

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 245

Representative Smith, T.

Cosponsors: Representatives Lang, Cross

A BILL

To amend section 5727.75 of the Revised Code to
remove the current deadlines by which an owner
or lessee of a qualified energy project must
apply for a property tax exemption.

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

Section 1. That section 5727.75 of the Revised Code be
amended to read as follows:

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

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

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

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

(4) "Full-time equivalent employee" means the total number

of employee-hours for which compensation was paid to individuals 18
employed at a qualified energy project for services performed at 19
the project during the calendar year divided by two thousand 20
eighty hours. 21

(5) "Solar energy project" means an energy project 22
composed of an energy facility using solar panels to generate 23
electricity. 24

(6) "Internet identifier of record" has the same meaning 25
as in section 9.312 of the Revised Code. 26

(B) (1) Tangible personal property of a qualified energy 27
project using renewable energy resources is exempt from taxation 28
~~for tax years 2011 through 2021~~ if all of the following 29
conditions are satisfied: 30

(a) ~~On or before December 31, 2020, the~~ The owner or a 31
lessee pursuant to a sale and leaseback transaction of the 32
project submits an application to the power siting board for a 33
certificate under section 4906.20 of the Revised Code, or if 34
that section does not apply, submits an application for any 35
approval, consent, permit, or certificate or satisfies any 36
condition required by a public agency or political subdivision 37
of this state for the construction or initial operation of an 38
energy project. 39

(b) Construction or installation of the energy facility 40
begins on or after January 1, 2009, ~~and before January 1, 2021~~. 41
For the purposes of this division, construction begins on the 42
earlier of the date of application for a certificate or other 43
approval or permit described in division (B) (1) (a) of this 44
section, or the date the contract for the construction or 45
installation of the energy facility is entered into. 46

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

~~(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011 through 2021, and the certification under division (E) (2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for tax year 2022 and all ensuing tax years if the property was placed into service before January 1, 2022, as certified in the construction progress report required under division (F) (2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which the certification issued under division (E) (2) of this section has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.~~

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation

for the first tax year that the property would be listed for 78
taxation and all subsequent years if all of the following 79
circumstances are met: 80

~~(1) The property was placed into service before January 1, 81
2021. Tangible personal property that has not been placed into 82
service before that date is taxable property subject to 83
taxation. 84~~

~~(2) For such a qualified energy project with a nameplate 85
capacity of five megawatts or greater, a board of county 86
commissioners of a county in which property of the qualified 87
energy project is located has adopted a resolution under 88
division (E) (1) (b) or (c) of this section to approve the 89
application submitted under division (E) of this section to 90
exempt the property located in that county from taxation. A 91
board's adoption of a resolution rejecting the application or 92
its failure to adopt a resolution approving the application does 93
not affect the tax-exempt status of the qualified energy 94
project's property that is located in another county. 95~~

~~(3) (2) The certification for the qualified energy project 96
issued under division (E) (2) of this section has not been 97
revoked. An energy project for which certification has been 98
revoked is ineligible for exemption under this section. 99
Revocation does not affect the tax-exempt status of the 100
project's tangible personal property for the tax year in which 101
revocation occurs or any prior tax year. 102~~

(D) Except as otherwise provided in this section, real 103
property of a qualified energy project is exempt from taxation 104
for any tax year for which the tangible personal property of the 105
qualified energy project is exempted under this section. 106

(E) (1) (a) A person may apply to the director of 107
development services for certification of an energy project as a 108
qualified energy project ~~on or before the following dates:~~ 109

~~(i) December 31, 2020, for an energy project using 110
renewable energy resources;~~ 111

~~(ii) December 31, 2017, for an energy project using clean 112
coal technology, advanced nuclear technology, or cogeneration 113
technology. 114~~

(b) The director shall forward a copy of each application 115
for certification of an energy project with a nameplate capacity 116
of five megawatts or greater to the board of county 117
commissioners of each county in which the project is located and 118
to each taxing unit with territory located in each of the 119
affected counties. Any board that receives from the director a 120
copy of an application submitted under this division shall adopt 121
a resolution approving or rejecting the application unless it 122
has adopted a resolution under division (E) (1) (c) of this 123
section. A resolution adopted under division (E) (1) (b) or (c) of 124
this section may require an annual service payment to be made in 125
addition to the service payment required under division (G) of 126
this section. The sum of the service payment required in the 127
resolution and the service payment required under division (G) 128
of this section shall not exceed nine thousand dollars per 129
megawatt of nameplate capacity located in the county. The 130
resolution shall specify the time and manner in which the 131
payments required by the resolution shall be paid to the county 132
treasurer. The county treasurer shall deposit the payment to the 133
credit of the county's general fund to be used for any purpose 134
for which money credited to that fund may be used. 135

The board shall send copies of the resolution to the owner 136

of the facility and the director by certified mail or, if the 137
board has record of an internet identifier of record associated 138
with the owner or director, by ordinary mail and by that 139
internet identifier of record. The board shall send such notice 140
within thirty days after receipt of the application, or a longer 141
period of time if authorized by the director. 142

(c) A board of county commissioners may adopt a resolution 143
declaring the county to be an alternative energy zone and 144
declaring all applications submitted to the director of 145
development services under this division after the adoption of 146
the resolution, and prior to its repeal, to be approved by the 147
board. 148

All tangible personal property and real property of an 149
energy project with a nameplate capacity of five megawatts or 150
greater is taxable if it is located in a county in which the 151
board of county commissioners adopted a resolution rejecting the 152
application submitted under this division or failed to adopt a 153
resolution approving the application under division (E) (1) (b) or 154
(c) of this section. 155

(2) The director shall certify an energy project if all of 156
the following circumstances exist: 157

(a) The application was timely submitted. 158

(b) For an energy project with a nameplate capacity of 159
five megawatts or greater, a board of county commissioners of at 160
least one county in which the project is located has adopted a 161
resolution approving the application under division (E) (1) (b) or 162
(c) of this section. 163

(c) No portion of the project's facility was used to 164
supply electricity before December 31, 2009. 165

(3) The director shall deny a certification application if 166
the director determines the person has failed to comply with any 167
requirement under this section. The director may revoke a 168
certification if the director determines the person, or 169
subsequent owner or lessee pursuant to a sale and leaseback 170
transaction of the qualified energy project, has failed to 171
comply with any requirement under this section. Upon 172
certification or revocation, the director shall notify the 173
person, owner, or lessee, the tax commissioner, and the county 174
auditor of a county in which the project is located of the 175
certification or revocation. Notice shall be provided in a 176
manner convenient to the director. 177

(F) The owner or a lessee pursuant to a sale and leaseback 178
transaction of a qualified energy project shall do each of the 179
following: 180

(1) Comply with all applicable regulations; 181

(2) File with the director of development services a 182
certified construction progress report before the first day of 183
March of each year during the energy facility's construction or 184
installation indicating the percentage of the project completed, 185
and the project's nameplate capacity, as of the preceding 186
thirty-first day of December. Unless otherwise instructed by the 187
director of development services, the owner or lessee of an 188
energy project shall file a report with the director on or 189
before the first day of March each year after completion of the 190
energy facility's construction or installation indicating the 191
project's nameplate capacity as of the preceding thirty-first 192
day of December. Not later than sixty days after June 17, 2010, 193
the owner or lessee of an energy project, the construction of 194
which was completed before June 17, 2010, shall file a 195

certificate indicating the project's nameplate capacity.	196
(3) File with the director of development services, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;	197 198 199 200 201
(4) For energy projects with a nameplate capacity of five megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans,	202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226

reinforcements, modifications, use and repair of roads,	227
financial security to be provided, and any other relevant issue.	228
(5) Provide or facilitate training for fire and emergency	229
responders for response to emergency situations related to the	230
energy project and, for energy projects with a nameplate	231
capacity of five megawatts or greater, at the person's expense,	232
equip the fire and emergency responders with proper equipment as	233
reasonably required to enable them to respond to such emergency	234
situations;	235
(6) Maintain a ratio of Ohio-domiciled full-time	236
equivalent employees employed in the construction or	237
installation of the energy project to total full-time equivalent	238
employees employed in the construction or installation of the	239
energy project of not less than eighty per cent in the case of a	240
solar energy project, and not less than fifty per cent in the	241
case of any other energy project. In the case of an energy	242
project for which certification from the power siting board is	243
required under section 4906.20 of the Revised Code, the number	244
of full-time equivalent employees employed in the construction	245
or installation of the energy project equals the number actually	246
employed or the number projected to be employed in the	247
certificate application, if such projection is required under	248
regulations adopted pursuant to section 4906.03 of the Revised	249
Code, whichever is greater. For all other energy projects, the	250
number of full-time equivalent employees employed in the	251
construction or installation of the energy project equals the	252
number actually employed or the number projected to be employed	253
by the director of development services, whichever is greater.	254
To estimate the number of employees to be employed in the	255
construction or installation of an energy project, the director	256
shall use a generally accepted job-estimating model in use for	257

renewable energy projects, including but not limited to the job 258
and economic development impact model. The director may adjust 259
an estimate produced by a model to account for variables not 260
accounted for by the model. 261

(7) For energy projects with a nameplate capacity in 262
excess of two megawatts, establish a relationship with a member 263
of the university system of Ohio as defined in section 3345.011 264
of the Revised Code or with a person offering an apprenticeship 265
program registered with the employment and training 266
administration within the United States department of labor or 267
with the apprenticeship council created by section 4139.02 of 268
the Revised Code, to educate and train individuals for careers 269
in the wind or solar energy industry. The relationship may 270
include endowments, cooperative programs, internships, 271
apprenticeships, research and development projects, and 272
curriculum development. 273

(8) Offer to sell power or renewable energy credits from 274
the energy project to electric distribution utilities or 275
electric service companies subject to renewable energy resource 276
requirements under section 4928.64 of the Revised Code that have 277
issued requests for proposal for such power or renewable energy 278
credits. If no electric distribution utility or electric service 279
company issues a request for proposal on or before December 31, 280
2010, or accepts an offer for power or renewable energy credits 281
within forty-five days after the offer is submitted, power or 282
renewable energy credits from the energy project may be sold to 283
other persons. Division (F) (8) of this section does not apply 284
if: 285

(a) The owner or lessee is a rural electric company or a 286
municipal power agency as defined in section 3734.058 of the 287

Revised Code.	288
(b) The owner or lessee is a person that, before	289
completion of the energy project, contracted for the sale of	290
power or renewable energy credits with a rural electric company	291
or a municipal power agency.	292
(c) The owner or lessee contracts for the sale of power or	293
renewable energy credits from the energy project before June 17,	294
2010.	295
(9) Make annual service payments as required by division	296
(G) of this section and as may be required in a resolution	297
adopted by a board of county commissioners under division (E) of	298
this section.	299
(G) The owner or a lessee pursuant to a sale and leaseback	300
transaction of a qualified energy project shall make annual	301
service payments in lieu of taxes to the county treasurer on or	302
before the final dates for payments of taxes on public utility	303
personal property on the real and public utility personal	304
property tax list for each tax year for which property of the	305
energy project is exempt from taxation under this section. The	306
county treasurer shall allocate the payment on the basis of the	307
project's physical location. Upon receipt of a payment, or if	308
timely payment has not been received, the county treasurer shall	309
certify such receipt or non-receipt to the director of	310
development services and tax commissioner in a form determined	311
by the director and commissioner, respectively. Each payment	312
shall be in the following amount:	313
(1) In the case of a solar energy project, seven thousand	314
dollars per megawatt of nameplate capacity located in the county	315
as of <u>the thirty-first day of December 31, 2010, for tax year</u>	316

~~2011, as of December 31, 2011, for tax year 2012, as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, as of December 31, 2014, for tax year 2015, as of December 31, 2015, for tax year 2016, and as of December 31, 2016, for tax year 2017 and each tax year thereafter~~ of the preceding tax year;

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

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

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

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

(3) In the case of an energy project using clean coal 346
technology, advanced nuclear technology, or cogeneration 347
technology, the following: 348

(a) If the project maintains during the construction or 349
installation of the energy facility a ratio of Ohio-domiciled 350
full-time equivalent employees to total full-time equivalent 351
employees of not less than seventy-five per cent, six thousand 352
dollars per megawatt of nameplate capacity located in the county 353
as of the thirty-first day of December of the preceding tax 354
year; 355

(b) If the project maintains during the construction or 356
installation of the energy facility a ratio of Ohio-domiciled 357
full-time equivalent employees to total full-time equivalent 358
employees of less than seventy-five per cent but not less than 359
sixty per cent, seven thousand dollars per megawatt of nameplate 360
capacity located in the county as of the thirty-first day of 361
December of the preceding tax year; 362

(c) If the project maintains during the construction or 363
installation of the energy facility a ratio of Ohio-domiciled 364
full-time equivalent employees to total full-time equivalent 365
employees of less than sixty per cent but not less than fifty 366
per cent, eight thousand dollars per megawatt of nameplate 367
capacity located in the county as of the thirty-first day of 368
December of the preceding tax year. 369

(H) The director of development services in consultation 370
with the tax commissioner shall adopt rules pursuant to Chapter 371
119. of the Revised Code to implement and enforce this section. 372

Section 2. That existing section 5727.75 of the Revised 373
Code is hereby repealed. 374

Section 3. The amendment by this act of section 5727.75 of	375
the Revised Code applies to tax years beginning on or after	376
January 1, 2019.	377