conference in the spring, along with other benefits. Please contact me at [jallalen@amppartners.org](mailto:jallalen@amppartners.org) or 614.540.0916 if you have any questions or need additional information.

## May 2019: Prices continue to decline

*By Mike Migliore*

Although May temperature were above normal, they didn't match the record highs of 2018. Loads were satisfied by a healthy amount of generation burning low cost gas and coal. The low fuel rates pushed May prices down to their lowest levels in 15 years. The maximum hourly day-ahead price was only \$48/MWh on May 28. Moderate power prices minimized the amount of congestion throughout PJM.



AVERAGE DAILY RATE COMPARISONS			
	May 2019 \$/MWh	April 2019 \$/MWh	May 2018 \$/MWh
A/D Hub 7x24 Price	\$25.06	\$26.73	\$35.03
PJM West 7x24 Price	\$25.30	\$25.76	\$35.49
A/D to AMP-ATSI Congestion/Losses	-\$0.56	-\$0.35	\$1.73
A/D to Blue Ridge Congestion/Losses	\$0.45	-\$0.13	\$0.11
A/D to PJM West Congestion/Losses	\$0.27	-\$1.03	\$0.46
PJM West to PP&L Congestion/Losses	-\$4.40	-\$1.61	-\$10.90
MISO to A/D Hub Congestion/Losses	\$1.63	\$1.48	\$1.23

## MAY OPERATIONS DATA

	May 2019	May 2018
<b>Fremont Capacity Factor</b>	50%	71%
<b>Prairie State Capacity Factor</b>	76%	86%
<b>Meldahl Capacity Factor</b>	61%	58%
<b>Cannelton Capacity Factor</b>	59%	48%
<b>Smithland Capacity Factor</b>	7%	51%
<b>Greenup Capacity Factor</b>	38%	38%
<b>Willow Island Capacity Factor</b>	76%	78%
<b>Belleville Capacity Factor</b>	82%	87%
<b>Blue Creek Wind Capacity Factor</b>	27%	27%
<b>JV6 Wind Capacity Factor</b>	18%	18%
<b>Front Royal Solar Capacity Factor</b>	26%	25%
<b>Bowling Green Solar Capacity Factor</b>	26%	32%
<b>Avg. A/D Hub On-Peak Rate</b>	<b>\$29/MWh</b>	<b>\$43/MWh</b>

Fremont had an 11 day planned outage in May 2019

\* Fremont capacity factor based on 675 MW rating.

\* PS capacity factor based on 1,582 MW rating.

\* Meldahl capacity factor based on 105 MW rating.

\* Cannelton capacity factor based on 87.6 MW rating.

\* Smithland capacity factor based on 76.2 MW rating.

\* Greenup capacity factor based on 70 MW rating.

\* Willow Island capacity factor based on 44.2 MW rating.

\* Belleville capacity factor based on 42 MW rating.

\* Front Royal Solar capacity factor based on 2.5 MW rating.

\* BG Solar capacity factor based on 20 MW rating.

## Energy Market update

*By Jerry Willman - assistant vice president of energy marketing*

The July 2019 natural gas contract decreased \$0.054/MMBtu to close at \$2.324 yesterday. The EIA reported an injection of 119 bcf for the week ending May 31. Market expectations were for an injection of 109 Bcf. This was the 12th straight bearish report versus the five-year average, and the next two EIA reports are forecasted to show builds above 100 Bcf. The injection season running total of 879 Bcf is much larger than the five-year average of +591.

On-peak power prices for 2020 at AD Hub closed yesterday at \$33.50/MWh, which decreased \$0.64/MWh for the week.

On Peak (16 hour) prices into AEP/Dayton hub				
Week ending June 7				
MON	TUE	WED	THU	FRI
\$22.44	\$23.51	\$32.57	\$29.64	\$25.23
Week ending May 31				
MON	TUE	WED	THU	FRI
\$23.72	\$32.49	\$31.73	\$31.18	\$30.29
AEP/Dayton 2020 5x16 price as of June 6 — \$33.50				
AEP/Dayton 2020 5x16 price as of May 30 — \$34.14				

## AFEC weekly update

*By Jerry Willman*

The AMP Fremont Energy Center (AFEC) was available for 2x1 operation for the week. Due to economics, the plant was cycled offline during the overnight hours on Sunday and Monday. Duct firing operated for 108 hours this week. For the week, the plant generated at a 79 percent capacity factor (based on 675 MW rating).



Marc Gerken, AMP President and CEO, joined other Large Public Power Council CEOs in Washington D.C. for visits relating to tax, finance and infrastructure issues. From left to right are Tom Falcone, CEO of LIPA; John DiStasio, CEO of LPPC; and Marc Gerken.

## Sustainability Performance at a Glance, Q1 report now available

*By Erin Miller*

The Sustainability Performance at a Glance, first quarter 2019 report is now available [online](#). The quarterly update is intended to measure and compare the progress of sustainability metrics while also highlighting accomplishments of the quarter.

This report features Fremont Energy Center and Prairie State's environment and safety awards, AMP's community and stakeholder engagement efforts, and updates on Focus Forward, AMI, EcoSmart Choice and Efficiency Smart programs. Sustainability metrics for the quarter are also included in the report. If you have any questions or would like additional information, please contact me at 614.540.1019 or [emiller@amppartners.org](mailto:emiller@amppartners.org).



## Student from Cygnet presented with AMP Scholarship

*By Harry Phillips - director of marketing/member relations*

Jillian Hannah of Cygnet, daughter of Jeffrey and Karen Hannah, was presented with a Richard H. Gorsuch Scholarship this week. The Richard H. Gorsuch Scholarship is presented to a student whose parent or guardian is an employee of either a municipal electric system or AMP, or is an elected official with responsibility for the electric system. Karen Hannah is the village clerk and treasurer for Cygnet.

Hannah, a student at Elmwood High School, plans to attend Trine University to study psychology and business. She is a member of the National Honor Society, where she serves as vice-president, is ranked first in her class and is an active volunteer in her community. She also participated in varsity-level volleyball, basketball and softball.

Please join us in congratulating Jillian on her outstanding accomplishment and wishing her luck in her future endeavors.



*Harry Phillips (AMP) presents Jillian Hannah with her scholarship*

# AMP TRAINING SERIES:

## Register for these upcoming courses

### **Lineworker Training Intermediate**

Prerequisite: Basic 2 is required unless instructor approves

Date: June 17–21                      Class length: Weeklong

Size: Limited to 12

### **Lineworker Training Basic 1**

Prerequisite: None

Date: July 29–Aug. 2                      Class length: Weeklong

Size: Limited to 16

### **Lineworker Training Advanced**

Prerequisite: Intermediate is required unless instructor approves

Date: Sept. 9–13                      Class length: Weeklong

Size: Limited to 12

### **Hotline Training**

Prerequisite: First- and second-year apprentice training is required

Date: Oct. 7–10                      Class length: Three full days

Size: Minimum of 8

*For a complete schedule and full details of the 2019 training courses, see the 2019 AMP Training Catalog at: [www.amppartners.org/services/technical-services](http://www.amppartners.org/services/technical-services).*

*To register contact Jennifer Flockerzie, manager of technical services logistics, at 614.540.0853 or [jflockerzie@amppartners.org](mailto:jflockerzie@amppartners.org)*



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- Transmission Rates 101: **June 27**
- The Site Selection Process and Megatrends: **July 8**  
*Economic Development Series*
- Monitoring Your Utility's Financial Health: **July 11**  
*Financial Planning Series*
- Marketing to Site Selectors: **July 22**  
*Economic Development Series*





## Classifieds

**Members interested in posting classifieds in Update may send a job description with start and end advertisement dates to [zhoffman@amppartners.org](mailto:zhoffman@amppartners.org). There is no charge for this service.**

### **City of Marshall seeks applicant for assistant director of electric utilities**

The City of Marshall is a quaint Norman Rockwell style community with a population of 7,068 in lower, central Michigan. Located less than one hour from the campuses of the University of Michigan and Michigan State University, two hours from Detroit and beautiful Lake Michigan, and three hours from Chicago. The City has installed a fiber to the premise system to every property in the city with symmetrical speeds up to 10 mbps.

The community is seeing unusual growth with over \$1 billion of industrial growth. Click [here](#) to view the Choose Marshall video. Located at the intersection of I-94 and I-69, the crossroads of international highways, the city is preparing for large industrial and residential growth with a 1,000-acre mega industrial site. The downtown district is 97 percent commercially occupied. The city has the largest National Historic Landmark District in Michigan with many neighborhoods of historic homes.

In the next three years, it is anticipated a peak-demand growth from 23 MW to 123 MW. The city will be constructing infrastructure to meet this demand. A privately developed dual unit 500 MW gas fired power plant is proposed in the city. A complete job description can be found at [www.cityofmarshall.com](http://www.cityofmarshall.com)

Qualifications for the Assistant Director of Electric Utilities position include a degree in electrical engineering or a closely-related field, and a minimum of three to five years of experience working for an electric utility with supervisory or executive leadership responsibilities. A State of Michigan licensed professional engineer desired. Annual salary of \$80,000 with excellent benefits.

To apply for this position, submit a cover letter, resume and professional references to [HumanResources@cityofmarshall.com](mailto:HumanResources@cityofmarshall.com).

The City of Marshall is an Equal Opportunity Employer. Position open until filled.

### **City of Hudson seeks applicants for lineworker III**



The City of Hudson is seeking applicants for the position of lineworker III. The lineworker III performs apprentice-level work assisting with the construction, repair and maintenance of either energized or de-energized transmission or distribution lines. Works under close supervision on de-energized lines or on congested poles, and independently on facilities which may be energized, but not above 600 volts; may work independently on de-energized lines carrying up to 140,000 volts, but may assist senior level lineworkers on energized lines carrying up to 12,470 volts and as a climbing assistant to employees of higher classification.

Applicants must have a high school diploma or equivalent, minimum six months of electric services or related work experience, considerable knowledge of the basic principles of electricity; general knowledge of the techniques, tools and materials used in the power line electricians trade; considerable knowledge of the hazards involved in the work, safety precautions to be observed and first aid treatment that should be rendered in the event of accident and injuries.

Pay is between \$27.18-\$34.48, depending upon qualifications. Find the full job description and application [here](#). Applications may also be obtained at the City of Hudson Municipal Services Center, 115 Executive Parkway, Suite 400, Hudson, Ohio, Monday through Friday, between 8 a.m. and 4 p.m. Completed application with resume attached may be submitted by email to [HumanResources@hudson.oh.us](mailto:HumanResources@hudson.oh.us) or mailed to City of Hudson/HR, Attn: Lineworker III, 115 Executive Parkway, Suite 400 Hudson, Ohio 44236. Applications must be received no later than Wednesday, June 19, 4 p.m. EOE

## **Borough of Schuylkill Haven seeks applicants for journeyman and apprentice electric lineworker**

The Borough of Schuylkill Haven is seeking applicants for the position of journeyman electric lineman position. Minimum qualifications include: graduation from the standard four-year high school, successful completion of an approved apprenticeship program of at least four years in duration, journeyman accreditation and Pennsylvania CDL license.

Schuylkill Haven Borough owns and operates their own electric system including: substation, poles, distribution lines, transformers and secondary services. The applicant should have thorough background knowledge of these types of appurtenances. The successful candidate must pass a complete background investigation including reference, employment, criminal/personal record checks and a pre-employment drug screening test.

The borough is also accepting applications for an apprentice electric lineworker. This position is a trainee position.

Schuylkill Haven is located In Schuylkill County, Pa. and has a population of 5,550 people. The borough has an excellent compensation/benefit package and is an Equal Opportunity Employer. A complete job description and job application can be obtained by contacting the borough office at 570.385.2841 or by logging on to the Borough's website at [www.schuylkillhaven.org](http://www.schuylkillhaven.org).

Please submit a completed job application, resume, certifications and three references to: Scott J. Graver, Borough Administrator, Schuylkill Haven Borough Office, 333 Centre Ave., Schuylkill Haven, PA 17972. This position will remain open until filled.

## **PMEA seeks applicants for executive director**

The Pennsylvania Municipal Electric Association (PMEA), a statewide organization of 33 Pennsylvania Boroughs who operate public power systems, seeks skilled, organized and motivated applicants for the position of executive director. The full time executive director will be the Association's only employee. This is an outstanding opportunity to shape an important and growing organization. Duties include managing the legislative and organizational affairs under a seven-member Board of Directors; managing legal, engineering and legislative consultants; organizing and fulfilling membership services; public speaking on the role, purpose and benefits of public power; lobbying and legislative activities with state elected officials and staff; and providing services for member communities. Required skills include demonstrated leadership and management experience; excellent oral and written communication skills; ability to work both independently and with other state and national associations; and the ability to effectively build and nurture professional relationships. Applicants must possess a bachelor's degree; experience in government preferred; knowledge of public power a plus. Ability to qualify as a Pennsylvania State Lobbyist is required. Salary range \$90,000-\$110,000 with excellent benefits; actual salary based on

experience/qualifications. Send cover letter, resume and salary history/expectation with all included in only one attachment to [woglomd@lafayette.edu](mailto:woglomd@lafayette.edu). Deadline noon on July 16, 2019. For full job description, go to [www.pmea.us](http://www.pmea.us). EOE.

## **City of Orrville seeks applicants for water treatment plant operator**

The City of Orrville is seeking applicants for a position in water plant operations. Duties/responsibilities include operating the water treatment plant and system on a shift; operate system controls and make adjustments based on demand, take readings and samples and run routine tests, check equipment and controls; keep records and reports, performs preventative and corrective maintenance; operate and maintain equipment related to the operation of a water plant; other related duties.

Civil service exam by application only. High school diploma or equivalent, Ohio EPA Class I Water Plant Operator's Certificate and valid Ohio driver's license. For more details see job opportunities at [www.orrville.com](http://www.orrville.com), or call 330.684.5047. Online applications will not be accepted. Apply at the City of Orrville's Office of Human Resources, 207 N. Main, Orrville, by Friday, June 7, 5:00 p.m. Pay is \$22.15 to \$27.70, plus benefits.

## **Village of Versailles seeks applicants for electric lineman I or II**

The Village of Versailles is seeking qualified candidates for the position of electric lineman I or II. The candidate will be responsible for delivering reliable electric service to customers by performing inspections, maintenance, operations on substation, distribution and street light systems corresponding with their level of training. The candidate shall have a high school diploma or GED, a valid Ohio driver's license and be able to obtain a Class A CDL endorsement within six months of employment. The candidate shall also understand, or have the willingness to learn, how to operate equipment including but not limited to: bucket truck, digger derrick, backhoe, wood chipper, chain saw and dump truck; with a willingness to follow all current and future safety practices while maintaining equipment. The hourly compensation for this position shall be commensurate with qualifications and experience. Versailles offers an excellent benefit and retirement program.

A complete job description is available by contacting the Village of Versailles Administrative Office at 937.526.3294, or by visiting [www.versaillesohio.cc](http://www.versaillesohio.cc). Please submit resume and cover letter to Rodd Hale, Village Administrator, Village of Versailles, 177 N. Center St., P.O. Box 288, Versailles, OH 45380 by June 14, 4 p.m. The Village of Versailles is an Equal Opportunity Employer.

## **City of Coldwater seeks applicants for engineering manager**

The City of Coldwater is seeking a qualified individual to fill the available position of engineering manager.

This individual will serve on the executive management team and provide professional support to the utility director and city manager. This individual will oversee all engineering functions for the Coldwater Board of Public Utilities (CBPU) and city. Extensive management and supervision is exercised over the electrical engineer, engineering technician and GIS and mapping coordinator.

The engineering manager will provide leadership in project development, design and implementation; coordination and issue resolution; manage technical research to support recommendations; assist with estimating project costs while maintaining departmental budgets; prepare surveys and studies based on economic engineering practices in order to prepare plans for proposed construction projects; draft specifications for equipment and materials used in construction, maintenance and operation of utility and municipal systems; make on-site inspections of work to ensure compliance with plans; develop creative and effective strategies and coordinate with other utility and city engineering personnel to avoid conflicts of utility construction projects with other services; ability to prepare, review and interpret engineering plans and specifications; ability to conduct research projects; ability to prepare technical reports; keep record and documentation updated; mentor and facilitate the succession planning within the department; develop a departmental training program; develop and set priorities for department; ability to establish and maintain an effective working relationships with associates and build professional customer relations; research methods to improve workplace efficiency, productivity and recommend policy change; and perform related tasks as required thorough knowledge of engineering principles and practices.

Successful applicant should have a minimum of 10 years of experience in engineering or project management with an emphasis on electrical or civil engineering. An electrical engineering degree is preferred, but other engineering degrees will be considered. Salary commensurate with experience.

Send resume to: Nicki Luce, Coldwater Board of Public Utilities, One Grand St., Coldwater, MI 49036 or email to [resume@coldwater.org](mailto:resume@coldwater.org).

## **City of Shelby seeks applicants for electric lineworker**

The City of Shelby is seeking applicants for the position of electric lineworker. The position is responsible for the operation, maintenance, construction, troubleshooting and repair of the city's electric distribution and transmission system. Operates heavy equipment including bucket trucks, digger derricks, forklifts and stationary generators for the production of electricity; constructs new service lines and makes repairs; maintains street and security lights; analyzes and repairs the electric system during outage situations.

Requires a high school diploma or equivalent; the successful completion of a minimum of four years of progressive on the job work and technical training in all line craftwork, or four years as a qualified journeyman lineman; Commercial Class B Driver's License.

The city offers an excellent comprehensive insurance package without pay withdraws. The hourly rate is \$29.00-\$30.00 per hour plus applicable miscellaneous pay. Qualified applicants are eligible for the vacation accrual schedule.

Interested applicants can pick up and return their application at Shelby City Hall, 43 W. Main St., Shelby, OH 44875 or by accessing the online application at [www.shelbycity.oh.gov](http://www.shelbycity.oh.gov). Please call 419.342.4085 with any questions.

## **City of Bryan seeks applicants for IT technician/help desk support**

The City of Bryan is seeking applicants for the position of IT technician/help desk support. Under the direction of the communications superintendent, this position provides technical support of desktop computers, applications and related technology; troubleshoots, identifies, researches and resolves technical problems; documents, tracks and monitors problems to ensure a timely resolution. Also performs a variety of maintenance, software and hardware installation, and training tasks to ensure end-user workstations and network performance meet utilities and user requirements.

Position requires an associate's degree in technical field; five to seven years of experience in the field or a related technical area; or an equivalent combination of education and experience which provides the knowledge, skills and abilities needed to perform essential functions of the position. Applicants must have a valid driver's license. A full job description may be downloaded at [www.cityofbryan.net/employment](http://www.cityofbryan.net/employment). Please submit resume to Bryan Municipal Utilities, 841 E. Edgerton St., Bryan, OH 43506; or email to [humanresources@cityofbryan.com](mailto:humanresources@cityofbryan.com) or apply in person between 8 a.m. and 4 p.m., Monday through Friday.

## **Opportunities available at AMP**

AMP is seeking applicants for the following positions:

Marketing member relations representative

Director of risk and internal controls

Senior vice president of power supply operations and energy marketing

Senior accountant

Director of debt management

For complete job descriptions, please visit the [AMP careers page](#).

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# Ohio Municipal League Legislative Bulletin

## Ohio Municipal League

Fri 6/7/2019 12:34 PM

To: Roxanne Dietrich <rdietrich@napoleonohio.com>;


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## Legislative Bulletin

June 7, 2019

### OML UPDATE AT-A-GLANCE

Here are the top three things you need to know from this past week:

- Former township trustee and municipal court prosecutor Gil Blair has been selected to fill the 63<sup>rd</sup> House District seat vacated by former Rep. Glenn Holmes.
- The Senate Finance Committee has announced they will be unveiling the substitute bill language for Sub. HB 166, the State Operating Budget bill, next week on Tuesday, June 11th. Public testimony has been scheduled for Thursday and Friday of next week.
- According to the U.S. Census Bureau, approximately 73,600 Ohioans will not be counted in the 2020 census. That number is largely children under the age of 5. This undercounting can have consequences that last over the next decade, particularly regarding funding for children's programs and infrastructure, according to the Urban Institute.

### LEAGUE BOARD PLANNING RETREAT A SUCCESS

The League wants to thank all the board members who attended last week's Strategic Planning Retreat for making it a productive meeting and for helping chart the League's future success in the months and years to come. Our attendees discussed passed legislation and what lobbying strategies were most effective, legislative priorities for the rest of this General Assembly and what the roles of an effective board member look like.

Our board members are also grateful for Developmental Services Agency Director and former Findlay Mayor Lydia Mihalik for being our guest speaker during the retreat. We appreciate her speaking to the role of the DSA in matching local governments with crucial grants and for addressing how local governments play an important role in the DeWine administration, helping ensure the future economic success of Ohio. The League wants to thank Dir. Mihalik and all our board attendees, and we are already looking forward to our next Strategic Planning Retreat.

### **HOUSE PASSES BWC BUDGET WITH PTSD PROVISION**

This week the House passed Sub. HB 80, the Bureau of Workers' Compensation (BWC) Budget. The bill as passed includes a recently-adopted provision that would make peace officers, firefighters and emergency medical workers eligible for workers' compensation benefits after a diagnosis of work-related post-traumatic stress disorder (PTSD) without an accompanying physical injury.

The provision contains many concerning aspects, including the lack of time limits for compensation and benefits and other similar parameters around the coverage for first responders with a PTSD diagnosis regardless of accompanying physical injury. It is unclear yet what the impact would be on municipalities financially. There has been no information yet provided regarding cost projections on the estimated number of increased claims but basic projections are in the hundreds of millions in claim exposure for local governments. It is also unclear exactly how this coverage will be funded.

This issue is an extremely impactful one for municipalities, and these changes will have significant consequences for all of Ohio's cities and villages. The League believes such a major policy change with the potential for substantial unknown financial implications should be pulled from the BWC Budget bill and introduced as separate legislation. This would help ensure the best policy can be implemented, both for the betterment of the insured and the insurer.

The League urges our members to contact their senators and request that this provision be removed from Sub. HB 80 and introduced as separate legislation. We will continue to update our members as the bill moves through the legislative process. To see a Roll Call of the members of the House who did and did not vote for Sub. HB 80, click [HERE](#).

### **LAST CHANCE TO REGISTER FOR THE LEAGUE'S ANNUAL MAYORS CONFERENCE**

This upcoming Monday, June 10, will be the last chance to register for the Mayors Association Annual Conference. Registration will end by close of business. This

conference is an important opportunity for mayors of municipalities of all sizes in each geographic region of the state to network, share best practices and learn firsthand about the issues impacting the administration of peer communities. Attendees will have the chance to interact with municipal-specific exhibitors providing services and opportunities beneficial to the success of our hometowns, attend educational and informational sessions and workshops on the most pressing issues facing Ohio's local leaders and enjoy good food!

The League and the Mayors Association leadership is very pleased that Lt. Governor John Husted will be joining our mayors as a guest speaker Thursday, June 13th, to talk about the focus of the administration and how our cities and villages can continue to be the catalysts for the state's continued success in economic development.

Next week is expected to be a busy one at the Statehouse as the substitute version of Sub. HB 166, the State Operating Budget bill, is anticipated to be unveiled with the first round of changes proposed by the Senate. Having Ohio's mayors in Columbus and literally across the street from the Statehouse as lawmakers are actively crafting the state's spending priorities for the next two years is a great opportunity for our municipal leaders to quickly visit the offices of their legislative delegation, say hello and remind them to support local control and the reinvestment in our communities through the Local Government Fund (LGF).

The conference begins on Wednesday, June 12 and ends Friday, June 14<sup>th</sup> and will be held once again in downtown Columbus at the Renaissance Hotel. To ensure you don't miss out on this unique opportunity click [HERE](#) to register before Monday, June 10.

### **NATIONAL LEAGUE OF CITIES PRESIDENT TO SPEAK AT CITY CLUB IN CLEVELAND**

On Friday, July 19, National League of Cities (NLC) President and Gary, IN Mayor Karen Freeman-Wilson will be speaking at the City Club of Cleveland at 12pm. The City Club of Cleveland is one of the oldest free speech forums in America. Speakers from community leaders to sitting presidents have presented and then answered unfiltered and unrehearsed questions directly from the audience. Attendees will have the opportunity to hear from and engage with Mayor Freeman-Wilson and learn about the condition of America's cities and villages, both the vision and the role of the National League of Cities in advocating for municipalities across the country on the federal and state level and how local leadership will continue to be the driving force behind changes that have the most impact to this nation's families and our future.

Mayor Karen Wilson-Freeman was elected as the first African-American women mayor of Gary in 2012. She has made extensive infrastructure improvements throughout the city and under her leadership, the city has made substantial investments in the Gary Chicago International Airport, small business incubators, Indiana University, downtown Gary and developments in many other vital areas throughout the city.

If you are interested in attending this presentation, you can learn more information and purchase tickets by clicking [HERE](#).

## OHIO TO CELEBRATE SUFFRAGE CENTENNIAL COMMISSION

On June 16, Ohio will celebrate the centennial of Ohio's ratification of the 19th Amendment, which guaranteed women's right to vote in the U.S. Constitution. Congress has formed the Women's Suffrage Centennial Commission to plan national events and support state efforts to commemorate this important moment in history. The 19th Amendment was not officially national law until August 26, 1920, one the necessary 36 states had ratified it.

The Women's Suffrage Centennial Commission is helping local governments and states across America to plan celebrations via a Centennial Planning Toolkit. The Toolkit provides background on the 19th amendment and recommends events and activities. It also includes resolutions to help municipalities commemorate the centennial. The Commission hopes local governments across Ohio will celebrate the legalization of a woman's right to vote, both on June 16th and on August 26 in the year 2020. You can access the Toolkit [HERE](#).

## NEW BILLS OF MUNICIPAL INTEREST

Here are the bills impacting municipalities that received committee hearings this week:

- HB 252 - LAND REUTILIZATION. Sponsored by Rep. Greenspan (R - Westlake), would create the Land Reutilization Demolition Program and make an appropriation. (Link: <https://bit.ly/2MxVp9K>)

## COMMITTEE RECAP: BILLS OF MUNICIPAL INTEREST

- HB 242 - (PREEMPTION OF "BAG TAX" LEGISLATION) AUXILIARY CONTAINERS. Sponsored by Rep. Lang (R - West Chester Twp.) and Rep. Jones (R - Freeport), would authorize the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers. During its second hearing in the House State and Local Government Committee, proponents of the bill including the Ohio Chamber of Commerce, the Ohio Manufacturers' Association, the Ohio Council of Retail Merchants and the Greater Cleveland Partnership, argued the bill harms uniformity across Ohio. To view a complete list of all the parties that provided proponent testimony June 5, 2019, click [HERE](#). The League opposes this legislation. (Link: <https://bit.ly/2Vp9WUn>)
- HB 7 - WATER FUND. Sponsored by Rep. Ghanbari (R - Perrysburg) and Rep. Patterson (R -- Jefferson), would create the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality, to create the H2Ohio Advisory Council to disburse money from the Fund for water quality programs, and create the H2Ohio Endowment Board to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund. During its fourth hearing before the House Finance Committee, proponents including the Alliance for the Great Lakes, and the National Wildlife Federation



testified in support of the bill. The League is supportive of the legislation. (Link: <https://bit.ly/2JLfXse>)

- **HB 10 - DRUG POLICY OFFICE.** Sponsored by Rep. Brown (D - Canal Winchester) and Rep. Stoltzfus (R - Minerva), would establish the Governor's Office of Drug Policy and make an appropriation. During its House Finance Committee, the bill received sponsor testimony and is currently set to be fast-tracked to the House floor for a vote next week pending committee referral. The League is supportive of the legislation. (Link: <https://bit.ly/2YzTtP7>)
- **SB 39 - INSURANCE TAX.** Sponsored by Sen. Schuring (R - Canton), would authorize an insurance premiums tax credit for capital contributions to transformation mixed use development projects. During its sixth hearing before the Senate Finance Committee, the bill was amended to alter the criteria for eligible projects and establish public reporting requirements and then voted unanimously out of committee. The League is supportive of this legislation. (Link: <https://bit.ly/2Juc8Zm>)
- **HB 178 - CONCEALED WEAPONS.** Sponsored by Rep. Hood (R - Ashville) and Rep. Brinkman (R - Cincinnati), would modify the Weapons Law by renaming a concealed handgun license as a concealed weapons license, allowing a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, repealing a notice requirement applicable to licenses stopped for a law enforcement purpose, authorizing expungement of convictions of a violation of that requirement, and allowing a person age 21 or older and not prohibited by federal law from firearm possession to carry a concealed deadly weapon without needing a license subject to the same carrying laws as a licensee. During its sixth hearing before the House Federalism Committee, both opponents and proponents of the bill testified. The League is neutral on this legislation. (Link: <https://bit.ly/2DNudwX>)

#### COMMITTEE SCHEDULE FOR THE WEEK OF JUNE 9, 2019

##### **Tuesday, June 11, 2019**

###### **SENATE FINANCE**

Tue., Jun. 11, 2019, 4:00 PM, Senate Finance Hearing Room  
Sen. Dolan: 614-466-8056

**HB166\*\*** OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

**Seventh Hearing, No Testimony, SUBSTITUTE BILL**

##### **Wednesday, June 12, 2019**

###### **SENATE FINANCE**

Wed., Jun. 12, 2019, 9:00 AM, Senate Finance Hearing Room  
Sen. Dolan: 614-466-8056

Testimony limited to higher education topics.

**HB166\*\*** OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

**Eighth Hearing, All Testimony**

## **SENATE TRANSPORTATION, COMMERCE AND WORKFORCE**

Wed., Jun. 12, 2019, 3:00 PM, South Hearing Room

Sen. McColley: 614-466-8150

**HB79\*\*** INDUSTRIAL COMMISSION BUDGET (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.  
**First Hearing, Sponsor Testimony**

**Thursday, June 13, 2019**

## **SENATE TRANSPORTATION, COMMERCE AND WORKFORCE**

Thu., Jun. 13, 2019, 9:00 AM, South Hearing Room

Sen. McColley: 614-466-8150

**HB79\*\*** INDUSTRIAL COMMISSION BUDGET (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.

**Second Hearing, Proponent Testimony**

## **SENATE FINANCE**

Thu., Jun. 13, 2019, 10:00 AM, Senate Finance Hearing Room

Sen. Dolan: 614-466-8056

**HB166\*\*** OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

**Ninth Hearing, All Testimony**

**Friday, June 14, 2019**

## **SENATE FINANCE**

Fri., Jun. 14, 2019, 9:30 AM, Senate Finance Hearing Room

Sen. Dolan: 614-466-8056

**HB166\*\*** OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

**Tenth Hearing, All Testimony**

**Monday, June 17, 2019**

## **SENATE FINANCE**

Mon., Jun. 17, 2019, 10:00 AM, Senate Finance Hearing Room

Sen. Dolan: 614-466-8056

**HB166\*\*** OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

**Eleventh Hearing, All Testimony**

PLEASE CHECK OUR WEBSITE MONDAY FOR AN UPDATED COMMITTEE SCHEDULE

## **Ohio Municipal League Meetings & Trainings**

<b><u>OML/OMAA Webinars:</u></b> <b>Public Records/Sunshine Law</b> <b>June 20, 2019</b>	<b><u>Registration Information</u></b>
<b><u>MAO Annual Conference</u></b> <b>June 12th ~ 14th, 2019</b>	<b><u>Registration Information</u></b>

<u><b>OML Income Tax Seminar</b></u> <b>July 10 ~ 12, 2019</b>	<u><b>Registration Information</b></u>
<u><b>Mayors Court Refresher Trainings</b></u> <b>August 16 ~ Attorneys &amp; Magistrates Only</b> <b>October 25 &amp; November 15</b>	<u><b>Registration Information</b></u>

Ohio Municipal League

Legislative Inquires:

Kent Scarrett, Executive Director

Edward Albright, Deputy Director

Ashley Brewster, Director of Communications

Thomas Wetmore, Legislative Advocate

Website/Bulletin Issues:

Zoë Wade, Office Manager

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