

I_134_0747-3

134th General Assembly
Regular Session
2021-2022

Sub. H. B. No. 118

A BILL

To amend sections 4906.01, 4906.10, 4906.20, and 1
4906.201 and to enact sections 519.215, 519.217, 2
519.219, 519.2111, and 4906.101 of the Revised 3
Code to require inclusion of safety 4
specifications in wind farm certificate 5
applications, to modify wind turbine setbacks, 6
and to permit a board of township trustees to 7
designate energy development districts and 8
prevent utility facility power siting board 9
certification. 10

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

Section 1. That sections 4906.01, 4906.10, 4906.20, and 11
4906.201 be amended and sections 519.215, 519.217, 519.219, 12
519.2111, and 4906.101 of the Revised Code be enacted to read as 13
follows: 14

Sec. 519.215. As used in this section and sections 519.217 15
to 519.2111 of the Revised Code: 16

(A) "Economically significant wind farm" has the same 17



meaning as in section 4906.13 of the Revised Code. 18

(B) "Large wind farm" and "large solar facility" have the 19
same meanings as in section 4906.01 of the Revised Code. 20

(C) "Utility facility" means an economically significant 21
wind farm, a large wind farm, or a large solar facility. 22

Sec. 519.217. No person shall construct any utility 23
facility in an unincorporated area of a township that has not 24
been designated as part of an energy development district by the 25
township board of trustees. 26

Sec. 519.219. (A) The board of township trustees may adopt 27
a resolution designating all or part of the unincorporated area 28
of a township as an energy development district to allow for the 29
construction of any or all of the following: 30

(1) Economically significant wind farm; 31

(2) Large wind farm; 32

(3) Large solar facility. 33

(B) A resolution described in division (A) of this section 34
may designate one or more districts and shall fix district 35
boundaries within the unincorporated area of the township. 36

(C) The board may adopt a resolution designating a 37
district at a regular meeting of the board or at a special 38
meeting called for the purpose of discussing such a resolution. 39

(D) Any resolution designating a district shall include a 40
map of the district, as well as texts sufficient to identify all 41
boundaries of the district. A copy of the the resolution and any 42
accompanying texts and maps shall be filed with the office of 43
the county recorder of the county in which the township is 44

located.

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Sec. 519.2111. A resolution designating an energy
development district, if adopted by the board of township
trustees, becomes effective thirty days after the date of its
adoption, unless, within thirty days after the adoption, there
is presented to the board of township trustees a petition,
signed by a number of registered electors residing in the
unincorporated area of the township equal to not less than eight
per cent of the total vote cast for all candidates for governor
in that area at the most recent general election at which a
governor was elected, requesting the board of township trustees
to submit the resolution to the electors of that area for
approval or rejection at a special election to be held on the
day of the next primary or general election that occurs at least
one hundred twenty days after the petition is filed. Each part
of this petition shall contain the number and the full and
correct title, if any, of the resolution, motion, or
application, furnishing the name by which the resolution is
known and a brief summary of its contents. In addition to
meeting the requirements of this section, each petition shall be
governed by the rules specified in section 3501.38 of the
Revised Code.

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The form of a petition calling for a referendum on the
designation of an energy development district and the statement
of the circulator shall be substantially as follows:

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"PETITION FOR REFERENDUM ON THE DESIGNATION OF AN ENERGY
DEVELOPMENT DISTRICT

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(if the proposal is identified by a particular name or
number, or both, these should be inserted here)_____

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A proposal to designate an energy development district of 74
the unincorporated area of _____ township, _____ 75
county, Ohio, adopted _____ (date) (followed by brief 76
summary of the resolution). 77

To the board of township trustees of _____ township, 78
_____ county, Ohio: 79

We, the undersigned, being electors residing in the 80
unincorporated area of _____ township, equal to not less 81
than eight per cent of the total vote cast for all candidates 82
for governor in the area at the preceding general election at 83
which a governor was elected, request the board of township 84
trustees to submit this designation of an energy development 85
district to the electors of _____ township residing within 86
the unincorporated area of the township, for approval or 87
rejection at a special election to be held on the day of the 88
primary or general election to be held on _____ (date), 89
pursuant to section 519.2111 of the Revised Code. 90

_____ Signature 91

_____ Residence address 92

_____ Date of signing 93

STATEMENT OF CIRCULATOR 94

I, _____ (name of circulator), declare under penalty 95
of election falsification that I reside at the address appearing 96
below my signature; that I am the circulator of the foregoing 97
part petition containing _____ (number) signatures; that I 98
have witnessed the affixing of every signature; that all signers 99
were to the best of my knowledge and belief qualified to sign; 100
and that every signature is to the best of my knowledge and 101
belief the signature of the person whose signature it purports 102

Within five working days after the resolution's effective 132
date, the board of township trustees shall file the text of the 133
resolution and maps of the energy development district in the 134
office of the county recorder and with the county or regional 135
planning commission, if one exists. 136

The failure to file any resolution, or any text and maps, 137
or duplicates of any of these documents, with the office of the 138
county recorder as required by this section does not invalidate 139
the resolution. 140

Sec. 4906.01. As used in Chapter 4906. of the Revised 141
Code: 142

(A) "Person" means an individual, corporation, business 143
trust, association, estate, trust, or partnership or any 144
officer, board, commission, department, division, or bureau of 145
the state or a political subdivision of the state, or any other 146
entity. 147

(B) (1) "Major utility facility" means: 148

(a) Electric generating plant and associated facilities 149
designed for, or capable of, operation at a capacity of fifty 150
megawatts or more; 151

(b) An electric transmission line and associated 152
facilities of a design capacity of one hundred kilovolts or 153
more; 154

(c) A gas pipeline that is greater than five hundred feet 155
in length, and its associated facilities, is more than nine 156
inches in outside diameter and is designed for transporting gas 157
at a maximum allowable operating pressure in excess of one 158
hundred twenty-five pounds per square inch. 159

(2) "Major utility facility" does not include any of the following:	160 161
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	162 163
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	164 165
(c) Electric distributing lines and associated facilities as defined by the power siting board;	166 167
(d) Any manufacturing facility that creates byproducts that may be used in the generation of electricity as defined by the power siting board;	168 169 170
(e) Gathering lines, gas gathering pipelines, and processing plant gas stub pipelines as those terms are defined in section 4905.90 of the Revised Code and associated facilities;	171 172 173 174
(f) Any gas processing plant as defined in section 4905.90 of the Revised Code;	175 176
(g) Natural gas liquids finished product pipelines;	177
(h) Pipelines from a gas processing plant as defined in section 4905.90 of the Revised Code to a natural gas liquids fractionation plant, including a raw natural gas liquids pipeline, or to an interstate or intrastate gas pipeline;	178 179 180 181
(i) Any natural gas liquids fractionation plant;	182
(j) A production operation as defined in section 1509.01 of the Revised Code, including all pipelines upstream of any gathering lines;	183 184 185
(k) Any compressor stations used by the following:	186

(i) A gathering line, a gas gathering pipeline, a processing plant gas stub pipeline, or a gas processing plant as those terms are defined in section 4905.90 of the Revised Code;

(ii) A natural gas liquids finished product pipeline, a natural gas liquids fractionation plant, or any pipeline upstream of a natural gas liquids fractionation plant; or

(iii) A production operation as defined in section 1509.01 of the Revised Code.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(D) "Certificate" means a certificate of environmental compatibility and public need issued by the power siting board under section 4906.10 of the Revised Code or a construction certificate issued by the board under rules adopted under division (E) or (F) of section 4906.03 of the Revised Code.

(E) "Gas" means natural gas, flammable gas, or gas that is toxic or corrosive.

(F) "Natural gas liquids finished product pipeline" means a pipeline that carries finished product natural gas liquids to the inlet of an interstate or intrastate finished product natural gas liquid transmission pipeline, rail loading facility, or other petrochemical or refinery facility.

(G) "Large solar facility" means an electric generating plant that consists of solar panels and associated facilities

with a single interconnection to the electrical grid that is a 216
major utility facility. 217

(H) "Large wind farm" means an electric generating plant 218
that consists of wind turbines and associated facilities with a 219
single interconnection to the electrical grid that is a major 220
utility facility. 221

(I) "Natural gas liquids fractionation plant" means a 222
facility that takes a feed of raw natural gas liquids and 223
produces finished product natural gas liquids. 224

~~(H)~~(J) "Raw natural gas" means hydrocarbons that are 225
produced in a gaseous state from gas wells and that generally 226
include methane, ethane, propane, butanes, pentanes, hexanes, 227
heptanes, octanes, nonanes, and decanes, plus other naturally 228
occurring impurities like water, carbon dioxide, hydrogen 229
sulfide, nitrogen, oxygen, and helium. 230

~~(I)~~(K) "Raw natural gas liquids" means naturally 231
occurring hydrocarbons contained in raw natural gas that are 232
extracted in a gas processing plant and liquefied and generally 233
include mixtures of ethane, propane, butanes, and natural 234
gasoline. 235

~~(J)~~(L) "Finished product natural gas liquids" means an 236
individual finished product produced by a natural gas liquids 237
fractionation plant as a liquid that meets the specifications 238
for commercial products as defined by the gas processors 239
association. Those products include ethane, propane, iso-butane, 240
normal butane, and natural gasoline. 241

Sec. 4906.10. (A) The power siting board shall render a 242
decision upon the record either granting or denying the 243
application as filed, or granting it upon such terms, 244

conditions, or modifications of the construction, operation, or 245
maintenance of the major utility facility as the board considers 246
appropriate. The certificate shall be subject to section 247
4906.101 of the Revised Code and conditioned upon the facility 248
being in compliance with standards and rules adopted under 249
section 4561.32 and Chapters 3704., 3734., and 6111. of the 250
Revised Code. An applicant may withdraw an application if the 251
board grants a certificate on terms, conditions, or 252
modifications other than those proposed by the applicant in the 253
application. 254

The board shall not grant a certificate for the 255
construction, operation, and maintenance of a major utility 256
facility, either as proposed or as modified by the board, unless 257
it finds and determines all of the following: 258

(1) The basis of the need for the facility if the facility 259
is an electric transmission line or gas pipeline; 260

(2) The nature of the probable environmental impact; 261

(3) That the facility represents the minimum adverse 262
environmental impact, considering the state of available 263
technology and the nature and economics of the various 264
alternatives, and other pertinent considerations; 265

(4) In the case of an electric transmission line or 266
generating facility, that the facility is consistent with 267
regional plans for expansion of the electric power grid of the 268
electric systems serving this state and interconnected utility 269
systems and that the facility will serve the interests of 270
electric system economy and reliability; 271

(5) That the facility will comply with Chapters 3704., 272
3734., and 6111. of the Revised Code and all rules and standards 273

adopted under those chapters and under section 4561.32 of the Revised Code. In determining whether the facility will comply with all rules and standards adopted under section 4561.32 of the Revised Code, the board shall consult with the office of aviation of the division of multi-modal planning and programs of the department of transportation under section 4561.341 of the Revised Code.

(6)(a) That the facility will serve the public interest, convenience, and necessity.

(b) Except as provided in division (A)(6)(c) of this section, if a board of township trustees adopts a resolution opposing the issuance of a certificate for a utility facility, as defined in section 519.215 of the Revised Code, the power siting board shall determine the facility does not serve the public interest, convenience, and necessity, if both of the following apply:

(i) The utility facility is to be located in the township governed by the board adopting the resolution;

(ii) The power siting board receives the resolution not later than ninety days after the adjudicatory hearing on the certificate application or before the certificate has been granted, whichever occurs first.

(c) If a utility facility is to be located in energy development districts of multiple townships, and less than all of the boards of township trustees of those townships have adopted a resolution opposing the issuance of a certificate under division (A)(6)(c) of this section, the power siting board may determine that the portions of the utility facility located in the energy development districts of the townships that did

not adopt a resolution serve the public interest, convenience, 303
and necessity. 304

(7) In addition to the provisions contained in divisions 305
(A) (1) to (6) of this section and rules adopted under those 306
divisions, what its impact will be on the viability as 307
agricultural land of any land in an existing agricultural 308
district established under Chapter 929. of the Revised Code that 309
is located within the site and alternative site of the proposed 310
major utility facility. Rules adopted to evaluate impact under 311
division (A) (7) of this section shall not require the 312
compilation, creation, submission, or production of any 313
information, document, or other data pertaining to land not 314
located within the site and alternative site. 315

(8) That the facility incorporates maximum feasible water 316
conservation practices as determined by the board, considering 317
available technology and the nature and economics of the various 318
alternatives. 319

(B) If the board determines that the location of all or a 320
part of the proposed facility should be modified, it may 321
condition its certificate upon that modification, provided that 322
the municipal corporations and counties, and persons residing 323
therein, affected by the modification shall have been given 324
reasonable notice thereof. 325

(C) A copy of the decision and any opinion issued 326
therewith shall be served upon each party. 327

Sec. 4906.101. (A) For purposes of this section, "utility 328
facility" has the same meaning as in section 519.215 of the 329
Revised Code. 330

(B) (1) The power siting board shall not grant a 331

certificate for the construction, operation, and maintenance of 332
a utility facility, or an amendment to an existing certificate, 333
either as proposed or as modified by the board, to be 334
constructed in the unincorporated area of a township, unless the 335
utility facility is to be located in an energy development 336
district as designated by the board of township trustees under 337
section 519.217 of the Revised Code. 338

(2) The certificate or amendment shall only be approved if 339
the type of utility facility to be constructed corresponds to 340
the type of construction permitted within the district. 341

(C) The power siting board shall not grant a certificate 342
or amendment for a utility facility that extends beyond the 343
boundaries of a district or districts. 344

Sec. 4906.20. (A) No person shall commence to construct an 345
economically significant wind farm in this state without first 346
having obtained a certificate from the power siting board. An 347
economically significant wind farm with respect to which such a 348
certificate is required shall be constructed, operated, and 349
maintained in conformity with that certificate and any terms, 350
conditions, and modifications it contains. A certificate shall 351
be issued only pursuant to this section. The certificate may be 352
transferred, subject to the approval of the board, to a person 353
that agrees to comply with those terms, conditions, and 354
modifications. 355

(B) The board shall adopt rules governing the 356
certificating of economically significant wind farms under this 357
section. Initial rules shall be adopted within one hundred 358
twenty days after June 24, 2008. 359

(1) (a) The rules shall provide for an application process 360

for certificating economically significant wind farms that is 361
identical to the extent practicable to the process applicable to 362
certificating major utility facilities under sections 4906.06, 363
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 364
Revised Code and shall prescribe a reasonable schedule of 365
application filing fees structured in the manner of the schedule 366
of filing fees required for major utility facilities. 367

(b) (i) The rules shall require a certification 368
application, or an amendment to an existing certificate, to 369
include a copy of the wind turbine manufacturer's safety 370
specifications, including the manufacturer's recommended safety 371
distances for the wind turbines described in the application, if 372
such recommendations exist. 373

(ii) The rules shall require that any safety 374
specifications submitted as part of a certification application, 375
or amendment to an existing certification, be made available for 376
review by the public and shall set forth the manner in which 377
they shall be made available. 378

(2) Additionally, the rules shall prescribe reasonable 379
regulations regarding any wind turbines and associated 380
facilities of an economically significant wind farm, including, 381
but not limited to, their location, erection, construction, 382
reconstruction, change, alteration, maintenance, removal, use, 383
or enlargement and including erosion control, aesthetics, 384
recreational land use, wildlife protection, interconnection with 385
power lines and with regional transmission organizations, 386
independent transmission system operators, or similar 387
organizations, ice throw, sound and noise levels, blade shear, 388
shadow flicker, decommissioning, and necessary cooperation for 389
site visits and enforcement investigations. 390

(a) The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be ~~equal~~ one of the following, whichever is greater:

(i) Equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and be at least one thousand one hundred twenty-five feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the property line of the nearest adjacent property at the time of the certification application;

(ii) One of the following:

(I) The safety distance, in case of fires, thunderstorms, or any other hazard recommended in the wind turbine manufacturer's safety specifications for the wind turbines described in the certification application or those of a comparable design, if no such specifications exist for the model described in the certification application, if the distance is measured from the property line of the nearest adjacent property;

(II) If the safety distance recommended in division (B) (2) (a) (ii) (I) of this section is not measured from the property line of the nearest adjacent property, that distance as measured from the property line of the nearest adjacent property at the time of the certification application.

(b) (i) 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 420
of the amendment of this section by H.B. 59 of the 130th general 421
assembly, September 29, 2013, the distance shall be seven 422
hundred fifty feet instead of one thousand one hundred twenty- 423
five feet. 424

(ii) Any amendment made to an existing certificate after 425
the effective date of the amendment of this section by H.B. 483 426
of the 130th general assembly, September 15, 2014, shall be 427
subject to the setback provision of this section as amended by 428
that act. The amendments to this section by that act shall not 429
be construed to limit or abridge any rights or remedies in 430
equity or under the common law. 431

(c) The setback shall apply in all cases except those in 432
which all owners of property adjacent to the wind farm property 433
waive application of the setback to that property pursuant to a 434
procedure the board shall establish by rule and except in which, 435
in a particular case, the board determines that a setback 436
greater than the minimum is necessary. 437

Sec. 4906.201. (A) ~~An electric generating plant that~~ 438
~~consists of wind turbines and associated facilities with a~~ 439
~~single interconnection to the electrical grid that is designed~~ 440
~~for, or capable of, operation at an aggregate capacity of fifty~~ 441
~~megawatts or more~~ A large wind farm is subject to the minimum 442
setback requirements established in rules adopted by the power 443
siting board under division (B) (2) of section 4906.20 of the 444
Revised Code. 445

(B) (1) For any existing certificates and amendments 446
thereto, and existing certification applications that have been 447
found by the chairperson to be in compliance with division (A) 448
of section 4906.06 of the Revised Code before the effective date 449

of the amendment of this section by H.B. 59 of the 130th general 450
assembly, September 29, 2013, the distance shall be seven 451
hundred fifty feet instead of one thousand one hundred twenty- 452
five feet. 453

(2) Any amendment made to an existing certificate after 454
the effective date of the amendment of this section by H.B. 483 455
of the 130th general assembly, September 15, 2014, shall be 456
subject to the setback provision of this section as amended by 457
that act. The amendments to this section by that act shall not 458
be construed to limit or abridge any rights or remedies in 459
equity or under the common law. 460

Section 2. That existing sections 4906.01, 4906.10, 461
4906.20, and 4906.201 of the Revised Code are hereby repealed. 462

Section 3. (A) For an application pending on the effective 463
date of this section for a certificate for the construction, 464
operation, and maintenance of a utility facility, as defined in 465
section 519.215 of the Revised Code, the power siting board 466
shall determine that the facility does not serve the public 467
interest, convenience, and necessity, if the following apply: 468

(1) A board of township trustees adopts a resolution 469
opposing the issuance of a certificate for the utility facility, 470

(2) The resolution adopted by the board of township 471
trustees meets the following requirements: 472

(a) It applies to a utility facility to be located in the 473
township governed by the board adopting the resolution; 474

(b) The power siting board receives the resolution by one 475
of the following dates, whichever occurs first: 476

(i) The date that is not later than 90 days after the 477

adjudicatory hearing on the certificate application; 478

(ii) Any date before the board issues the certificate. 479

(B) If a utility facility is to be located in energy 480
development districts of multiple townships and less than all of 481
the boards of township trustees of those townships have adopted 482
resolutions opposing the issuance of a certificate for the 483
utility facility, the power siting board may determine that the 484
portions of the utility facility located in the energy 485
development districts of the townships that did not adopt a 486
resolution serve the public interest, convenience, and 487
necessity. 488

Section 4. Notwithstanding sections 519.217 and 4906.101 489
of the Revised Code, the power siting board may grant a 490
certificate for the construction, operation, and maintenance of 491
a utility facility, as defined in section 519.215 of the Revised 492
Code, or an amendment to an existing certificate for such a 493
facility, to be constructed outside of a township energy 494
development district if the following requirements are met: 495

(A) An application for a certificate for the construction, 496
operation, and maintenance of a utility facility has been 497
determined complete and accepted as of the effective date of 498
this section. 499

(B) The applicant has paid the application filing fee. 500