

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 118

Representatives Riedel, Stein

**Cosponsors: Representatives Cross, McClain, Click, Seitz, Powell, Swearingen,
Creech, Lipps**

A BILL

To amend sections 4906.01, 4906.10, 4906.13, 1
4906.20, and 4906.201 and to enact sections 2
519.215, 519.217, 519.219, 519.2111, 519.2113, 3
519.2115, 519.2117, 519.2119, 519.2121, 4
519.2123, 4906.101, 4906.203, and 4906.30 of the 5
Revised Code to require inclusion of safety 6
specifications in wind farm certificate 7
applications, to modify wind turbine setbacks, 8
and to permit a township referendum vote on 9
certain wind farm and solar facility 10
certificates. 11

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

Section 1. That sections 4906.01, 4906.10, 4906.13, 12
4906.20, and 4906.201 be amended and sections 519.215, 519.217, 13
519.219, 519.2111, 519.2113, 519.2115, 519.2117, 519.2119, 14
519.2121, 519.2123, 4906.101, 4906.203, and 4906.30 of the 15
Revised Code be enacted to read as follows: 16

Sec. 519.215. As used in this section and sections 519.217 17
to 519.2123 of the Revised Code: 18

(A) "Economically significant solar facility" means solar panels and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of five or more but less than fifty megawatts. The term also excludes one or more solar panels and associated facilities that are primarily dedicated to providing electricity to a single customer at a single location and that are designed for, or capable of, operation at an aggregate capacity of less than twenty megawatts, as measured at the customer's point of interconnection to the electrical grid. 19
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(B) "Economically significant wind farm" has the same meaning as in section 4906.13 of the Revised Code. 29
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(C) "Large wind farm" and "large solar facility" have the same meanings as in section 4906.01 of the Revised Code. 31
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(D) "Utility facility" means an economically significant wind farm, a large wind farm, or a large solar facility. 33
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Sec. 519.217. (A) (1) If the power siting board issues a certificate to, or approves an amendment described in division (A) (2) of this section to an existing certificate for, a utility facility, to be located in whole or in part in the unincorporated area of a township, the certificate or amendment becomes effective on the ninetieth day after the day it is issued, unless, not later than that day, a referendum petition is filed with the board of elections to require the certificate or amendment to be submitted to the electors of the unincorporated area of the township for approval or rejection. 35
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(2) Amendments that make any change or modification to an existing certificate are subject to division (A) (1) of this section. 45
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(B) A referendum petition may only be filed in one of the 48
following circumstances: 49

(1) The board of township trustees has adopted a 50
resolution allowing public input applicable to the certificate 51
or amendment under section 519.2111 of the Revised Code; 52

(2) Under section 519.2117 of the Revised Code, the board 53
of township trustees is unable to adopt a resolution allowing 54
public input under section 519.2111 of the Revised Code or a 55
resolution requiring public input under section 519.2113 of the 56
Revised Code. 57

(C) (1) A referendum petition submitted under division (A) 58
of this section shall be signed by a number of qualified 59
electors residing in the unincorporated area of the township 60
equal to not less than eight per cent of the total votes cast 61
for all candidates for governor in the unincorporated area of 62
the township at the most recent general election at which a 63
governor was elected. 64

(2) (a) Each part petition shall contain a brief 65
description of the utility facility the certificate or amendment 66
authorizes that is sufficient to identify the certificate. The 67
description shall include the certificate number and 68
identification of each unincorporated township and county in 69
which a wind turbine or solar panel would be placed under the 70
certificate or amendment. In addition to the requirements of 71
this section, the requirements of section 3501.38 of the Revised 72
Code apply to the petition. 73

(b) The petition shall be submitted along with a copy of 74
one of the following, as applicable: 75

(i) The resolution allowing public input adopted by the 76

board of township trustees applicable to the certificate or 77
amendment; 78

(ii) A certification from the township board of trustees 79
that the requirements of section 219.2117 of the Revised Code 80
prevent the board from approving a resolution allowing public 81
input under section 519.2111 of the Revised Code or a resolution 82
requiring public input under section 519.2113 of the Revised 83
Code. 84

(3) The form of the petition shall be substantially as 85
follows: 86

"PETITION FOR REFERENDUM OF UTILITY FACILITY CERTIFICATE 87
OR AMENDMENT 88

A proposal to approve or reject the utility facility 89
certificate or amendment issued for _____ (description of 90
utility facility) in the unincorporated area of _____ 91
Township, _____ County, Ohio, adopted on _____ (date) 92
by the Board of Township Trustees of _____ Township, 93
_____ County, Ohio. 94

We, the undersigned, being electors residing in the 95
unincorporated area of _____ Township, equal to not less 96
than eight per cent of the total vote cast for all candidates 97
for governor in the area at the preceding general election at 98
which a governor was elected, request the Board of Elections to 99
submit this proposal to the electors of the unincorporated area 100
of _____ Township for approval or rejection at a special 101
election to be held on the day of the primary or general 102
election to be held on _____ (date), pursuant to section 103
519.217 of the Revised Code. 104

_____ Signature 105

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| <u> Residence address</u> | 106 |
| <u> Date of signing</u> | 107 |
| <u>STATEMENT OF CIRCULATOR</u> | 108 |
| <u>I, _____ (name of circulator), declare under penalty</u> | 109 |
| <u>of election falsification that I reside at the address appearing</u> | 110 |
| <u>below my signature; that I am the circulator of the foregoing</u> | 111 |
| <u>part petition containing _____ (number) signatures; that I</u> | 112 |
| <u>have witnessed the affixing of every signature; that all signers</u> | 113 |
| <u>were to the best of my knowledge and belief qualified to sign;</u> | 114 |
| <u>and that every signature is to the best of my knowledge and</u> | 115 |
| <u>belief the signature of the person whose signature it purports</u> | 116 |
| <u>to be or of an attorney in fact acting pursuant to section</u> | 117 |
| <u>3501.382 of the Revised Code.</u> | 118 |
| <u> (Signature of circulator)</u> | 119 |
| <u> (Circulator's residence address)</u> | 120 |
| <u>WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A</u> | 121 |
| <u>FELONY OF THE FIFTH DEGREE."</u> | 122 |
| <u> (D) Upon receiving the referendum petition, the board of</u> | 123 |
| <u>elections shall notify the board of township trustees that the</u> | 124 |
| <u>petition has been filed. If the board of elections determines</u> | 125 |
| <u>that the referendum petition is sufficient and valid, the board</u> | 126 |
| <u>shall notify the board of township trustees of that fact and</u> | 127 |
| <u>shall submit the certificate or amendment to the electors of the</u> | 128 |
| <u>unincorporated area of the township for approval or rejection at</u> | 129 |
| <u>a special election held on the day of the next primary or</u> | 130 |
| <u>general election occurring at least ninety days after the board</u> | 131 |
| <u>receives the petition.</u> | 132 |
| <u> (E) The certificate or amendment shall not take effect</u> | 133 |

unless it is approved by a majority of the electors voting on 134
it. If the certificate or amendment is approved by a majority of 135
the electors voting on it, the certificate shall take immediate 136
effect, subject to modification under section 4906.101 or 137
4906.203 of the Revised Code, as applicable. 138

Sec. 519.219. (A) At least thirty days prior to applying 139
for a certificate, or an amendment to an existing certificate, 140
for a utility facility, to be located in whole or in part in the 141
unincorporated area of a township, the person intending to apply 142
shall provide notice to the board of township trustees that the 143
person intends to make such an application, as well as provide 144
the information listed in division (B)(1) or (2) of this 145
section, as applicable: 146

(B)(1) The person intending to apply for a certificate 147
shall provide the following information to the board of 148
trustees: 149

(a) With respect to an economically significant wind farm 150
or a large wind farm, information about: 151

(i) The location of the proposed wind farm; 152

(ii) The geographical size of the wind farm; 153

(iii) A list of all leaseholders at the time notice is 154
provided, including their names and addresses; 155

(iv) The number of wind turbines to be constructed; 156

(v) The proposed height of each wind turbine as measured 157
from each wind turbine tower's base to the tip of the blade at 158
its highest point; 159

(vi) The diameter of each wind turbine base; and 160

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| <u>(vii) The proposed location of the wind turbines.</u> | 161 |
| <u>(b) With respect to a large solar facility, information</u> | 162 |
| <u>about:</u> | 163 |
| <u>(i) The location of the proposed facility;</u> | 164 |
| <u>(ii) The geographical size of the facility;</u> | 165 |
| <u>(iii) A list of all leaseholders at the time notice is</u> | 166 |
| <u>provided, including their names and addresses;</u> | 167 |
| <u>(iv) The number of solar panels to be constructed; and</u> | 168 |
| <u>(v) The proposed location of the solar panels.</u> | 169 |
| <u>(2) The person intending to apply for an amendment that</u> | 170 |
| <u>makes any change or modification to an existing certificate</u> | 171 |
| <u>shall provide information regarding that change or modification</u> | 172 |
| <u>to the board of trustees.</u> | 173 |
| <u>(C) (1) The person shall provide all information in written</u> | 174 |
| <u>form, but also may choose to present the information to the</u> | 175 |
| <u>board of township trustees at a regularly scheduled board</u> | 176 |
| <u>meeting or a special meeting called for that purpose, if the</u> | 177 |
| <u>person requests it.</u> | 178 |
| <u>(2) If the person providing the information only provides</u> | 179 |
| <u>the information in written form, the board of township trustees</u> | 180 |
| <u>shall acknowledge receipt of the information in the minutes of</u> | 181 |
| <u>its next regularly scheduled board meeting or special meeting</u> | 182 |
| <u>called for the purpose of discussing the information.</u> | 183 |
| <u>(D) As part of the application for a certificate or</u> | 184 |
| <u>amendment to an existing certificate, the applicant shall</u> | 185 |
| <u>provide a copy of all of the information provided to the</u> | 186 |
| <u>township board of trustees under this section to the power</u> | 187 |

siting board. 188

Sec. 519.2111. (A) On receipt of notice and information 189
regarding a certificate, or an amendment to an existing 190
certificate, for a utility facility, the board of township 191
trustees may adopt a resolution allowing public input to the 192
power siting board issuing any such certificate or approving any 193
such amendment. The resolution allowing public input shall grant 194
the qualified electors within the township the right to petition 195
for a referendum in accordance with section 519.217 of the 196
Revised Code. 197

(B) The resolution allowing public input must be adopted 198
not later than thirty days after the township board of trustees 199
receives the notice and information. 200

(C) The resolution may contain a statement explaining the 201
decision of the board of township trustees. 202

(D) Upon adoption of the resolution allowing public input, 203
the board of township trustees shall provide a copy of the 204
resolution to the person who gave the notice and information 205
under section 519.219 of the Revised Code and to the power 206
siting board. 207

Sec. 519.2113. (A) On receipt of notice and information 208
regarding a certificate, or an amendment to an existing 209
certificate for a utility facility, the board of township 210
trustees may adopt a resolution requiring public input. A 211
resolution requiring public input shall require that any such 212
certificate, if issued, or any such amendment, if approved, be 213
submitted to the electors of the unincorporated area of the 214
township for approval or rejection in the process described in 215
section 519.2115 of the Revised Code. 216

(B) The resolution requiring public input must be adopted 217
not later than thirty days after the board of township trustees 218
receives the notice and information. 219

(C) The resolution requiring public input shall state the 220
reason for the board of township trustees' opposition to the 221
certificate or amendment. Those reasons may include the 222
following: 223

(1) Conflict with the township's zoning plan, as created 224
under Chapter 519. of the Revised Code; 225

(2) Potential issues arising from the cumulative effect of 226
multiple wind or solar projects on the environment or quality of 227
life of township residents; 228

(3) Potential issues arising from the amount of 229
nonresident leaseholders; 230

(4) Failure to publicly record all leaseholders at the 231
time the notice and information about the certificate or 232
amendment is received by the board of township trustees under 233
section 519.219 of the Revised Code; 234

(5) Resident concerns about the proposed construction; 235

(6) Any other issue that the board of township trustees 236
deems material. 237

(D) Upon adoption of the resolution requiring public 238
input, the board of township trustees shall provide a copy of 239
the resolution to the person who gave the notice and information 240
under section 519.219 of the Revised Code and to the power 241
siting board. 242

Sec. 519.2115. (A) (1) If the power siting board issues a 243
certificate to, or approves an amendment described in division 244

(A) (2) of this section to an existing certificate for a utility facility, to be located in whole or in part in the unincorporated area of a township and the township board of trustees has adopted a resolution requiring public input applicable to the certificate or amendment, the certificate or amendment shall be submitted to the electors of the unincorporated area of the township for approval or rejection. 245
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(2) Amendments that make any change or modification to an existing certificate are subject to division (A) (1) of this section. 252
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(B) Upon issuance of the certificate or approval of the amendment, the power siting board shall certify the issue, for placement upon the ballot, to the board of elections. The board of elections shall then submit the certificate or amendment to the electors of the unincorporated area of the township for approval or rejection at a special election held on the day of the next primary or general election occurring at least ninety days after the board of elections receives the certified issue. 255
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(C) The certificate or amendment shall not take effect unless it is approved by a majority of the electors voting on it. If the certificate or amendment is approved by a majority of the electors voting on it, the certificate shall take immediate effect, subject to modification under section 4906.101 or 4906.203 of the Revised Code, as applicable. 263
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Sec. 519.2117. (A) (1) No member of a board of township trustees who is party to a lease agreement regarding, or has granted an easement to the developer of a utility facility that is the subject of a notice and information under section 519.219 of the Revised Code, or who holds any beneficial interest in such a facility, shall vote on a resolution allowing public 269
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input under section 519.2111 of the Revised Code, or a 275
resolution requiring public input under section 519.2113 of the 276
Revised Code, regarding a certificate or amendment to an 277
existing certificate of the utility facility. 278

(2) No member of a board of township trustees who is party 279
to a lease agreement regarding, or has granted an easement to 280
the developer of, an economically significant solar facility 281
that is the subject of a notice and information under section 282
519.2119 of the Revised Code, or who holds any beneficial 283
interest in such a facility, shall vote on a resolution allowing 284
public input under section 519.2111 of the Revised Code, or a 285
resolution requiring public input under section 519.2113 of the 286
Revised Code, regarding a permit or amendment to an existing 287
permit of the economically significant solar facility. 288

(3) No member of the board of township trustees who has an 289
immediate family member who is party to a lease agreement or has 290
granted an easement to the developer of the utility facility, or 291
who holds any beneficial interest in such a facility, shall vote 292
on a resolution allowing public input or requiring public input. 293

(B) If, because of the application of division (A) of this 294
section, one or more members of the board of township trustees 295
is unable to adopt a resolution allowing public input or 296
requiring public input, the qualified electors of the township 297
have the right to petition for a referendum in accordance with 298
section 519.217 of the Revised Code, and the certificate or 299
amendment shall be submitted to the electors of the 300
unincorporated area of the township for approval or rejection. 301

Sec. 519.2119. (A) At least thirty days prior to applying 302
for a building permit, or an amendment to an existing permit, 303
for an economically significant solar facility to be located in 304

whole or in part in the unincorporated area of a township, the 305
person intending to apply shall provide notice to the board of 306
township trustees that the person intends to make such an 307
application, as well as provide the information listed in 308
division (B) (1) or (2) of this section, as applicable: 309

(B) (1) The person intending to apply for a building permit 310
shall provide the following information to the board of 311
trustees: 312

(a) The location of the proposed solar facility; 313

(b) The geographical size of the solar facility; 314

(c) A list of all leaseholders at the time notice is 315
provided, including their names and addresses; 316

(d) The number of solar panels to be constructed; 317

(e) The proposed location of the solar panels. 318

(2) The person intending to apply for an amendment that 319
makes any change or modification to an existing permit shall 320
provide all information regarding that change or modification to 321
the board of trustees. 322

(C) (1) The person shall provide all information in written 323
form, but also may choose to present the information to the 324
board of township trustees at a regularly scheduled board 325
meeting or a special meeting called for that purpose, if the 326
person requests it. 327

(2) If the person providing the information only provides 328
the information in written form, the board of township trustees 329
shall acknowledge receipt of the information in the minutes of 330
its next regularly scheduled board meeting or special meeting 331
called for the purpose of discussing the information. 332

(D) As part of the application for a building permit or 333
amendment to an existing permit, the applicant shall provide a 334
copy of all of the information provided to the township board of 335
trustees under this section to the relevant state or local 336
building authority. 337

Sec. 519.2121. (A) (1) If a state or county building 338
authority issues a building permit to, or approves an amendment 339
described in division (B) of this section to an existing permit 340
for, an economically significant solar facility to be located in 341
whole or in part in the unincorporated area of a township, the 342
township board of trustees may adopt either of the following: 343

(a) A resolution allowing public input under sections 344
519.217 and 519.2111 of the Revised Code granting the qualified 345
electors of the unincorporated area of the township the right to 346
petition for a referendum on the permit or amendment; 347

(b) A resolution requiring public input under sections 348
519.2113 and 519.2115 of the Revised Code to submit the permit 349
or amendment to the electors of the unincorporated area of the 350
township for approval or rejection. 351

(2) A permit, or amendment to a permit, subject to a 352
resolution adopted under division (A) of this section shall be 353
treated, to the extent practicable, as if it is a certificate or 354
amendment to a certificate granted by the power siting board for 355
a utility facility for purposes of the application of sections 356
519.217, 519.2111, 519.2113, and 519.2115 of the Revised Code. 357

(B) Amendments that make any change or modification to an 358
existing permit are subject to division (A) of this section. 359

Sec. 519.2123. (A) If a person makes an application to a 360
state or local building authority for a building permit, or an 361

amendment to an existing permit, for an economically significant 362
solar facility subject to the notice and information 363
requirements of section 519.2119 of the Revised Code, the 364
application shall provide information about the facility that is 365
identical to the information provided to the township board of 366
trustees about the facility under that section. 367

(B) If the information contained in the application for a 368
building permit, or amendment to an existing permit, for an 369
economically significant solar facility is not identical to the 370
information provided by the applicant to the township board of 371
trustees about the facility, no permit or amendment shall be 372
granted by the state or local building authority for the 373
facility. 374

Sec. 4906.01. As used in Chapter 4906. of the Revised 375
Code: 376

(A) "Person" means an individual, corporation, business 377
trust, association, estate, trust, or partnership or any 378
officer, board, commission, department, division, or bureau of 379
the state or a political subdivision of the state, or any other 380
entity. 381

(B) (1) "Major utility facility" means: 382

(a) Electric generating plant and associated facilities 383
designed for, or capable of, operation at a capacity of fifty 384
megawatts or more; 385

(b) An electric transmission line and associated 386
facilities of a design capacity of one hundred kilovolts or 387
more; 388

(c) A gas pipeline that is greater than five hundred feet 389
in length, and its associated facilities, is more than nine 390

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| inches in outside diameter and is designed for transporting gas | 391 |
| at a maximum allowable operating pressure in excess of one | 392 |
| hundred twenty-five pounds per square inch. | 393 |
| (2) "Major utility facility" does not include any of the | 394 |
| following: | 395 |
| (a) Gas transmission lines over which an agency of the | 396 |
| United States has exclusive jurisdiction; | 397 |
| (b) Any solid waste facilities as defined in section | 398 |
| 6123.01 of the Revised Code; | 399 |
| (c) Electric distributing lines and associated facilities | 400 |
| as defined by the power siting board; | 401 |
| (d) Any manufacturing facility that creates byproducts | 402 |
| that may be used in the generation of electricity as defined by | 403 |
| the power siting board; | 404 |
| (e) Gathering lines, gas gathering pipelines, and | 405 |
| processing plant gas stub pipelines as those terms are defined | 406 |
| in section 4905.90 of the Revised Code and associated | 407 |
| facilities; | 408 |
| (f) Any gas processing plant as defined in section 4905.90 | 409 |
| of the Revised Code; | 410 |
| (g) Natural gas liquids finished product pipelines; | 411 |
| (h) Pipelines from a gas processing plant as defined in | 412 |
| section 4905.90 of the Revised Code to a natural gas liquids | 413 |
| fractionation plant, including a raw natural gas liquids | 414 |
| pipeline, or to an interstate or intrastate gas pipeline; | 415 |
| (i) Any natural gas liquids fractionation plant; | 416 |
| (j) A production operation as defined in section 1509.01 | 417 |

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| of the Revised Code, including all pipelines upstream of any | 418 |
| gathering lines; | 419 |
| (k) Any compressor stations used by the following: | 420 |
| (i) A gathering line, a gas gathering pipeline, a | 421 |
| processing plant gas stub pipeline, or a gas processing plant as | 422 |
| those terms are defined in section 4905.90 of the Revised Code; | 423 |
| (ii) A natural gas liquids finished product pipeline, a | 424 |
| natural gas liquids fractionation plant, or any pipeline | 425 |
| upstream of a natural gas liquids fractionation plant; or | 426 |
| (iii) A production operation as defined in section 1509.01 | 427 |
| of the Revised Code. | 428 |
| (C) "Commence to construct" means any clearing of land, | 429 |
| excavation, or other action that would adversely affect the | 430 |
| natural environment of the site or route of a major utility | 431 |
| facility, but does not include surveying changes needed for | 432 |
| temporary use of sites or routes for nonutility purposes, or | 433 |
| uses in securing geological data, including necessary borings to | 434 |
| ascertain foundation conditions. | 435 |
| (D) "Certificate" means a certificate of environmental | 436 |
| compatibility and public need issued by the power siting board | 437 |
| under section 4906.10 of the Revised Code or a construction | 438 |
| certificate issued by the board under rules adopted under | 439 |
| division (E) or (F) of section 4906.03 of the Revised Code. | 440 |
| (E) "Gas" means natural gas, flammable gas, or gas that is | 441 |
| toxic or corrosive. | 442 |
| (F) "Natural gas liquids finished product pipeline" means | 443 |
| a pipeline that carries finished product natural gas liquids to | 444 |
| the inlet of an interstate or intrastate finished product | 445 |

natural gas liquid transmission pipeline, rail loading facility, 446
or other petrochemical or refinery facility. 447

(G) "Large solar facility" means an electric generating 448
plant that consists of solar panels and associated facilities 449
with a single interconnection to the electrical grid that is a 450
major utility facility. 451

(H) "Large wind farm" means an electric generating plant 452
that consists of wind turbines and associated facilities with a 453
single interconnection to the electrical grid that is a major 454
utility facility. 455

(I) "Natural gas liquids fractionation plant" means a 456
facility that takes a feed of raw natural gas liquids and 457
produces finished product natural gas liquids. 458

~~(H)~~-(J) "Raw natural gas" means hydrocarbons that are 459
produced in a gaseous state from gas wells and that generally 460
include methane, ethane, propane, butanes, pentanes, hexanes, 461
heptanes, octanes, nonanes, and decanes, plus other naturally 462
occurring impurities like water, carbon dioxide, hydrogen 463
sulfide, nitrogen, oxygen, and helium. 464

~~(I)~~-(K) "Raw natural gas liquids" means naturally 465
occurring hydrocarbons contained in raw natural gas that are 466
extracted in a gas processing plant and liquefied and generally 467
include mixtures of ethane, propane, butanes, and natural 468
gasoline. 469

~~(J)~~-(L) "Finished product natural gas liquids" means an 470
individual finished product produced by a natural gas liquids 471
fractionation plant as a liquid that meets the specifications 472
for commercial products as defined by the gas processors 473
association. Those products include ethane, propane, iso-butane, 474

normal butane, and natural gasoline. 475

Sec. 4906.10. (A) The power siting board shall render a 476
decision upon the record either granting or denying the 477
application as filed, or granting it upon such terms, 478
conditions, or modifications of the construction, operation, or 479
maintenance of the major utility facility as the board considers 480
appropriate. The certificate shall be subject to section 481
4906.101 of the Revised Code and conditioned upon the facility 482
being in compliance with standards and rules adopted under 483
section 4561.32 and Chapters 3704., 3734., and 6111. of the 484
Revised Code. An applicant may withdraw an application if the 485
board grants a certificate on terms, conditions, or 486
modifications other than those proposed by the applicant in the 487
application. 488

The board shall not grant a certificate for the 489
construction, operation, and maintenance of a major utility 490
facility, either as proposed or as modified by the board, unless 491
it finds and determines all of the following: 492

(1) The basis of the need for the facility if the facility 493
is an electric transmission line or gas pipeline; 494

(2) The nature of the probable environmental impact; 495

(3) That the facility represents the minimum adverse 496
environmental impact, considering the state of available 497
technology and the nature and economics of the various 498
alternatives, and other pertinent considerations; 499

(4) In the case of an electric transmission line or 500
generating facility, that the facility is consistent with 501
regional plans for expansion of the electric power grid of the 502
electric systems serving this state and interconnected utility 503

systems and that the facility will serve the interests of 504
electric system economy and reliability; 505

(5) That the facility will comply with Chapters 3704., 506
3734., and 6111. of the Revised Code and all rules and standards 507
adopted under those chapters and under section 4561.32 of the 508
Revised Code. In determining whether the facility will comply 509
with all rules and standards adopted under section 4561.32 of 510
the Revised Code, the board shall consult with the office of 511
aviation of the division of multi-modal planning and programs of 512
the department of transportation under section 4561.341 of the 513
Revised Code. 514

(6) That the facility will serve the public interest, 515
convenience, and necessity; 516

(7) In addition to the provisions contained in divisions 517
(A) (1) to (6) of this section and rules adopted under those 518
divisions, what its impact will be on the viability as 519
agricultural land of any land in an existing agricultural 520
district established under Chapter 929. of the Revised Code that 521
is located within the site and alternative site of the proposed 522
major utility facility. Rules adopted to evaluate impact under 523
division (A) (7) of this section shall not require the 524
compilation, creation, submission, or production of any 525
information, document, or other data pertaining to land not 526
located within the site and alternative site. 527

(8) That the facility incorporates maximum feasible water 528
conservation practices as determined by the board, considering 529
available technology and the nature and economics of the various 530
alternatives. 531

(B) If the board determines that the location of all or a 532

part of the proposed facility should be modified, it may 533
condition its certificate upon that modification, provided that 534
the municipal corporations and counties, and persons residing 535
therein, affected by the modification shall have been given 536
reasonable notice thereof. 537

(C) A copy of the decision and any opinion issued 538
therewith shall be served upon each party. 539

Sec. 4906.101. (A) (1) If the power siting board issues a 540
certificate to, or approves an amendment described in division 541
(A) (2) of this section to an existing certificate for, a large 542
solar facility or large wind farm to be located in the 543
unincorporated area of a township, the certificate or amendment 544
shall be conditioned upon the right of referendum as provided in 545
section 519.217 of the Revised Code. 546

(2) Amendments to an existing certificate that do the 547
following are subject to division (A) (1) of this section: 548

(a) With respect to a large wind farm, amendments that: 549

(i) Add more wind turbines; 550

(ii) Increase the height of a wind turbine as measured 551
from the wind turbine tower's base to the tip of the blade at 552
its highest point; 553

(iii) Increase the diameter of a wind turbine tower's 554
base; or 555

(iv) Change the location of any wind turbine. 556

(b) With respect to a large solar facility, amendments 557
that add more, or change the location of, solar panels. 558

(B) If the certificate or amendment is rejected in a 559

referendum under section 519.217 of the Revised Code, one of the 560
following applies: 561

(1) If the large wind farm or large solar facility is to 562
be located in the unincorporated area of a single township, the 563
certificate or amendment shall be invalid; 564

(2) If the large wind farm or large solar facility is to 565
be located in the unincorporated area of more than one township, 566
one of the following applies: 567

(a) If less than all of the townships with electors voting 568
on the referendum reject the certificate or amendment, the power 569
siting board shall modify the certificate or amendment to 570
exclude the area of each township whose electors rejected the 571
certificate or amendment and shall not make any other changes to 572
the certificate or amendment. 573

(b) If all of the townships with electors voting on the 574
referendum reject the certificate or amendment, the certificate 575
is invalid. 576

(C) A modification under division (B) (2) (a) of this 577
section shall not be considered an amendment to the certificate. 578

(D) If a certificate modification under division (B) (2) (a) 579
of this section would cause the wind farm or solar facility to 580
no longer need certification from the power siting board, the 581
certificate is invalid. 582

Sec. 4906.13. (A) As used in this section and sections 583
4906.20, 4906.203, and 4906.98 of the Revised Code, 584
"economically significant wind farm" means wind turbines and 585
associated facilities with a single interconnection to the 586
electrical grid and designed for, or capable of, operation at an 587
aggregate capacity of five or more megawatts but less than fifty 588

megawatts. The term excludes any such wind farm in operation on 589
June 24, 2008. The term also excludes one or more wind turbines 590
and associated facilities that are primarily dedicated to 591
providing electricity to a single customer at a single location 592
and that are designed for, or capable of, operation at an 593
aggregate capacity of less than twenty megawatts, as measured at 594
the customer's point of interconnection to the electrical grid. 595

(B) No public agency or political subdivision of this 596
state may require any approval, consent, permit, certificate, or 597
other condition for the construction or operation of a major 598
utility facility or economically significant wind farm 599
authorized by a certificate issued pursuant to Chapter 4906. of 600
the Revised Code. Nothing herein shall prevent the application 601
of state laws for the protection of employees engaged in the 602
construction of such facility or wind farm nor of municipal 603
regulations that do not pertain to the location or design of, or 604
pollution control and abatement standards for, a major utility 605
facility or economically significant wind farm for which a 606
certificate has been granted under this chapter. 607

Sec. 4906.20. (A) ~~No~~ Subject to section 4906.203 of the 608
Revised Code, no person shall commence to construct an 609
economically significant wind farm in this state without first 610
having obtained a certificate from the power siting board. An 611
economically significant wind farm with respect to which such a 612
certificate is required shall be constructed, operated, and 613
maintained in conformity with that certificate and any terms, 614
conditions, and modifications it contains. A certificate shall 615
be issued only pursuant to this section. The certificate may be 616
transferred, subject to the approval of the board, to a person 617
that agrees to comply with those terms, conditions, and 618
modifications. 619

(B) The board shall adopt rules governing the 620
certificating of economically significant wind farms under this 621
section. Initial rules shall be adopted within one hundred 622
twenty days after June 24, 2008. 623

(1) (a) The rules shall provide for an application process 624
for certificating economically significant wind farms that is 625
identical to the extent practicable to the process applicable to 626
certificating major utility facilities under sections 4906.06, 627
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 628
Revised Code and shall prescribe a reasonable schedule of 629
application filing fees structured in the manner of the schedule 630
of filing fees required for major utility facilities. 631

(b) The rules shall require a certification application, 632
or an amendment to an existing certificate, to include a copy of 633
the wind turbine manufacturer's safety specifications, including 634
the manufacturer's recommended safety distances for the wind 635
turbines described in the application, if such recommendations 636
exist. 637

(2) Additionally, the rules shall prescribe reasonable 638
regulations regarding any wind turbines and associated 639
facilities of an economically significant wind farm, including, 640
but not limited to, their location, erection, construction, 641
reconstruction, change, alteration, maintenance, removal, use, 642
or enlargement and including erosion control, aesthetics, 643
recreational land use, wildlife protection, interconnection with 644
power lines and with regional transmission organizations, 645
independent transmission system operators, or similar 646
organizations, ice throw, sound and noise levels, blade shear, 647
shadow flicker, decommissioning, and necessary cooperation for 648
site visits and enforcement investigations. 649

(a) The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be ~~equal~~ one of the following, whichever is greater:

(i) Equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade and be at least one thousand one hundred twenty-five feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the property line of the nearest adjacent property at the time of the certification application;

(ii) One of the following:

(I) The safety distance, in case of fires or thunderstorms recommended in the wind turbine manufacturer's safety specifications for the wind turbines described in the certification application or those of a comparable design, if no such specifications exist for the model described in the certification application, if the distance is measured from the property line of the nearest adjacent property;

(II) If the safety distance recommended in division (B) (2) (a) (ii) (I) of this section is not measured from the property line of the nearest adjacent property, that distance as measured from the property line of the nearest adjacent property at the time of the certification application.

(b) (i) 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 679
assembly, September 29, 2013, the distance shall be seven 680
hundred fifty feet instead of one thousand one hundred twenty- 681
five feet. 682

(ii) Any amendment made to an existing certificate after 683
the effective date of the amendment of this section by H.B. 483 684
of the 130th general assembly, September 15, 2014, shall be 685
subject to the setback provision of this section as amended by 686
that act. The amendments to this section by that act shall not 687
be construed to limit or abridge any rights or remedies in 688
equity or under the common law. 689

(c) The setback shall apply in all cases except those in 690
which all owners of property adjacent to the wind farm property 691
waive application of the setback to that property pursuant to a 692
procedure the board shall establish by rule and except in which, 693
in a particular case, the board determines that a setback 694
greater than the minimum is necessary. 695

Sec. 4906.201. (A) ~~An electric generating plant that~~ 696
~~consists of wind turbines and associated facilities with a~~ 697
~~single interconnection to the electrical grid that is designed~~ 698
~~for, or capable of, operation at an aggregate capacity of fifty~~ 699
~~megawatts or more~~ A large wind farm is subject to the minimum 700
setback requirements established in rules adopted by the power 701
siting board under division (B) (2) of section 4906.20 of the 702
Revised Code. 703

(B) (1) For any existing certificates and amendments 704
thereto, and existing certification applications that have been 705
found by the chairperson to be in compliance with division (A) 706
of section 4906.06 of the Revised Code before the effective date 707
of the amendment of this section by H.B. 59 of the 130th general 708

assembly, September 29, 2013, the distance shall be seven 709
hundred fifty feet instead of one thousand one hundred twenty- 710
five feet. 711

(2) Any amendment made to an existing certificate after 712
the effective date of the amendment of this section by H.B. 483 713
of the 130th general assembly, September 15, 2014, shall be 714
subject to the setback provision of this section as amended by 715
that act. The amendments to this section by that act shall not 716
be construed to limit or abridge any rights or remedies in 717
equity or under the common law. 718

Sec. 4906.203. (A) (1) If the power siting board issues a 719
certificate under section 4906.20 of the Revised Code to, or 720
approves an amendment to an existing certificate for, an 721
economically significant wind farm to be located in the 722
unincorporated area of a township, the certificate or amendment 723
shall be conditioned upon the right of referendum as provided in 724
section 519.217 of the Revised Code. 725

(2) Amendments to an existing certificate that make any 726
change or modification are subject to division (A) (1) of this 727
section. 728

(B) If the certificate or amendment is rejected in a 729
referendum under section 519.217 of the Revised Code, one of the 730
following applies: 731

(1) If the economically significant wind farm is to be 732
located in the unincorporated area of a single township, the 733
certificate or amendment is invalid. 734

(2) If the economically significant wind farm is to be 735
located in the unincorporated area of more than one township, 736
one of the following applies: 737

(a) If less than all of the townships with electors voting on the referendum reject the certificate or amendment, the power siting board shall modify the certificate or amendment to exclude the area of each township whose electors rejected the certificate or amendment and shall not make any other changes to the certificate or amendment. 738
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(b) If all of the townships with electors voting on the referendum reject the certificate or amendment, the certificate is invalid. 744
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(C) A modification under division (B) (2) (a) of this section shall not be considered an amendment to the certificate. 747
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(D) If a certificate modification under division (B) (2) (a) of this section would cause the wind farm to no longer need certification from the power siting board, the certificate is invalid. 749
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Sec. 4906.30. (A) For purposes of this section, "utility facility" has the same meaning as in section 519.215 of the Revised Code. 753
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(B) If a person makes an application for a certificate, or an amendment to an existing certificate, for a utility facility subject to the notice and information requirements of section 519.219 of the Revised Code, the application shall provide information about the facility that is identical to the information provided to the township board of trustees about the facility under that section. 756
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(B) If the information contained in the application for a certificate, or amendment to an existing certificate, for a utility facility is not identical to the information provided by the applicant to the township board of trustees about the 763
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facility, no certificate or amendment shall be granted by the 767
power siting board. 768

Section 2. That existing sections 4906.01, 4906.10, 769
4906.13, 4906.20, and 4906.201 of the Revised Code are hereby 770
repealed. 771

Section 3. Sections 1 and 2 of this act apply to the 772
following: 773

(A) Applications for a certificate or an amendment to a 774
certificate for a utility facility, as defined in section 775
519.215 of the Revised Code, pending before the power siting 776
board on the effective date of this section; 777

(B) Applications for a permit or amendment to a permit for 778
an economically significant solar facility, as defined in 779
section 519.215 of the Revised Code, pending before a state or 780
county building authority on the effective date of this section. 781