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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of House Committee Amendments

(This synopsis does not address amendments that may have been adopted on the House Floor.)

### S.B. 52 of the 134<sup>th</sup> General Assembly

#### House Public Utilities

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As Passed by Senate	As Reported by H. Public Utilities
<b>Energy development district in county</b>	
<p>Permits a board of county commissioners to adopt a resolution, subject to referendum, designating all or part of the unincorporated area of the county as an energy development district to allow construction of a <b>utility facility</b> (large solar facility (LSF – 50 MW or more), large wind farm (LWF – 50 MW or more), or economically significant wind farm (ESWF – generally refers to facilities of 5 to less than 50 MW)). Provides that no person can construct, and the Power Siting Board (PSB) cannot grant a certificate or an amendment to an existing certificate for, a utility facility in an unincorporated area of a county that has not been designated as an energy development district in a county in which one or more energy development districts have been created. (R.C. 303.57, 303.58, 303.59, 303.60, 4906.01, 4906.10(A), and 4906.101.)</p>	<p>No provision.</p>
<b>Material amendments to existing PSB certificates</b>	
<p>Applies the bill’s provisions to any application for <i>an amendment</i> to an existing PSB certificate for a utility facility (R.C. 303.61).</p>	<p>Applies the bill’s provisions to any application for <i>a material amendment</i> to an existing PSB certificate for a utility facility.</p> <p>The bill defines “material amendment” as an amendment to an existing PSB certificate for a utility facility that (1) changes the facility’s generation type from one type of utility facility to</p>

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	<p>another, (2) increases the facility's nameplate capacity, or (3) changes the boundaries of the facility, unless the new boundaries of the facility are completely within the previous boundaries of the facility or the facility components outside the previous boundary are underground. For LWFs and ESWFs, a material amendment also includes (1) any increase of the number of wind turbines or (2) any increase in the height of a wind turbine. The addition of a battery storage system to a utility facility does not constitute a material amendment. <i>(R.C. 303.57 to 303.62, 4906.02 to 4906.025, 4906.101 to 4906.103, 4906.21 to 4906.222, 4906.30, and 4906.31.)</i></p>
<b>Utility facility restricted area in county</b>	
<p>No provision.</p>	<p>Permits a board of county commissioners to adopt a resolution, subject to referendum, designating a restricted area, prohibiting the construction of any or all utility facilities in all, or in part, of the unincorporated areas of the county. Provides that no person can apply, and PSB cannot grant a certificate, or a material amendment to an existing certificate, for a utility facility in an unincorporated area of a county designated a restricted area that prohibits construction of that kind of facility. The resolution does not apply to a utility facility that was presented to board of county commissioners and the board did not adopt a resolution prohibiting the construction of the facility. <i>(R.C. 303.57 to 303.62, 4906.01, 4906.10(A), and 4906.101.)</i></p>
<b>Board of county commissioners resolution prohibiting utility facilities</b>	
<p>Permits a board of county commissioners to adopt a resolution prohibiting the construction of any or all utility facilities in the county. Provides that if such a resolution is adopted, no person can file, and PSB cannot accept, an application for a certificate or amendment to a certificate for the prohibited utility facility. <i>(R.C. 303.61.)</i></p>	<p>No provision.</p>

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<b>Board of county commissioners: meeting notice regarding restricted area resolution</b>	
No provision.	<p>Requires a board of county commissioners to do the following at least 30 days prior to a regular or special board meeting regarding discussion of a resolution to designate a restricted area prohibiting construction of any or all types of utility facilities:</p> <ul style="list-style-type: none"> <li>▪ Provide public notice of the date and time of the meeting once in a newspaper of general circulation in the county;</li> <li>▪ Publicly post, at all of the county's public libraries, a map showing the proposed restricted area boundaries;</li> <li>▪ Provide written notice of the meeting, by first class mail, to all school districts, municipal corporations, and boards of townships trustees located within, or partially within, the proposed restricted area boundaries.</li> </ul> <p>(R.C. 303.58(C)(2)).</p>
<b>Board of county commissioners: meeting notice regarding restricted area resolution modifications</b>	
No provision.	<p>Applies the meeting and notice requirements described above when a board of county commissioners plans to modify a previously adopted restricted area resolution</p> <p>(R.C. 303.58(C)(3)).</p>
<b>Public meeting prior to PSB certificate or amendment application</b>	
<p>Requires a person, at least 90 days, but not more than <i>nine months</i>, before applying to PSB for a certificate, or a material amendment to a certificate, for a utility facility to hold a public meeting in each county where the facility is to be located (R.C. 303.62(A)).</p>	<p>Requires the person to hold the public meeting at least 90 days, but not more than <i>300 days</i>, prior to applying to PSB for the certificate or amendment (R.C. 303.61(A)).</p>

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<b>PSB application acceptance requirements</b>	
Refers to <i>PSB</i> certificate and material amendment applications determined (or not determined) to be <i>complete and accepted by PSB (R.C. 4906.31; Section 3)</i> .	Changes the phrase <i>complete and accepted by the board</i> to the phrase <i>found to be in compliance with division (A) of section 4906.06 of the Revised Code by the chairperson of PSB or the chairperson's designee and accepted by [PSB]</i> to clarify that the PSB chairperson, or the chairperson's designee, not PSB, determines whether an application for a utility facility is complete and complies with the application requirements of PSB law ( <i>R.C. 4906.022 and 4906.31; Sections 3 to 5</i> ).
<b>Ad hoc PSB members: Voting members</b>	
No provision.	Specifies that the ad hoc PSB members are authorized for "voting" ( <i>R.C. 4906.02, 4906.021, 4906.022, 4906.023, 4906.024, and 4906.025</i> ).
<b>Ad hoc PSB members: Conflict of interest regarding intervening family member</b>	
No provision.	Provides that no person may serve as an ad hoc PSB member if the person has an immediate family member who has intervened in the PSB proceeding for which the ad hoc member is included ( <i>R.C. 4906.021(D)(1)(e)</i> ).
<b>Ad hoc PSB members: When designated</b>	
No provision.	Requires that a board of county commissioners and a board of township trustees each designate one ad hoc PSB member each, not later than 30 days after receiving notice that an application for a utility facility has been determined to be complete and accepted by PSB ( <i>R.C. 4906.022</i> ).
<b>Ad hoc PSB members: Political subdivision requirement</b>	
No provision.	Requires ad hoc members to PSB that are designees of either the chairperson of the board of township trustees or the president of the board of county commissioners must be (1) another elected official from the same political subdivision or (2) a resident of the political subdivision ( <i>R.C. 4906.022(E)</i> ).

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<b>Ad hoc PSB members: Voting on intervention restrictions</b>	
No provision.	Provides that if a board of township trustees or board of county commissioners seeks to adopt a resolution to intervene in a PSB proceeding for which it is entitled to have an ad hoc PSB member, the member shall not vote on the resolution unless the ad hoc PSB member designates as the ad hoc member (1) another elected official from the same political subdivision or (2) a resident of the political subdivision ( <i>R.C. 4906.023</i> ).
<b>Ad hoc PSB members: Ex parte communications</b>	
No provision.	Exempts ad hoc PSB members from limits on ex parte communications with any party to a PSB proceeding, but requires the ad hoc member and the party to disclose (1) the date of the conversation and (2) all participants to the conversation who are parties ( <i>R.C. 4906.024</i> ).
<b>Ad hoc PSB members: Confidential information</b>	
No provision.	Prohibits present and former ad hoc PSB members from disclosing or using, without appropriate authorization, information acquired in the course of official duties that is confidential because of either of the following: <ul style="list-style-type: none"> <li>▪ Statutory law;</li> <li>▪ Notice the ad hoc member received designating the information as confidential and both of the following apply: <ul style="list-style-type: none"> <li>▫ The status of the proceedings, or the circumstances under which the information was received, warrants its confidentiality;</li> <li>▫ Preserving its confidentiality is necessary to the proper conduct of governmental activities. (<i>R.C. 4906.025.</i>)</li> </ul> </li> </ul>

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<b>Pending applications subject to prohibition or geographic limitation resolution</b>	
<p>Subjects any application that has been filed with, but not determined to be complete and accepted by, PSB as of the effective date of the bill. Provides that any application not determined complete and accepted by PSB prior to the effective date of the bill is subject to review by the board of county commissioners of the county in which the utility facility is to be located. <i>(Section 3.)</i></p>	<p>Subjects any application for a certificate or material amendment to an existing certificate for an ESWF or a LWF that has been filed with, but not been determined to be complete and accepted by, PSB not later than 30 days after the effective date of the bill. Provides that any application not determined complete and accepted by PSB not later than 30 days after the effective date of the bill is subject to review by the board of county commissioners of the county in which the ESWF or LWF is to be located. <i>(Section 3.)</i></p>
<b>Bill not applicable to LSFs in certain cases</b>	
<p>No provision.</p>	<p>Provides that applications for a certificate or material amendment to an existing certificate for a LSF is not subject to the provisions of the bill if the LSF is in the PJM interconnection and regional transmission organization, L.L.C., new services queue at the time the application is determined to be complete and is accepted by the board and, as of the effective date of the bill, the applicant has (1) received a completed system impact study from PJM of the LSF and (2) has paid the filing fee for the facilities study to PJM. Provides that a LSF that meets the above requirements and has multiple positions in the new services queue under the same legal entity as the applicant, all the queue positions in effect on the bill's effective date are exempt from the bill. Provides, however, if after the effective date of the bill, the applicant files an additional new service request with PJM pertaining to the LSF, the application is subject to review by the board of county commissioners of the county in which the LSF is to be located. <i>(Section 4.)</i></p>
<b>PJM new services queue</b>	
<p>No provision.</p>	<p>Specifies that if, after the bill's effective date, a large solar facility submits a new queue position for an increase in its capacity interconnection rights in order to participate in PJM's capacity market, the facility is not subject to the bill's</p>

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	restricted area and other provisions if the change to its capacity interconnection rights does not expand the facility's nameplate capacity ( <i>Section 4(D)</i> ).
<b>Ad hoc PSB member provisions applicable to pending applications</b>	
No provision.	Provides that, for all PSB proceedings under which an application for a certificate, or a material amendment to an existing certificate, for a utility facility that has not been determined to be complete and accepted by PSB as of the effective date of the bill, PSB shall include the ad hoc members required by the bill ( <i>Section 5</i> ).
<b>Decommissioning requirements for utility facilities</b>	
No provision.	Requires an applicant for a certificate or a material amendment to an existing certificate for a utility facility to submit a comprehensive decommissioning plan for the facility for PSB to review and approval 60 days before beginning construction. Requires the plan to be prepared by a professional engineer, designate the responsible parties for decommissioning, and include a schedule and cost estimates for decommissioning. Requires the posting of a performance bond before construction may begin. ( <i>R.C. 4906.21, 4906.211, 4906.212, 4906.22, 4906.221, and 4906.222.</i> )