



**Opponent Testimony - Ohio House Bill 401 (Reineke)  
Miranda Leppla, Vice President of Energy Policy  
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Chair Vitale, Vice-chair Kick, Ranking Member Denson and members of the House Energy & Natural Resources Committee; my name is Miranda Leppla and I'm the Vice President of Energy Policy for the Ohio Environmental Council Action Fund. Thank you for allowing me to provide testimony on HB 401.

Our organization, celebrating its 50th anniversary this year, works to secure healthy air, land and water for all who call Ohio home. The OEC Action Fund is opposed to HB 401 because it singles out wind generation from all other forms of generation in the state. Simply put, no other form of generation that is required to be approved through the permitting process at the Ohio Power Siting Board is subject to a referendum process at the township level. Such unequal treatment of wind generation will continue to stymie an industry that has potential to bring \$4.2 billion in economic development to the state of Ohio, and block one of our most important potential sources of clean energy.

The Ohio Power Siting Board's mission is to "support sound energy policies that provide for the installation of energy capacity and transmission infrastructure for the benefit of the Ohio citizens, promoting the state's economic interests, and protecting the environment and land use." As such, the Power Siting Board regulates:

- Electric generating plants with a capacity of 50 megawatts (MW) or more;
- Electric transmission lines and associated facilities of 100 kilovolts (kV) or more;
- Gas pipelines greater than 500 feet in length, more than nine inches in outside diameter, and designed for transporting gas at a maximum allowable operating pressure in excess of 125 pounds per square inch, and;
- Economically significant wind farm which means wind turbines and associated facilities with a single interconnection to the electric grid and designed for, or capable of, operation at an aggregate capacity of 5 or more MW but less than 50 MW.

As introduced, no form of electricity generation, including natural gas, coal and nuclear power, and no transmission infrastructure will be subject to a township referendum under HB 401 other than wind. House Bill 401 gives no opportunity for voters to have a say when it comes to these other facilities that undergo review at the Ohio Power Siting Board, such as oil and gas wells or pipelines running through their townships, making it clear that the legislation singles out wind generation in particular.

Proponents of this legislation have argued that there isn't enough opportunity for public input on wind projects during the Power Siting Board process. To the contrary, the Ohio Power Siting Board does a thorough, in-depth investigation on the projects that come before it for certification and permitting, and there are a number of built-in public participation components to ensure the public has the opportunity to weigh in. In fact, Public Utilities Commission of Ohio and Power Siting Board Chairman Sam Randazzo recently praised the extensive local engagement available in a Duke pipeline case, recognizing that over 1,600 public comments had been received and 115 people had testified. The Chairman recognized that those individuals "provided valuable input in [the] process". The same process described in the Duke pipeline case by Chairman Randazzo is available in all wind cases brought before the Power Siting Board, and in fact, due to interest from the public, the public hearings are often longer and given more time during wind cases. While there is always room for improvement, and the OEC Action Fund welcomes the opportunity to review the public participation for all forms of generation that come before the Siting Board, the process is one that requires public hearings in the area in which projects are to be sited, and allows public comments to be filed as well.

Additionally, the referendum process in HB 401 is problematic for a number of reasons in relation to wind farms. First, permitting a referendum process to move forward *after* the Power Siting Board has already granted a certificate means that a developer that has likely spent years and millions of dollars developing a project might now have it rejected completely, or, have a portion of the project rejected. Because wind farms often span multiple counties in the state, HB 401 would permit each township to hold a referendum and if only one or more townships pass a referendum on the wind farm, that piece of the project might be rejected. Either way, the end result of such a process is that Ohio simply won't have development of wind generation in the state. HB 401 injects great risk in private investment here in Ohio. If enacted, a business that has already invested millions of dollars and years working to site a project in Ohio could suddenly be told it may no longer build a project because of a

referendum. All this could happen *after receiving* a certificate from the state's Power Siting Board telling it that the project has met all of the conditions and requirements necessary to safely build a wind farm. Passage of HB 401 spells the end of wind energy in Ohio, in an already difficult landscape due to extreme setbacks passed in 2014. Our state has seen only one small wind farm sited since the state nearly tripled the setback distance for wind projects, and we continue to hold back over \$4.2 billion in economic development for areas of the state that could really use that investment.

Second, permitting referendum on wind projects is an attack on the property rights of those individuals and families who wish to lease their property. With a reasonable setback distance and approval by the Power Siting Board--the arbiter of sound energy policy for the state--an approved wind project should be permitted to move forward, or the property rights of landowners become subject to the whims of citizens on the other side of their township. If a farmer wants to lease their property to ensure a source of stable income in an ever-increasing unstable climate, where we're seeing flooding and drought impact farmers in ways that hit their pocketbooks, we should be encouraging that action, not subjecting the choices they make about their property to referendum.

Third, HB 401 also adds yet another layer to already complicated and overly burdensome wind turbine setback requirements that have been in place since 2014. The language proposed to be added to R.C. 4906.20(B)(a) means that even where the distance recommended in the manufacturer's safety specifications for the turbines is to be measured from a habitable structure or other requirement, Ohio must measure that distance from the property line of the nearest adjacent property. Choosing a distance recommended by the manufacturer but then applying it to different point of measurement is taking the safety specifications out of context, and could lead to an application of the setbacks completely divorced from what the manufacturer believes is necessary. Ohio's setback distance, which ironically was passed with a complete absence of public dialogue and input on the subject as part of the state operating budget and with less than ten minutes of discussion by the legislature, has stifled the entire wind industry in Ohio, and has prevented the state from reaping approximately \$4.2 billion in economic development, not to mention prevented the 3,300 megawatts of clean, renewable wind power that was proposed to be built prior to the passage of the increased setbacks. Setback distances should be reasonable and rooted in what is necessary to ensure the safety of the public in siting turbines.

Ohio has already made siting wind farms extremely difficult, despite the urgent need to fight climate change by reducing air pollution from the electric power sector. The

OEC Action Fund has a particular focus on the clean energy needs of Ohioans, and we work every day to ensure Ohioans have access to a cleaner, more sustainable future. Shifting Ohio away from dirty energy sources will not only help combat the worst effects of climate change, including the negative impacts on human health, but, especially with wind, could boost the economies of the communities hosting turbines by bringing jobs to the areas, stable lease payments to property owners, and needed tax revenue to school districts. Ohio must end what has amounted to a moratorium on wind energy, rather than digging its heels in with HB 401 and making it more difficult than it is already. HB 401 singles out the wind industry, treating it differently than other forms of generation, despite the fact that, like other forms of generation, it is already appropriately regulated by the Ohio Power Siting Board by both the thorough review the Board does and by gathering public input on projects that come before the Board. There is no place in Ohio for a bill like HB 401, and the OEC Action Fund asks you to vote no so that clean energy has a home in Ohio.

Thank you for allowing me the opportunity to speak in opposition to HB 401. I'd be happy to answer any questions that you may have.