



Ohio Legislative Service Commission

Final Analysis

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Sub. S.B. 289

129th General Assembly
(As Passed by the General Assembly)

Sens. Coley and Schiavoni, Jones, Balderson, Cafaro, Gentile, Bacon, Brown, Manning, Seitz, Turner, Eklund, Lehner, Oelslager, Sawyer, Burke, Faber, Hughes, Niehaus, Patton, Peterson

Reps. Stautberg, Williams, Cera, Conditt, O'Brien, Pillich, Roegner, Anielski, Baker, Barnes, Beck, Blair, Boose, Brenner, Bupp, Buchy, Combs, Damschroder, Derickson, DeVitis, Dovilla, Duffey, Gerberry, Grossman, Hackett, C. Hagan, Hall, Hill, Johnson, Landis, Letson, Lundy, Maag, Mallory, Matheney, McClain, McGregor, Milkovich, Newbold, Patmon, Pelanda, Rose, Ruhl, Schuring, Slaby, Sprague, Stebelton, Terhar, Thompson, Uecker, Yuko, Batchelder

Effective date: July 16, 2012

ACT SUMMARY

- Permits energy produced from cogeneration technology (that is part of a facility located in a county of between 365,000 to 370,000 people), for which most of the energy input is from certain waste or byproduct gases, to qualify as a "renewable energy resource" for both of the following:
 - (1) Electric alternative energy resource requirements; and
 - (2) Advanced energy projects.

CONTENT AND OPERATION

Cogeneration as a "renewable energy resource"

Effectively, the act permits electric distribution utilities (EDUs) and electric services companies (ESCs) to comply with the renewable-energy portion of Ohio's alternative energy resource requirements (commonly referred to as the renewable

* This version updates the effective date of the act.

energy portfolio standards) with certain cogeneration technology, defined in the act.¹ The act also permits the same cogeneration technology to qualify for advanced-energy-project loans and grants.² (See "**Background on alternative energy resource requirements and advanced energy projects.**")

The act accomplishes this by broadening the definition of "renewable energy resource," for purposes of the alternative energy resource requirements and advanced energy projects. Specifically, the act provides that "renewable energy resource" also includes energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than 90% of the total annual energy input is from combustion of a waste or byproduct gas from an air contaminant source in Ohio. The act requires the air contaminant source to have been in operation since on or before January 1, 1985. The act also specifies that, to be included as a renewable energy resource, the cogeneration technology must be a part of a facility that is located in a county that has a population of more than 365,000 but less than 370,000 people according to the most recent federal decennial census.

The act defines "cogeneration technology" as technology that produces electricity and useful thermal output simultaneously. "Air contaminant source" is given the same meaning as in Ohio's air pollution law – an operation or activity that results (or may result) in the emission of an air contaminant. "Air contaminant" is particulate matter, dust, fumes, gas, mist, radionuclides, smoke, vapor, or odorous substances (or any combination of these), except emissions from certain agricultural-production activities.³

The act also aligns the descriptions of "distributed generation system consisting of customer cogeneration," which is an advanced energy resource, with the definition of "cogeneration technology" provided in the act.⁴

Background on alternative energy resource requirements and advanced energy projects

Alternative, advanced, and renewable energy definitions

In law unchanged by the act, "alternative energy" is a broad term, used to describe both advanced and renewable energy for alternative energy resource

¹ R.C. 4928.01(A)(35), (36), and (37); R.C. 4928.64 (not in the act).

² R.C. 3706.25(C), (D), and (E); R.C. 3706.26 (not in the act).

³ R.C. 3706.25(C), (D), and (E) and 4928.01(A)(35), (36), and (37); R.C. 3704.01(B) and (C) (not in the act).

⁴ R.C. 3706.25(B)(2) and 4928.01(A)(34)(b).

requirement purposes.⁵ Both terms are also included in the definition of "advanced energy project."⁶ "Advanced" and "renewable" are narrower terms that describe specific types of energy resources, detailed in definitions. For purposes of the alternative energy resource requirements and advanced energy projects, advanced energy resources include methods to increase generation of an electric generating facility, advanced nuclear energy, fuel cells, solid waste or construction and demolition debris conversion, and distributed generation systems consisting of customer cogeneration. For purposes of the alternative energy resource requirements only, advanced energy resources also include certain clean-coal technology and demand-side management and energy efficiency improvement.

Under continuing law governing the alternative energy resource requirements and advanced energy projects, renewable energy resources include any of the following:

- solar photovoltaic or solar thermal energy;
- wind energy;
- power produced by a hydroelectric facility, which facility must meet certain requirements;
- geothermal energy;
- fuel derived from certain solid wastes, through fractionation, biological decomposition, or another process that is not principally combustion;
- biomass energy;
- biologically derived methane gas;
- energy derived from nontreated by-products of the pulping process or wood manufacturing process;
- any fuel cell used in the generation of electricity;
- a wind turbine located in the state's territorial waters of Lake Erie;
- methane gas emitted from an abandoned coal mine;

⁵ R.C. 4928.64 (not in the act).

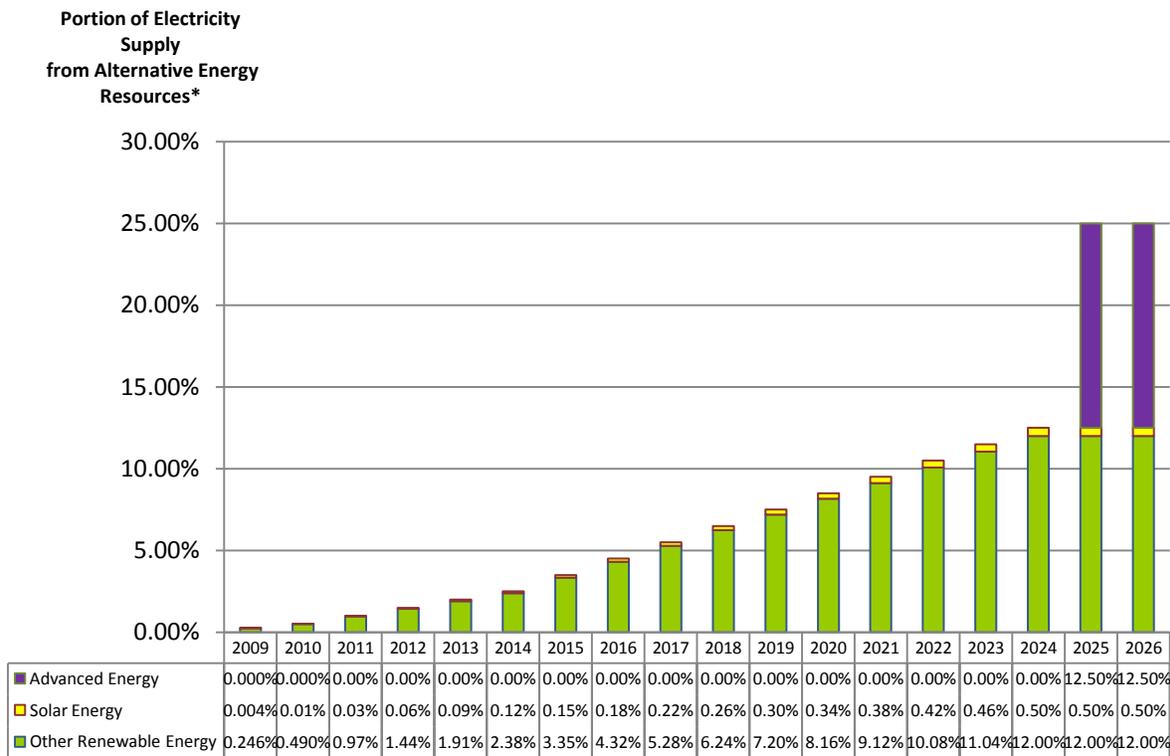
⁶ R.C. 3706.25(A).

- a storage facility that promotes the better utilization of a renewable energy resource that primarily generates off peak; or
- a distributed generation system used by a customer to generate electricity from any such energy.⁷

Alternative energy resource requirements

The alternative energy resource requirements in ongoing law provide that by 2025, and thereafter, an EDU or an ESC must provide 25% of its electricity supply from alternative energy resources. More specifically, half of that total percentage *may* be from advanced energy and the other half *must* be from renewable energy.

The table below lists the annual benchmarks for alternative energy resource requirements.⁸



Year-by-Year Benchmarks for 25% by 2025 Alternative Energy Resource Requirements

*By 2025, half of the electricity supply may be from advanced energy resources.

⁷ R.C. 3706.25(B) and (E) and 4928.01(A)(34) and (37).

⁸ R.C. 4928.64 (not in the act).



Advanced energy projects

The Ohio Air Quality Development Authority may, under continuing law, request the Treasurer to issue bonds to provide loans and grants to business and industry in Ohio, government entities and agencies, educational institutions, and research organizations and institutions for acquiring, making, or modifying facilities through advanced energy projects.⁹ An advanced energy project must facilitate the generation or use of electricity or energy, reduce (or support the reduction of) energy consumption, or support the production of clean, renewable energy for various energy users, including *advanced* and *renewable* energy resources.¹⁰

HISTORY

ACTION	DATE
Introduced	02-02-12
Reported, S. Energy & Public Utilities	03-21-12
Passed Senate (30-3)	03-21-12
Reported, H. Public Utilities	03-28-12
Passed House (79-9)	03-28-12

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⁹ R.C. 3706.26 (not in the act).

¹⁰ R.C. 3706.25(A).

