



# Ohio Legislative Service Commission

## Bill Analysis

Maura McClelland

### H.B. 190

131st General Assembly  
(As Introduced)

Reps. Burkley and Brown

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## BILL SUMMARY

- Permits a board of county commissioners to adopt an alternative setback requirement for a wind farm under which a turbine must be 1,125 feet in horizontal distance from the tip of the turbine's nearest blade at 90 degrees to the exterior of the nearest, habitable, residential structure on adjacent property.
- Permits the board to revoke the resolution, but allows that the resolution may still apply to a wind farm if the person seeking to build the wind farm files notice before the revocation.
- Permits the Power Siting Board to increase the alternative setback for any specific wind turbine in order to preserve the health, safety, and welfare of neighboring property owners.
- Extends by five years the deadlines by which the owner or lessee of a qualified energy project must meet certain requirements to qualify for an ongoing real and tangible personal property tax exemption.

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## CONTENT AND OPERATION

### County resolution for alternative wind farm setback

The bill permits a board of county commissioners to adopt, for either one specific wind farm proposed to be located within the county or for any future wind farms proposed to be located within the county, a resolution establishing an alternative minimum setback requirement. This alternative setback is:

- Equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to 1.1 times the total height of the turbine structure as measured from its base to the tip of its highest blade; and
- At least 1,125 feet in horizontal distance from the tip of the turbine's nearest blade at 90 degrees to the exterior of the nearest, habitable, residential structure, if any, located on adjacent property at the time that the certification application is filed.<sup>1</sup>

## **Background**

The alternative setback under the bill is what was required prior to the enactment of Am. Sub. H.B. 483 of the 130th General Assembly. Under H.B. 483, the second prong of the setback was changed from 90 degrees to the exterior of the nearest, habitable, residential structure to 90 degrees to the *property line* of the *nearest adjacent property*.<sup>2</sup> Under continuing law, the Power Siting Board has authority to issue certificates for the construction of wind farms and other utility facilities.<sup>3</sup>

The bill's alternative setback is available for any size of wind farm that is subject to the current setback requirement. Wind farms designed for, or capable of, operation at an aggregate capacity of under five megawatts are not subject to regulation by the Power Siting Board.<sup>4</sup>

## **Consultation with the Power Siting Board**

The bill permits the county board, before adopting the resolution for the alternative setback, to consult with the Power Siting Board. Any costs related to the consultation must be paid by the person seeking to construct the wind farm.<sup>5</sup>

## **Revoking a resolution**

The county board may revoke the resolution at any time, unless a person seeking to construct a wind farm to which the resolution applies files notice of the intent to construct the wind farm with the board. In this case, the board may still revoke the resolution after the notice is filed, but the resolution that was revoked remains

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<sup>1</sup> R.C. 4906.211.

<sup>2</sup> R.C. 4906.20 of Am. Sub. H.B. 483 of the 130th General Assembly.

<sup>3</sup> R.C. 4906.20.

<sup>4</sup> R.C. 4906.21 and 4906.211.

<sup>5</sup> R.C. 4906.212.



applicable to provide authority for construction of the wind farm for which the notice was filed.<sup>6</sup>

### **Increasing the setback because of health, safety, and welfare**

The bill permits the Power Siting Board to increase the alternative setback for any specific wind turbine in order to preserve the health, safety, and welfare of neighboring property owners.<sup>7</sup>

### **Authority of Power Siting Board**

The bill states that none of its provisions contravene the Power Siting Board's ultimate authority to issue certificates for the construction of wind farms.<sup>8</sup>

### **Qualified energy project tax exemption**

The bill extends by five years the deadlines by which the owner or lessee of a qualified energy project must submit a property tax exemption application, submit a construction commencement application, begin construction, and place into service an energy facility in order to qualify for an ongoing real and tangible personal property tax exemption available to electric companies and rural electric companies.

Under continuing law, a "qualified energy project" means a project certified by the Director of Development Services as a project to provide electric power through the construction, installation, and use of an energy facility. An "energy facility" means wind turbines, solar panels, or other tangible personal property or buildings, structures, improvements, and fixtures used to generate electricity from renewable energy resources (wind, solar, biomass, etc.) or advanced energy (clean-coal technology, advanced nuclear, or cogeneration) that are owned by the same person. A "rural electric company" is any nonprofit corporation, organization, association, or cooperative engaged in supplying electricity to its members or persons owning an interest therein in an area that is mostly rural. An "electric company" is engaged in the business of generating, transmitting, or distributing electricity in Ohio for use by others (and does not include a rural electric company).<sup>9</sup>

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<sup>6</sup> R.C. 4906.213.

<sup>7</sup> R.C. 4906.214.

<sup>8</sup> R.C. 4906.215.

<sup>9</sup> R.C. 5727.75; R.C. 5727.01, not in the bill.



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## HISTORY

ACTION

DATE

Introduced

05-06-15

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