# Mid-Atlantic Renewable Energy Coalition

Ohio Senate Energy & Public Utilities Committee
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Testimony of Bruce Burcat, Executive Director
Mid-Atlantic Renewable Energy Coalition

SB 52, Renewable Energy Siting

Chairman McColley and Members of the Committee,

I testify today as an opponent of SB 52 because of the tremendous harm it will bring to Ohio's renewable energy marketplace. At a time when wind and solar energy have never been cheaper and in greater demand, this bill would put up a major barrier to siting projects and take Ohio backwards.

MAREC is a coalition of wind energy and solar companies, and public interest organizations dedicated to promoting renewable energy in the Mid-Atlantic region and beyond. Many of our members are active in Ohio and have collectively invested several billion dollars across the state. They enjoy a rich pipeline of new projects in various stages of development—including some pending at the Siting Board right now, representing tens of millions of tax dollars for schools and localities and thousands of skilled trade construction jobs.

Simply put, we view Substitute SB 52 as a market-killer. It does not materially improve upon the original version and does not reflect industry input.

<u>Eleventh Hour Township Trustee Veto</u>: This version suffers from the same defect as the first iteration of the bill: it introduces a massive amount of political uncertainty into the permitting process <u>after</u> the project developer has invested millions of dollars in development costs. These costs include site acquisition, the myriad consultant studies (including PJM grid access, wildlife, geotechnical, sound, economic impact, wetlands, historic preservation, etc.), and legal costs, to name a few. All these are required for the Siting Board process and take years of work and millions of dollars to assemble. And then when those sunk costs, time, and energy are already invested, <u>this bill would allow local township trustees to kill a project at the eleventh hour by simply passing a resolution that binds OPSB</u>. This resolution can come at the tail end of the process- as late as the morning that the Board is expected to issue a certificate. See lines 294-295.

For reasons that should be obvious, this is incredibly problematic. Why would any investor spend upfront development capital for a project knowing that despite doing everything by the book, two township trustees can veto it at the eleventh hour?

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It was stated in the House Committee last week that the bill contains a "grandfathering provision" that exempts projects already deemed "complete" by the Siting Board from the requirement that they be sited in an area zoned by the Township Trustees as an "energy development zone." And indeed the bill does contain such language (Section 4, Line 489).

But the grandfathering language does not appear to apply to the Township Trustee Veto. Only the new zoning provision. This omission of course severely undermines the value of the grandfathering provision and defeats the purpose.

<u>Local Referendum</u>: To be clear, MAREC also opposes the added regulation in this bill requiring that projects only be in township-designated zones, and the provision subjecting the zone-determination to public referendum if 8% of the voters sign a petition. We do not believe that major infrastructure investments should be subject to township-by-township political popularity contests that lend themselves to scare tactics and misinformation campaigns.

For example, we have a member now developing a project in a township with 334 registered voters. In 2018, 196 voted. Under SB 52, just 16 people (8%) could sign a petition to force a ballot issue on the zoning question. And 99 "no" votes would kill a $130 million project and 110 construction jobs— plus $50 million in landowner payments and $55 million to the school district over the life of the project.

<u>Retroactivity</u>: We also do not believe that new, burdensome regulations that introduce major project risk should be retroactively applied to projects where significant investments have already been made. To change the rules on investors in the middle of the game is unsound policy and raises serious constitutional questions. Any changes the Legislature considers should be prospective in nature.

<u>Wind Setbacks</u>: Several years ago, Ohio almost tripled its wind turbine setback requirement in a budget bill with no debate or discussion. The market impacts were almost immediate. In the seven years since that law passed, only two projects have been approved. Unfortunately, SB 52 takes that bad situation and makes it worse.

SB 52 states that if a wind turbine safety manual contains a recommended emergency evacuation distance—such as if a turbine were to catch fire— then that distance becomes Ohio's default property setback requirement. Worse, the bill says if the recommended emergency evacuation distance is measured from a house, then Ohio's default setback is that same distance but rather measured from property line. Thus, it takes an emergency setback and makes it standard for all projects.

This is like saying the property line setback from a nuclear facility should be the entire zone around the reactor that would be evacuated in the case of a meltdown. Under this standard, no nuclear would ever be built.

The effect of this new setback is a torturously drafted moratorium on wind energy in Ohio at a time when demand for wind power has never been stronger and prices have never been more competitive. It really defies logic.

Stepping back from the details of the bill, we also want to share the larger competitive market context.

Subsidy: Make no mistake. At its core, SB 52 is a subsidy. It may not be the billion dollar cash subsidies to nuclear plants and OVEC coal plants contained in HB 6. But anytime state policy puts its thumb on the policy scale to favor one technology over another, and picks winners and losers, a market-distorting subsidy results.

Our members indicate they cannot develop projects under this legislation. That will kill off competition for fossil fuels. But even if one or two might try, it is 100% certain that SB 52 would raise their costs. Their cost of capital would soar as investors taking on large political risk would rightfully demand enhanced returns. Of course, these inflated profit margins then must be baked into the cost of the electricity generated from wind and solar facilities—raising rates for the off-takers.

Given fossil fuels are not subject to SB 52, those generation sources instantly become more competitive on price because the State of Ohio set out an unlevel playing field. Our organization has not taken a position on SB 127 and HB 201- the pending legislation that pre-empts local government from taking any action to “limit” access to fossil fuels. But the contrast with the manner SB 52 treats renewables is striking and adds to the inequitable treatment of generation sources and increases the value of the subsidy.

When state policy pushes up the price of energy sources, the ultimate losers are the consumers. With renewable energy costs inflated, and renewable supply choked off, the entire market experiences less competition and of course the higher prices that follow. Policymakers who prioritize ratepayer impacts should have serious concerns with this legislation.

In closing, MAREC and our members continue to stand ready to discuss the siting process in Ohio and how it can be improved. We believe the state can strike a balance whereby local communities can be educated about projects in their area and fully participate in the permitting process without destroying the economic opportunities clean energy can bring to Ohio and without killing off a growing segment of the marketplace.

Thank you.

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