

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 238**

**Senator Dolan**

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

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**A BILL**

To amend sections 4906.20 and 4906.201 of the 1  
Revised Code regarding wind turbine setbacks for 2  
wind farms of at least five megawatts. 3

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

**Section 1.** That sections 4906.20 and 4906.201 of the 4  
Revised Code be amended to read as follows: 5

**Sec. 4906.20.** (A) No person shall commence to construct an 6  
economically significant wind farm in this state without first 7  
having obtained a certificate from the power siting board. An 8  
economically significant wind farm with respect to which such a 9  
certificate is required shall be constructed, operated, and 10  
maintained in conformity with that certificate and any terms, 11  
conditions, and modifications it contains. A certificate shall 12  
be issued only pursuant to this section. The certificate may be 13  
transferred, subject to the approval of the board, to a person 14  
that agrees to comply with those terms, conditions, and 15  
modifications. 16

(B) The board shall adopt rules governing the 17

certificating of economically significant wind farms under this 18  
section. Initial rules shall be adopted within one hundred 19  
twenty days after June 24, 2008. 20

(1) The rules shall provide for an application process for 21  
certificating economically significant wind farms that is 22  
identical to the extent practicable to the process applicable to 23  
certificating major utility facilities under sections 4906.06, 24  
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 25  
Revised Code and shall prescribe a reasonable schedule of 26  
application filing fees structured in the manner of the schedule 27  
of filing fees required for major utility facilities. The rules 28  
shall require an applicant to do all of the following: 29

(a) Hold a public information meeting not later than 30  
ninety days prior to the filing of the application; 31

(b) Provide notice that includes information on both the 32  
meeting and the wind turbine setback requirements under division 33  
(B) (2) of this section through both of the following methods: 34

(i) Publication in a newspaper of general circulation in 35  
the area in which the economically significant wind farm is 36  
proposed to be constructed; 37

(ii) A letter to each property owner of, and each tenant 38  
residing on, property that abuts the property on which the 39  
economically significant wind farm is proposed to be 40  
constructed. 41

(2) Additionally, the rules shall prescribe reasonable 42  
regulations regarding any wind turbines and associated 43  
facilities of an economically significant wind farm, including, 44  
but not limited to, their location, erection, construction, 45  
reconstruction, change, alteration, maintenance, removal, use, 46

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

(a) The rules also shall prescribe a minimum setback for a 54  
wind turbine of an economically significant wind farm. That 55  
minimum shall be equal to a horizontal distance, from the 56  
turbine's base to the property line of the wind farm property, 57  
equal to one and ~~one-tenth~~ two-tenths times the total height of 58  
the turbine structure as measured from its base to the tip of 59  
its highest blade and be at least one thousand ~~one~~ two hundred 60  
twenty-five feet in horizontal distance from the tip of the 61  
turbine's nearest blade at ninety degrees to ~~property line~~ the 62  
exterior of the nearest, habitable, residential structure, if 63  
any, located on adjacent property at the time of the 64  
certification application. 65

(b) ~~(i)~~ For any existing certificates and amendments 66  
thereto, and existing certification applications that have been 67  
found by the chairperson to be in compliance with division (A) 68  
of section 4906.06 of the Revised Code before the effective date 69  
of the amendment of this section by H.B. 59 of the 130th general 70  
assembly, September 29, 2013, the distance shall be seven 71  
hundred fifty feet ~~instead of one thousand one hundred twenty-~~ 72  
~~five feet.~~ 73

~~(ii) Any amendment made to an existing certificate after~~ 74  
~~the effective date of the amendment of this section by H.B. 483-~~ 75  
~~of the 130th general assembly shall be subject to the setback-~~ 76

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

(c) The setback shall apply in all cases except ~~those in— 81  
which all owners when an owner of property adjacent to the a— 82  
parcel that abuts a parcel where a wind farm property waive— 83  
turbine is located waives~~ application of the setback to that ~~property parcel~~ pursuant to a procedure the board shall ~~84  
85~~ establish by rule and except in which, in a particular case, the ~~86  
87~~ board determines that a setback greater than the minimum is ~~88~~ necessary.

(C) As used in this section, "parcel" has the same meaning 89  
as in section 2329.66 of the Revised Code. 90

**Sec. 4906.201.** (A) An electric generating plant that 91  
consists of wind turbines and associated facilities with a 92  
single interconnection to the electrical grid that is designed 93  
for, or capable of, operation at an aggregate capacity of fifty 94  
megawatts or more is subject to the minimum setback requirements 95  
established in rules adopted by the power siting board under 96  
division (B) (2) of section 4906.20 of the Revised Code. 97

(B) ~~(1)~~ For any existing certificates and amendments 98  
thereto, and existing certification applications that have been 99  
found by the chairperson to be in compliance with division (A) 100  
of section 4906.06 of the Revised Code before the effective date 101  
of the amendment of this section by H.B. 59 of the 130th general 102  
assembly, September 29, 2013, the distance shall be seven 103  
hundred fifty feet ~~instead of one thousand one hundred twenty— 104  
five feet. 105~~

~~(2) Any amendment made to an existing certificate after~~ 106  
~~the effective date of the amendment of this section by H.B. 483~~ 107  
~~of the 130th general assembly, shall be subject to the setback~~ 108  
~~provision of this section as amended by that act. The amendments~~ 109  
~~to this section by that act shall not be construed to limit or~~ 110  
~~abridge any rights or remedies in equity or under the common~~ 111  
~~law.~~ 112

**Section 2.** That existing sections 4906.20 and 4906.201 of 113  
the Revised Code are hereby repealed. 114