

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 188

Senator Hite

**Cosponsors: Senators Peterson, Manning, Gardner, Dolan, Lehner, Bacon,
LaRose, Beagle, Hottinger, Hackett, Kunze, Eklund, Wilson, Schiavoni**

A BILL

To amend sections 4906.20 and 4906.201 of the 1
Revised Code to revise wind turbine setback 2
provisions for economically significant wind 3
farms. 4

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

Section 1. That sections 4906.20 and 4906.201 of the 5
Revised Code be amended to read as follows: 6

Sec. 4906.20. (A) No person shall commence to construct an 7
economically significant wind farm in this state without first 8
having obtained a certificate from the power siting board. An 9
economically significant wind farm with respect to which such a 10
certificate is required shall be constructed, operated, and 11
maintained in conformity with that certificate and any terms, 12
conditions, and modifications it contains. A certificate shall 13
be issued only pursuant to this section. The certificate may be 14
transferred, subject to the approval of the board, to a person 15
that agrees to comply with those terms, conditions, and 16
modifications. 17

(B) The board shall adopt rules governing the 18
certificating of economically significant wind farms under this 19
section. Initial rules shall be adopted within one hundred 20
twenty days after June 24, 2008. 21

(1) The rules shall provide for an application process for 22
certificating economically significant wind farms that is 23
identical to the extent practicable to the process applicable to 24
certificating major utility facilities under sections 4906.06, 25
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 26
Revised Code and shall prescribe a reasonable schedule of 27
application filing fees structured in the manner of the schedule 28
of filing fees required for major utility facilities. The rules 29
shall require an applicant to do all of the following: 30

(a) Hold a public information meeting not later than 31
ninety days prior to the filing of the application; 32

(b) Provide notice that includes information on both the 33
meeting and the wind turbine setback requirements under division 34
(B) (2) of this section through both of the following methods: 35

(i) Publication in a newspaper of general circulation in 36
the area in which the economically significant wind farm is 37
proposed to be constructed; 38

(ii) A letter to each property owner of, and each tenant 39
residing on, property that abuts the property on which the 40
economically significant wind farm is proposed to be 41
constructed. 42

(2) Additionally, the rules shall prescribe reasonable 43
regulations regarding any wind turbines and associated 44
facilities of an economically significant wind farm, including, 45
but not limited to, their location, erection, construction, 46

reconstruction, change, alteration, maintenance, removal, use, 47
or enlargement and including erosion control, aesthetics, 48
recreational land use, wildlife protection, interconnection with 49
power lines and with regional transmission organizations, 50
independent transmission system operators, or similar 51
organizations, ice throw, sound and noise levels, blade shear, 52
shadow flicker, decommissioning, and necessary cooperation for 53
site visits and enforcement investigations. 54

(a) The rules also shall prescribe a minimum setback for a 55
wind turbine of an economically significant wind farm. That 56
minimum shall be equal to a horizontal distance, from the 57
turbine's base to the property line of the wind farm property, 58
equal to one and ~~one-tenth~~ two-tenths times the total height of 59
the turbine structure as measured from its base to the tip of 60
its highest blade and be at least one thousand ~~one~~ two hundred 61
twenty-five feet in horizontal distance from the tip of the 62
turbine's nearest blade at ninety degrees to ~~property line~~ the 63
exterior of the nearest, habitable, residential structure, if 64
any, located on adjacent property at the time of the 65
certification application. 66

(b) ~~(i)~~ For any existing certificates and amendments 67
thereto, and existing certification applications that have been 68
found by the chairperson to be in compliance with division (A) 69
of section 4906.06 of the Revised Code before the effective date 70
of the amendment of this section by H.B. 59 of the 130th general 71
assembly, September 29, 2013, the distance shall be seven 72
hundred fifty feet ~~instead of one thousand one hundred twenty-~~ 73
~~five feet.~~ 74

~~(ii) Any amendment made to an existing certificate after~~ 75
~~the effective date of the amendment of this section by H.B. 483-~~ 76

~~of the 130th general assembly shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity or under the common law.~~ 77
78
79
80
81

(c) The setback shall apply in all cases except ~~those in which all owners when an owner of property adjacent to the a parcel that abuts a parcel where a wind farm property waive turbine is located waives~~ application of the setback to that ~~property parcel~~ pursuant to a procedure the board shall establish by rule and except in which, in a particular case, the board determines that a setback greater than the minimum is necessary. 82
83
84
85
86
87
88
89

(C) As used in this section, "parcel" has the same meaning as in section 2329.66 of the Revised Code. 90
91

Sec. 4906.201. (A) An electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electrical grid that is designed for, or capable of, operation at an aggregate capacity of fifty megawatts or more is subject to the minimum setback requirements established in rules adopted by the power siting board under division (B) (2) of section 4906.20 of the Revised Code. 92
93
94
95
96
97
98

(B) ~~(1)~~ 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 of the amendment of this section by H.B. 59 of the 130th general assembly, September 29, 2013, the distance shall be seven hundred fifty feet ~~instead of one thousand one hundred twenty-five feet.~~ 99
100
101
102
103
104
105
106

~~(2) Any amendment made to an existing certificate after~~ 107
~~the effective date of the amendment of this section by H.B. 483~~ 108
~~of the 130th general assembly, shall be subject to the setback~~ 109
~~provision of this section as amended by that act. The amendments~~ 110
~~to this section by that act shall not be construed to limit or~~ 111
~~abridge any rights or remedies in equity or under the common~~ 112
~~law.~~ 113

Section 2. That existing sections 4906.20 and 4906.201 of 114
the Revised Code are hereby repealed. 115