

As Introduced

**126th General Assembly
Regular Session
2005-2006**

S. B. No. 69

Senators Hagan, Fedor

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A BILL

To enact section 4905.88 of the Revised Code to 1
establish an annual renewable energy requirement 2
for electric utilities and electric services 3
companies that provide retail electric generation 4
service in Ohio and to authorize the Public 5
Utilities Commission to establish a system of 6
renewable energy credits. 7

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

Section 1. That section 4905.88 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4905.88. (A) As used in this section: 10

(1) "Biomass" means any organic matter, including either of 11
the following: 12

(a) Any organic material from a plant that is grown 13
exclusively to be used in the production of electricity, on land 14
that was in crop production on the effective date of this section; 15
or on land that is protected under the federal conservation 16
reserve program, provided the planting does not adversely affect 17
the water quality protection, soil erosion prevention, or wildlife 18
habitat enhancement purposes of that program; 19

(b) Any solid, nonhazardous, cellulosic waste that is derived 20

from waste pallets, crates, dunnage, or landscape or right-of-way 21
tree trimmings, from agricultural sources including orchard tree 22
crops, vineyards, grains, legumes, or sugar, or from any crop 23
byproducts or residues. 24

"Biomass" excludes forestry resources; agricultural resource 25
waste necessary for maintaining soil fertility or for preventing 26
erosion; municipal or unsegregated waste or garbage; or paper that 27
is commonly recycled. 28

(2) "Electric services company," "electric utility," and "net 29
metering system" have the same meanings as in section 4928.01 of 30
the Revised Code. 31

(3) "Renewable energy" means energy from biomass that is 32
available on a renewable basis; geothermal energy; energy produced 33
by a photovoltaic technology system; wind energy; or energy from a 34
hydroelectric facility that produces less than twenty megawatts of 35
electricity and is certified on or after two years following the 36
effective date of this section as a low-impact hydropower facility 37
by the low-impact hydro institute. "Renewable energy" excludes 38
nuclear energy and energy produced from coal, natural gas, oil, 39
propane, or any other fossil fuel. 40

(4) "Renewable energy system" means any of the following: 41

(a) A photovoltaic technology system; 42

(b) A facility or energy system that uses renewable energy to 43
generate electricity and transmits or distributes that electricity 44
through either of the following: 45

(i) A power line that is dedicated to the transmission or 46
distribution of electricity generated from renewable energy only 47
and is connected to a facility or system owned, operated, or 48
controlled by an electric light company; 49

(ii) A power line that is shared with not more than one 50

facility or energy system generating electricity from nonrenewable energy and is connected to a facility or system owned, operated, or controlled by an electric light company.

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(c) A net metering system that has renewable energy as its primary energy source.

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(B)(1) Any electric utility that provides retail electric generation service in this state and any electric services company that provides such service shall derive at least a portion of its electricity supply from renewable energy sources as provided in divisions (B)(2) and (3) of this section.

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(2) The utility or company shall comply with division (B)(1) of this section by doing one or more of the following:

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(a) Acquiring its electricity supply from one or more renewable energy systems located in this state;

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(b) Reducing the energy consumption of any retail electric customer in this state by subsidizing all or part of the acquisition or installation of one or more photovoltaic technology systems in any residence of the customer that is located in this state. In any such instance, the utility or company may count toward its compliance in each pertinent calendar year specified in division (B)(3) of this section any reduction in the number of kilowatt hours of electricity that it sells the customer in that calendar year, compared to the number of kilowatt hours it sold the customer in the calendar year prior to installation.

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(c) Connecting to any net metering system located in this state that has renewable energy as its primary energy source. In any such instance, the utility or company may count toward its compliance all of the electricity generated in the pertinent calendar year by the net metering system.

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(d) Using one or more, or a portion of any, renewable energy

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credits that it has purchased at a negotiated price or has earned 81
or otherwise acquired, to the extent such credits are available 82
pursuant to division (C) of this section. 83

(3)(a) The minimum amount of its electricity supply that a 84
utility or company shall derive from renewable energy sources 85
pursuant to division (B)(1) of this section shall be the following 86
calendar year percentages of the utility's or company's total 87
retail electric sales in this state: 88

<u>Calendar year</u>	<u>Percentage</u>	
<u>2007</u>	<u>3%</u>	91
<u>2008</u>	<u>5%</u>	92
<u>2009</u>	<u>6%</u>	93
<u>2010</u>	<u>8%</u>	94
<u>2011</u>	<u>10%</u>	95
<u>2012</u>	<u>11%</u>	96
<u>2013</u>	<u>12%</u>	97
<u>2014</u>	<u>13%</u>	98
<u>2015</u>	<u>14%</u>	99
<u>2016</u>	<u>15%</u>	100
<u>2017</u>	<u>16%</u>	101
<u>2018</u>	<u>17%</u>	102
<u>2019</u>	<u>18%</u>	103
<u>2020</u>	<u>19%</u>	104
<u>2021 and each</u>		105
<u>subsequent calendar year</u>	<u>20%</u>	106

(b) For the purpose of division (B)(3)(a) of this section, a 107
utility's or company's total retail electric sales for a calendar 108
year shall be determined by calculating, in kilowatt hours, the 109
average of its retail electric sales in this state during each of 110
the immediately preceding three calendar years. 111

(c) For calendar year 2007, all of the calendar year percentage specified in division (B)(3)(a) of this section shall be derived from one or more new sources specified in division (B)(2) of this section. For subsequent calendar years through calendar year 2021, at minimum the entire calendar year's percentage increase from the prior calendar year shall be derived from one or more such new sources. For the purpose of division (B)(3)(c) of this section, a renewable energy system under division (B)(2)(a) or net metering system under division (B)(2)(c) of this section is a new source if the system is first connected in the calendar year to a facility or system owned, operated, or controlled by an electric utility; a subsidy under division (B)(2)(b) of this section is a new source if it is paid out by the electric utility or electric services company in that year; and a renewable energy credit under division (B)(2)(d) of this section is a new source if it is acquired by the electric utility or electric services company in that year.

(C) The public utilities commission may establish by rule a system of renewable energy credits in accordance with this section. Any such rules shall specify the amount and allowable uses of a credit and may specify the requirements and procedures for the sale of a credit.

(D) The commission shall adopt rules requiring the filing of an annual report by each electric utility and electric services company that is subject to division (B) of this section, and may adopt such other rules as it considers necessary to promote renewable energy usage in this state by defining the duty established in that division with regard to available technologies or to ensure compliance with that division, including rules requiring the filing of additional reports. The annual report shall contain such information as the commission shall require relating to the utility's or company's compliance with division

(B) of this section, and shall be in such form and filed at such 144
time after the applicable calendar year as the commission shall 145
prescribe. The rules may authorize the annual report to be 146
included within the annual report filed pursuant to division (F) 147
of section 4928.06 of the Revised Code. 148

(E) The commission has jurisdiction under section 4905.26 of 149
the Revised Code, upon complaint of any person or upon complaint 150
or initiative of the commission, to determine whether an electric 151
utility or electric services company has failed to comply with any 152
provision of division (B) of this section as to the amount of 153
renewable energy required to be provided or the source of energy 154
provided. As an exclusive remedy for such noncompliance 155
notwithstanding any provision of law to the contrary, the 156
commission, after reasonable notice and opportunity for hearing 157
under section 4905.26 of the Revised Code, and upon a finding by 158
the commission that the utility or company has failed to so 159
comply, may assess a forfeiture against the utility or company. 160
The forfeiture shall be in an amount that the commission considers 161
just and reasonable to ensure the utility's or company's 162
compliance with division (B) of this section, considering also the 163
gravity of the noncompliance that is the subject of the 164
proceeding, the utility's or company's prior history of 165
noncompliance, and its good faith efforts to comply, including, as 166
applicable, to verify the source of its supply. 167