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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 52
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 52's Bill Analysis](#)

Version: As Enacted

Primary Sponsors: Sens. Reineke and McColley

Local Impact Statement Procedure Required: No

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Highlights

- The bill would permit a board of county commissioners, through a resolution, to designate all or part of the unincorporated area of the county as a restricted area to prohibit the construction of an economically significant wind farm, a large wind farm, or a large solar facility.¹ A copy of the adopted resolution must be filed with the office of the county recorder and with the county or regional planning commission, if applicable. Notice requirements for a meeting to pass a resolution would increase county costs minimally, but are permissive for the county.
- Permitting residents of a county to petition the board to put the restricted area designation before county voters may result in each applicable precinct incurring minimal costs to conduct an election.
- The bill prohibits the Ohio Power Siting Board (OPSB) from granting a new certificate, or a material amendment to an existing certificate for the construction, operation, or maintenance of a utility facility under certain circumstances. Adding two ad hoc members to the OPSB for applications related to a certificate or a material amendment to an existing certificate for a utility facility as defined by the bill would have a minimal or no

¹ An economically significant wind farm refers to wind turbines and associated facilities with a single interconnection with the electrical grid capable of generating at least five megawatts (MWs) but not more than 50 MWs. A large solar facility or large wind farm means an electric generating plant that consists of solar panels and associated facilities or wind turbines and associated facilities with a single interconnection to the electrical grid that is a major utility facility.

fiscal effect, as the bill does not specify any compensation or reimbursement of costs for such members.

- If a board of county commissioners adopts a restricted area designation, local taxing jurisdictions would lose millions of dollars in annual property tax revenue they would have received if the utility facility had been placed into service. Such a result would be permissible for the county involved, but other political subdivisions that overlap the county, primarily school districts, could lose such revenue due to the board's decision.

Detailed Analysis

The bill modifies conditions for the Ohio Power Siting Board (OPSB) in granting a new certificate, or a material amendment² to an existing certificate for the construction, operation, or maintenance of a utility facility, prohibiting OPSB from granting such certificates for the utility facility in an unincorporated area of a county designated as a restricted area by the board of county commissioners under the bill. A board of county commissioners is permitted to establish a restricted area to designate all or part of the unincorporated area of the county, by resolution, to prohibit the construction of a large solar facility, a large wind farm, or an economically significant wind farm. The bill specifies notice requirements for a board, prior to any meeting to discuss a resolution related to a restricted area designation. If such a resolution is passed, the bill establishes procedures for residents of the county to petition the board to hold a voter referendum on whether to establish the restricted area.³

The bill specifies requirements for an applicant for a new certificate, or a material amendment to an existing certificate for a utility facility, to be located in whole or in part in the unincorporated area of a county; those requirements include submission of a plan for future decommissioning of the facility.

The bill also requires OPSB to include two ad hoc members in all cases involving an application for a new certificate or a material amendment to an existing certificate for a utility facility, as defined in the bill. The bill specifies requirements related to such ad hoc members.

Ohio Power Siting Board

The bill does not specify whether ad hoc members of the Power Siting Board are to receive compensation or reimbursement of expenses. But overseeing decommissioning plans is a new function of the board. While the bill does not specify what actions OPSB should take with regard to decommissioning plans, it seems implicit that the board should store them and refer to them over the life of a utility facility. It may be that OPSB administrative costs would increase slightly due to the new responsibility.

² The term "material amendment" is defined in Section 303.57 of the bill. The bill specifies that if 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 provisions if change to its capacity interconnection rights does not expand the facility's nameplate capacity.

³ The bill specifies that its requirements apply to any application that has been filed with, but has not been determined to be complete and accepted by OPSB as of the effective date of the bill, and subjects such applications to review by the applicable board of county commissioners. Please see the LSC bill analysis for more details about the bill's provisions.

OPSB activities are funded by appropriation line item 870606, Power Siting Board, in the Public Utilities Commission budget. That line item is funded by fees submitted along with applications for certification of a facility; the application fees are unchanged by the bill.

Local referendum and other costs

The referendum provisions of the bill could result in additional election costs for county boards of elections; the costs would depend on the timing of the referendum and the number of precincts involved in the referendum. The Secretary of State (SOS) estimates that the per-precinct costs for conducting elections range from \$800 to \$1,500 based on a number of factors such as size and location. Smaller and rural precincts tend to have lower costs than larger precincts, which are generally in urban areas.

The costs of primary and general elections held during even-numbered years are borne by the applicable county board of elections. In these cases, only the ballot advertising costs for the referendum under the bill would be paid by the participating subdivisions. However, for primary and general elections that occur in odd-numbered years, political subdivisions holding an election are responsible for a proportional share of the cost based upon a per-precinct ratio calculated by the county board of elections in addition to the referendum's ballot advertising costs. Ballot advertising costs vary widely based on the length of the measure appearing on the ballot. Additionally, the number of publications in which the referendum language appears would also impact the ballot advertising costs.

Furthermore, in odd-numbered year elections, the costs of the restricted area referendum process in the bill would depend on whether the participating political subdivisions had other candidates or measures on the ballot. If the restricted area referendum were among other items on the ballot, then there would be some additional incremental cost. However, there could be situations when a restricted area referendum was the only item on the ballot. In these cases, the costs for holding the referendum election would ultimately depend on the number of voting precincts involved in the referendum measure.

The notice requirements for boards of county commissioners prior to meetings to pass a restricted area resolution may increase costs for the county. The requirements include a public notice in a newspaper and mailings to all school districts, municipal corporations, and boards of township trustees located in whole or in part in the proposed area. Any such costs would be permissive for the county.

Local revenue impact

The primary effect of the bill on local revenues would depend on the number of pending applications and future applications to OPSB to site relevant wind and solar generating facilities in the state. Table 1 below shows three wind energy projects that had applications pending before OPSB as of June 11, 2021, while Table 2 shows 24 solar facilities with a capacity rating of 50 MWs or greater that had applications pending before OPSB as of June 25, 2021.

Project Name	County	MWs	Application Filing Date	OPSB Case Number
Republic	Seneca, Sandusky	200	02/02/2018	17-2295-EL-BGN
Emerson Creek	Erie, Huron	297.7	01/31/2019	18-1607-EL-BGN

Table 1. Wind Farm Applications Pending before the Ohio Power Siting Board

Project Name	County	MWs	Application Filing Date	OPSB Case Number
Grover Hill	Paulding	150	05/03/2021	20-0417-EL-BGN

Source: [Power Siting Wind Case Status](#), as of June 11, 2021**Table 2. Pending and Pre-Application Solar Facilities (50 MWs or greater)**

OPSB Case Number	Project Name	Filing Date	County	MWs
20-1084-EL-BGN	Powell Creek	10/07/2020	Putnam	150
20-0931-EL-BGN	Fox Squirrel	10/14/2020	Madison	577
20-1362-EL-BGN	Clearview	12/18/2020	Champaign	144
20-1380-EL-BGN	Ross County	10/30/2020	Ross	120
20-1405-EL-BGN	Union County	12/24/2020	Union	325
20-1529-EL-BGN	Wheatsborough	02/11/2021	Erie	125
20-1605-EL-BGN	Birch	02/12/2021	Allen, Auglaize	300
20-1612-EL-BGN	Mark Center	12/18/2020	Defiance	110
20-1677-EL-BGN	Cadence	02/01/2021	Union	275
20-1678-EL-BGN	Hardin III	02/11/2021	Hardin	300
20-1679-EL-BGN	Pleasant Prairie	02/19/2021	Franklin	250
20-1680-EL-BGN	Yellow Wood	02/24/2021	Clinton	300
20-1757-EL-BGN	Union Ridge	03/26/2020	Licking	108
20-1760-EL-BGN	Juliet	03/12/2021	Wood	101
20-1762-EL-BGN	Sycamore Creek	02/12/2021	Crawford	117
20-1814-EL-BGN	Dodson Creek	05/27/2021	Highland	117
21-0004-EL-BGN	Tymochtee	04/29/2021	Wyandot	120
21-0036-EL-BGN	Marion County	03/05/2021	Marion	100
21-0041-EL-BGN	Palomino	pre-application	Highland	200
21-0117-EL-BGN	Kingwood	04/16/2021	Greene	175
21-0270-EL-BGN	Nottingham	pre-application	Harrison	100
21-0277-EL-BGN	Border Basin	06/15/2021	Hancock	120
21-0293-EL-BGN	Cepheus	pre-application	Defiance	68
21-0669-EL-BGN	South Branch	pre-application	Hancock	205
Total				4507.0

Source: [Power Siting Solar Case Status](#), as of June 25, 2021

Since the proposed facilities have not been placed into service, they are not yet subject to property taxation. If they became operational, the facilities would bring millions of dollars of annual revenue to the local taxing authorities, but the declaration of a restricted area under the bill could nullify those potential gains. Any revenue loss for the county would be permissive, but there would be revenue losses to other political subdivisions located within the county that would not be permissive.

Similarly, the bill may result in a board of county commissioners nullifying property tax revenue that would otherwise result from future applications for wind farms. The prospective revenue impact would vary depending on whether a given utility facility project is taxable, or if the project's owner instead received a tax benefit that significantly reduces their payments to applicable political subdivisions.

The bill also applies the county commissioner oversight to amendments to existing certificates already approved by OPSB and such lists of approved projects and facilities are available on the OPSB website.⁴ The oversight process may provide a disincentive for project owners to amend their existing certificates, so it is unclear to LBO how often owners of approved wind farms would initiate a change.

Prospective school district receipts

Generally, school districts are the largest recipients of property tax revenue for a given taxing district. A school district's share often exceeds 60% of the total amount levied by all governmental authorities. Consequently, school districts would financially benefit the most from additional revenue attributed to utility facilities. If a board of county commissioners establishes a restricted area, the school districts' potential revenue gains would not materialize.

The wind farms and solar facilities with applications pending before OPSB have disclosed potential wind turbine or solar facilities sites to OPSB, the Federal Aviation Administration,⁵ or both. The wind farms' and solar facilities' developers submitted their anticipated project costs in applications before OPSB, but those amounts were redacted to the public. In addition, estimated tax revenues to applicable counties, townships, and municipalities were included in their applications.

To illustrate the estimated effects on property tax revenue, LBO staff used projected costs reported by the wind farms' developers, which were consistent with wind projects reported by the U.S. Department of Energy's annual "Wind Technologies Market Report." The 2018 edition noted that recently completed projects in the Great Lakes region cost \$1.6 million per MW.⁶ Wind turbines would be classified as public utility tangible personal property if they were placed into service. The taxable value of this type of property equals 24% of its "true value" (e.g., installed

⁴ Information related to operational, approved, pending, and pre-application wind farms, including location of such farms is included in the [Power Siting Wind Case Status as of 5/7/2021](#). Information related to approved, pending, and pre-application solar facilities, including location of such facilities is included in the [Power Siting Solar Case Status as of 5/7/2021](#).

⁵ <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

⁶ See Figure 49, <https://www.energy.gov/eere/wind/downloads/2018-wind-technologies-market-report>.

cost less depreciation), which is about \$0.4 million per MW in the first taxable year. Tax rates vary in this region, but a typical school district levies about 40 mills, which would raise \$16,000 per MW.⁷ Thus estimated school district property tax revenue from one MW of wind farm property would initially be about \$16,000 in the first year the property was installed.

The estimated \$16,000 per MW exceeds a school district's likely share of payments in lieu of taxes (PILOTs). The maximum PILOT value permitted under codified law would yield about \$5,700 per MW, which is about 63% of the maximum. The PILOT pays a fixed amount to all local taxing authorities over the wind turbine's lifespan. In contrast, personal property tax receipts would decline over 30 years as wind turbines depreciate throughout their useful life. Actual amounts vary on a number of forthcoming decisions by the utility facility developers (site selection, turbine model selection, etc.) as well as ballot questions determined by the applicable voters.

⁷ Multiply \$0.4 million by 40 mills (or 4%) to yield \$16,000.