

As Reported by the House Public Utilities Committee

134th General Assembly

Regular Session

2021-2022

Sub. S. B. No. 52

Senators Reineke, McColley

**Cosponsors: Senators Lang, Rulli, Schaffer, Cirino, Brenner, Schuring, Huffman,
M., O'Brien, Wilson**

A BILL

To amend sections 4906.01, 4906.02, and 4906.10 and 1
to enact sections 303.57, 303.58, 303.59, 2
303.60, 303.61, 303.62, 4906.021, 4906.022, 3
4906.023, 4906.024, 4906.025, 4906.101, 4
4906.102, 4906.103, 4906.21, 4906.211, 4906.212, 5
4906.22, 4906.221, 4906.222, 4906.30, and 6
4906.31 of the Revised Code to permit a board of 7
county commissioners to prevent power siting 8
board certification of certain wind and solar 9
facilities, to provide for ad hoc members of the 10
power siting board, and to establish 11
decommissioning requirements for certain wind 12
and solar facilities. 13

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

Section 1. That sections 4906.01, 4906.02, and 4906.10 be 14
amended and sections 303.57, 303.58, 303.59, 303.60, 303.61, 15
303.62, 4906.021, 4906.022, 4906.023, 4906.024, 4906.025, 16
4906.101, 4906.102, 4906.103, 4906.21, 4906.211, 4906.212, 17
4906.22, 4906.221, 4906.222, 4906.30, and 4906.31 of the Revised 18

Code be enacted to read as follows: 19

Sec. 303.57. As used in this section and sections 303.58 20
to 303.62 of the Revised Code: 21

(A) "Economically significant wind farm" has the same 22
meaning as in section 4906.13 of the Revised Code. 23

(B) "Large wind farm" and "large solar facility" have the 24
same meanings as in section 4906.01 of the Revised Code. 25

(C) (1) "Material amendment" means an amendment to an 26
existing power siting board certificate for the construction, 27
operation, or maintenance of a utility facility that does any of 28
the following: 29

(a) For utility facilities: 30

(i) Changes the facility's generation type from one type 31
of utility facility to another; 32

(ii) Increases the facility's nameplate capacity; 33

(iii) Changes the boundaries of the facility, unless the 34
new boundaries of the facility are completely within the 35
previous boundaries of the facility or the facility components 36
outside of the previous boundary are underground. 37

(b) For large wind farms and economically significant wind 38
farms: 39

(i) Increases the number of wind turbines; 40

(ii) Increases the height of a wind turbine. 41

(2) Material amendments do not include the addition of a 42
battery storage system to a utility facility. 43

(D) "Utility facility" means an economically significant 44

wind farm, a large wind farm, or a large solar facility. 45

Sec. 303.58. (A) The board of county commissioners may 46
adopt a resolution designating all or part of the unincorporated 47
area of a county as a restricted area, prohibiting the 48
construction of any or all of the following: 49

(1) An economically significant wind farm; 50

(2) A large wind farm; 51

(3) A large solar facility. 52

(B) A resolution described in division (A) of this section 53
may designate one or more restricted areas and shall fix 54
restricted area boundaries within the unincorporated area of the 55
county. 56

(C) (1) The board may adopt a resolution designating a 57
restricted area at a regular meeting of the board or at a 58
special meeting called for the purpose of discussing such a 59
resolution. 60

(2) At least thirty days prior to the meeting at which a 61
resolution to designate a restricted area will be discussed, the 62
board shall do all of the following: 63

(a) Provide public notice of the date and time of the 64
meeting by one publication in a newspaper of general circulation 65
within the county; 66

(b) Publicly post a map showing the boundaries of the 67
proposed restricted area at all public libraries within the 68
county; 69

(c) Provide written notice of the meeting, by first class 70
mail, to all school districts, municipal corporations, and 71

boards of township trustees located in whole, or in part, within 72
the boundaries of the proposed restricted area. 73

(3) The board shall comply with the requirements of 74
divisions (C) (1) and (2) of this section before the board 75
modifies a resolution it previously adopted under this section. 76

(D) Any resolution designating a restricted area shall 77
include a map of the restricted area, as well as texts 78
sufficient to identify all boundaries of the restricted area. A 79
copy of the resolution and any accompanying texts and maps shall 80
be filed with the office of the county recorder of the county. 81

(E) A resolution adopted under this section shall not 82
affect the construction of a utility facility that was presented 83
to the board of county commissioners under section 303.61 of the 84
Revised Code, and the board did not adopt a resolution 85
prohibiting the facility within the time required under section 86
303.62 of the Revised Code. 87

Sec. 303.59. A resolution designating a restricted area 88
prohibiting the construction of utility facilities, if adopted 89
by the board of county commissioners, becomes effective thirty 90
days after the date of its adoption, unless, within thirty days 91
after the adoption, there is presented to the board of county 92
commissioners a petition, signed by a number of registered 93
electors residing in the county equal to not less than eight per 94
cent of the total vote cast for all candidates for governor in 95
that county at the most recent general election at which a 96
governor was elected, requesting the board of county 97
commissioners to submit the resolution to the electors of that 98
county for approval or rejection at a special election to be 99
held on the day of the next primary or general election that 100
occurs at least one hundred twenty days after the petition is 101

filed. Each part petition shall contain the number and the full 102
and correct title, if any, of the resolution, motion, or 103
application, furnishing the name by which the resolution is 104
known and a brief summary of its contents. In addition to 105
meeting the requirements of this section, each petition shall be 106
governed by the rules specified in section 3501.38 of the 107
Revised Code. 108

The form of a petition calling for a referendum on the 109
designation of a restricted area and the statement of the 110
circulator shall be substantially as follows: 111

"PETITION FOR REFERENDUM ON THE DESIGNATION OF A 112
RESTRICTED AREA PROHIBITING THE CONSTRUCTION OF UTILITY 113
FACILITIES 114

(if the proposal is identified by a particular name or 115
number, or both, these should be inserted here)_____ 116

A proposal to designate a restricted area prohibiting the 117
construction of utility facilities in the unincorporated area of 118
_____ county, Ohio, adopted _____ (date) (followed by 119
brief summary of the resolution). 120

To the board of county commissioners of _____ county, 121
Ohio: 122

We, the undersigned, being electors residing in 123
_____ county, equal to not less than eight per cent of the 124
total vote cast for all candidates for governor in the county at 125
the preceding general election at which a governor was elected, 126
request the board of county commissioners to submit this 127
designation of a restricted area to the electors of _____ 128
county, for approval or rejection at a special election to be 129
held on the day of the primary or general election to be held on 130

<u> (date), pursuant to section 303.59 of the Revised</u>	131
<u>Code.</u>	132
<u> Signature</u>	133
<u> Residence address</u>	134
<u> Date of signing</u>	135
<u>STATEMENT OF CIRCULATOR</u>	136
<u>I, (name of circulator), declare under penalty</u>	137
<u>of election falsification that I reside at the address appearing</u>	138
<u>below my signature; that I am the circulator of the foregoing</u>	139
<u>part petition containing (number) signatures; that I</u>	140
<u>have witnessed the affixing of every signature; that all signers</u>	141
<u>were to the best of my knowledge and belief qualified to sign;</u>	142
<u>and that every signature is to the best of my knowledge and</u>	143
<u>belief the signature of the person whose signature it purports</u>	144
<u>to be or of an attorney in fact acting pursuant to section</u>	145
<u>3501.382 of the Revised Code.</u>	146
<u> (Signature of circulator)</u>	147
<u> (Circulator's residence address)</u>	148
<u>WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A</u>	149
<u>FELONY OF THE FIFTH DEGREE."</u>	150
<u>The petition shall be filed with the board of county</u>	151
<u>commissioners. Within two weeks after receiving a petition filed</u>	152
<u>under this section, the board of county commissioners shall</u>	153
<u>certify the petition to the board of elections. A petition filed</u>	154
<u>under this section shall be certified to the board of elections</u>	155
<u>not less than ninety days prior to the election at which the</u>	156
<u>question is to be voted upon.</u>	157

The board of elections shall determine the sufficiency and 158
validity of each petition certified to it by a board of county 159
commissioners under this section. If the board of elections 160
determines that a petition is sufficient and valid, the question 161
shall be voted upon at a special election to be held on the day 162
of the next primary or general election that occurs at least one 163
hundred twenty days after the date the petition is filed with 164
the board of county commissioners, regardless of whether any 165
election will be held to nominate or elect candidates on that 166
day. 167

No resolution designating a restricted area for which such 168
a referendum vote has been requested shall be put into effect 169
unless a majority of the vote cast on the issue is in favor of 170
the resolution. Upon certification by the board of elections 171
that the resolution has been approved by the voters, it shall 172
take immediate effect. 173

Within five working days after the resolution's effective 174
date, the board of county commissioners shall file the text of 175
the resolution and maps of the restricted area in the office of 176
the county recorder and with the county or regional planning 177
commission, if one exists. 178

The failure to file any resolution, or any text and maps, 179
or duplicates of any of these documents, with the office of the 180
county recorder as required by this section does not invalidate 181
the resolution. 182

Sec. 303.60. If a resolution described in this section is 183
adopted and becomes effective under sections 303.58 and 303.59 184
of the Revised Code, no person shall file, and the power siting 185
board shall not accept, an application for a certificate, or a 186
material amendment to an existing certificate, to construct, 187

operate, or maintain a utility facility in a restricted area 188
where the construction of such a utility facility is prohibited 189
by the resolution. 190

Sec. 303.61. (A) At least ninety days, but not more than 191
three hundred days, prior to applying for a certificate from the 192
power siting board, or a material amendment to an existing 193
certificate, for a utility facility, to be located in whole or 194
in part in the unincorporated area of a county, the person 195
intending to apply shall hold a public meeting in each county 196
where the utility facility is to be located. 197

(B) The applicant shall provide written notice of the 198
public meeting to the board of county commissioners of the 199
county, as well as the boards of trustees of every township in 200
which the utility facility is to be located within that county. 201
Notice shall be provided at least fourteen days prior to the 202
meeting. 203

(C) At the public meeting, the applicant shall provide the 204
following information: 205

(1) The person intending to apply for a certificate shall 206
provide the following information to the board of county 207
commissioners: 208

(a) Whether the utility facility will be: 209

(i) A large wind farm; 210

(ii) An economically significant wind farm; or 211

(iii) A large solar facility. 212

(b) The maximum nameplate capacity of the utility 213
facility; 214

(c) A map of the proposed geographic boundaries of the 215
project within that county. 216

(2) The person intending to apply for a material amendment 217
that makes any change or modification to an existing certificate 218
shall comply with the requirements of this section when 219
providing information regarding that change or modification to 220
the board of county commissioners. 221

(3) All of the information described in divisions (C) (1) 222
and (2) of this section shall be submitted to the board of 223
county commissioners in written form. 224

Sec. 303.62. (A) Not later than ninety days after the 225
public meeting described in section 303.61 of the Revised Code 226
regarding an application for a certificate, or a material 227
amendment to an existing certificate, for a utility facility, 228
the board of county commissioners may adopt a resolution that 229
does either of the following: 230

(1) Prohibits the construction of the utility facility 231
that is the subject of the certificate; 232

(2) Limits the boundaries of the proposed utility facility 233
to a smaller geographic area of the county, completely within 234
what was proposed by the applicant. 235

(B) If no resolution is adopted within the time required 236
under this section, the application may proceed as filed with 237
the power siting board. 238

(C) No resolution adopted under this section shall prevent 239
an applicant from filing another proposal for consideration by 240
the board of county commissioners at a later date. 241

Sec. 4906.01. As used in Chapter 4906. of the Revised 242

Code:	243
(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.	244 245 246 247 248
(B) (1) "Major utility facility" means:	249
(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;	250 251 252
(b) An electric transmission line and associated facilities of a design capacity of one hundred kilovolts or more;	253 254 255
(c) A gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.	256 257 258 259 260
(2) "Major utility facility" does not include any of the following:	261 262
(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;	263 264
(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;	265 266
(c) Electric distributing lines and associated facilities as defined by the power siting board;	267 268
(d) Any manufacturing facility that creates byproducts	269

that may be used in the generation of electricity as defined by	270
the power siting board;	271
(e) Gathering lines, gas gathering pipelines, and	272
processing plant gas stub pipelines as those terms are defined	273
in section 4905.90 of the Revised Code and associated	274
facilities;	275
(f) Any gas processing plant as defined in section 4905.90	276
of the Revised Code;	277
(g) Natural gas liquids finished product pipelines;	278
(h) Pipelines from a gas processing plant as defined in	279
section 4905.90 of the Revised Code to a natural gas liquids	280
fractionation plant, including a raw natural gas liquids	281
pipeline, or to an interstate or intrastate gas pipeline;	282
(i) Any natural gas liquids fractionation plant;	283
(j) A production operation as defined in section 1509.01	284
of the Revised Code, including all pipelines upstream of any	285
gathering lines;	286
(k) Any compressor stations used by the following:	287
(i) A gathering line, a gas gathering pipeline, a	288
processing plant gas stub pipeline, or a gas processing plant as	289
those terms are defined in section 4905.90 of the Revised Code;	290
(ii) A natural gas liquids finished product pipeline, a	291
natural gas liquids fractionation plant, or any pipeline	292
upstream of a natural gas liquids fractionation plant; or	293
(iii) A production operation as defined in section 1509.01	294
of the Revised Code.	295
(C) "Commence to construct" means any clearing of land,	296

excavation, or other action that would adversely affect the 297
natural environment of the site or route of a major utility 298
facility, but does not include surveying changes needed for 299
temporary use of sites or routes for nonutility purposes, or 300
uses in securing geological data, including necessary borings to 301
ascertain foundation conditions. 302

(D) "Certificate" means a certificate of environmental 303
compatibility and public need issued by the power siting board 304
under section 4906.10 of the Revised Code or a construction 305
certificate issued by the board under rules adopted under 306
division (E) or (F) of section 4906.03 of the Revised Code. 307

(E) "Gas" means natural gas, flammable gas, or gas that is 308
toxic or corrosive. 309

(F) "Natural gas liquids finished product pipeline" means 310
a pipeline that carries finished product natural gas liquids to 311
the inlet of an interstate or intrastate finished product 312
natural gas liquid transmission pipeline, rail loading facility, 313
or other petrochemical or refinery facility. 314

(G) "Large solar facility" means an electric generating 315
plant that consists of solar panels and associated facilities 316
with a single interconnection to the electrical grid that is a 317
major utility facility. 318

(H) "Large wind farm" means an electric generating plant 319
that consists of wind turbines and associated facilities with a 320
single interconnection to the electrical grid that is a major 321
utility facility. 322

(I) "Natural gas liquids fractionation plant" means a 323
facility that takes a feed of raw natural gas liquids and 324
produces finished product natural gas liquids. 325

~~(H)~~ (J) "Raw natural gas" means hydrocarbons that are 326
produced in a gaseous state from gas wells and that generally 327
include methane, ethane, propane, butanes, pentanes, hexanes, 328
heptanes, octanes, nonanes, and decanes, plus other naturally 329
occurring impurities like water, carbon dioxide, hydrogen 330
sulfide, nitrogen, oxygen, and helium. 331

~~(I)~~ (K) "Raw natural gas liquids" means naturally 332
occurring hydrocarbons contained in raw natural gas that are 333
extracted in a gas processing plant and liquefied and generally 334
include mixtures of ethane, propane, butanes, and natural 335
gasoline. 336

~~(J)~~ (L) "Finished product natural gas liquids" means an 337
individual finished product produced by a natural gas liquids 338
fractionation plant as a liquid that meets the specifications 339
for commercial products as defined by the gas processors 340
association. Those products include ethane, propane, iso-butane, 341
normal butane, and natural gasoline. 342

Sec. 4906.02. ~~(A)~~ (A) (1) There is hereby created within the 343
public utilities commission the power siting board, composed of 344
the ~~chairman~~ chairperson of the public utilities commission, the 345
director of environmental protection, the director of health, 346
the director of development, the director of natural resources, 347
the director of agriculture, and a representative of the public 348
who shall be an engineer and shall be appointed by the governor, 349
from a list of three nominees submitted to the governor by the 350
office of the consumers' counsel, with the advice and consent of 351
the senate and shall serve for a term of four years. The 352
~~chairman~~ chairperson of the public utilities commission shall be 353
~~chairman~~ chairperson of the board and its chief executive 354
officer. The ~~chairman~~ chairperson shall designate one of the 355

voting members of the board to act as ~~vice-chairman~~vice- 356
chairperson who shall possess during the absence or disability 357
of the ~~chairman~~chairperson all of the powers of the 358
~~chairman~~chairperson. All hearings, studies, and consideration of 359
applications for certificates shall be conducted by the board or 360
representatives of its members. 361

In addition, the board shall include four legislative 362
members who may participate fully in all the board's 363
deliberations and activities except that they shall serve as 364
nonvoting members. The speaker of the house of representatives 365
shall appoint one legislative member, and the president of the 366
senate and minority leader of each house shall each appoint one 367
legislative member. Each such legislative leader shall designate 368
an alternate to attend meetings of the board when the regular 369
legislative member ~~he~~appointed by the legislative leader is 370
unable to attend. Each legislative member and alternate shall 371
serve for the duration of the elected term that ~~he~~the 372
legislative member is serving at the time of ~~his~~ appointment. A 373
quorum of the board is a majority of its voting members. 374

The representative of the public and, notwithstanding 375
section 101.26 of the Revised Code, legislative members of the 376
board or their designated alternates, when engaged in their 377
duties as members of the board, shall be paid at the per diem 378
rate of step 1, pay range 32, under schedule B of section 124.15 379
of the Revised Code and shall be reimbursed for the actual and 380
necessary expenses they incur in the discharge of their official 381
duties. 382

(2) In all cases involving an application for a 383
certificate or a material amendment to an existing certificate 384
for a utility facility, as defined in section 303.57 of the 385

Revised Code, the board shall include two voting ad hoc members, 386
as described in section 4906.021 of the Revised Code. 387

(B) The ~~chairman~~chairperson shall keep a complete record 388
of all proceedings of the board, issue all necessary process, 389
writs, warrants, and notices, keep all books, maps, documents, 390
and papers ordered filed by the board, conduct investigations 391
pursuant to section 4906.07 of the Revised Code, and perform 392
such other duties as the board may prescribe. 393

(C) The ~~chairman~~chairperson of the public utilities 394
commission may assign or transfer duties among the commission's 395
staff. However, the board's authority to grant certificates 396
under section 4906.10 of the Revised Code shall not be exercised 397
by any officer, employee, or body other than the board itself. 398

(D) The ~~chairman~~chairperson may call to ~~his~~the 399
chairperson's assistance, temporarily, any employee of the 400
environmental protection agency, the department of natural 401
resources, the department of agriculture, the department of 402
health, or the department of development, for the purpose of 403
making studies, conducting hearings, investigating applications, 404
or preparing any report required or authorized under this 405
chapter. Such employees shall not receive any additional 406
compensation over that which they receive from the agency by 407
which they are employed, but they shall be reimbursed for their 408
actual and necessary expenses incurred while working under the 409
direction of the ~~chairman~~chairperson. All contracts for special 410
services are subject to the approval of the ~~chairman~~chairperson. 411

(E) The board's offices shall be located in those of the 412
public utilities commission. 413

Sec. 4906.021. (A) For the purposes of this section and 414

<u>section 4906.022 of the Revised Code:</u>	415
<u>(1) "Immediate family member" means a person's:</u>	416
<u>(a) Spouse;</u>	417
<u>(b) Brother or sister of the whole, or of the half, blood,</u> <u>or by marriage;</u>	418 419
<u>(c) Children, including adopted children; and</u>	420
<u>(d) Parents.</u>	421
<u>(2) "Material amendment" and "utility facility" have the</u> <u>same meanings as in section 303.57 of the Revised Code.</u>	422 423
<u>(B) Whenever an application is made to the power siting</u> <u>board for a certificate or a material amendment to an existing</u> <u>certificate for a utility facility, the board shall include two</u> <u>voting ad hoc members to represent the interests of the</u> <u>residents of the area in which the utility facility is to be</u> <u>located.</u>	424 425 426 427 428 429
<u>(C) (1) The ad hoc members shall be:</u>	430
<u>(a) The chairperson of the board of township trustees of</u> <u>the township in which the utility facility is to be located or</u> <u>the chairperson's designee;</u>	431 432 433
<u>(b) The president of the board of county commissioners of</u> <u>the county in which the utility facility is to be located or the</u> <u>president's designee.</u>	434 435 436
<u>(2) If a utility facility is to be located in multiple</u> <u>townships, a single ad hoc member to represent the townships</u> <u>shall be chosen by a majority vote of all of the boards of</u> <u>township trustees of the townships in which the utility facility</u> <u>is to be located.</u>	437 438 439 440 441

(3) If a utility facility is to be located in multiple 442
counties, a single ad hoc member to represent the counties shall 443
be chosen by a majority vote of all of the boards of county 444
commissioners of the counties in which the utility facility is 445
to be located. 446

(D) (1) No person shall serve as such an ad hoc member if 447
the person: 448

(a) Is party to a lease agreement with, or has granted an 449
easement to, the developer of a utility facility; 450

(b) Holds any other beneficial interest in a utility 451
facility; 452

(c) Has an immediate family member who is party to a lease 453
agreement with, or has granted an easement to, the developer of 454
the utility facility; 455

(d) Has an immediate family member who holds any 456
beneficial interest in a utility facility; 457

(e) Has an immediate family member who has intervened in 458
the power siting board proceeding for which the ad hoc member is 459
included. 460

(2) If, because of the application of division (D) of this 461
section, an individual is unable to serve as such an ad hoc 462
member, a new ad hoc member shall be appointed in accordance 463
with division (C) of this section. 464

(E) A designee under division (C) (1) of this section shall 465
be one of the following from the same political subdivision as 466
the designator: 467

(a) Another elected official; 468

(b) A resident. 469

Sec. 4906.022. (A) Voting ad hoc members of the power 470
siting board under section 4906.021 of the Revised Code shall be 471
designated not later than thirty days after a board of county 472
commissioners or a board of township trustees receives 473
notification that an application, for which an ad hoc member 474
shall be included, has been found to be in compliance with 475
division (A) of section 4906.06 of the Revised Code by the 476
chairperson of the power siting board or the chairperson's 477
designee and is accepted by the board. 478

(B) The ad hoc members shall be designated in accordance 479
with the requirements set forth in division (C) of section 480
4906.021 of the Revised Code. 481

Sec. 4906.023. If a board of township trustees or board of 482
county commissioners seeks to adopt a resolution to intervene in 483
a power siting board case for which it is entitled to have a 484
voting ad hoc member under section 4906.02 of the Revised Code, 485
the member shall not vote on the resolution to intervene, unless 486
the member designates another individual to serve as the ad hoc 487
member. 488

A designee under this section shall meet the requirements 489
of division (E) of section 4906.021 of the Revised Code. 490

Sec. 4906.024. (A) A voting ad hoc member of the power 491
siting board under section 4906.02 of the Revised Code shall be 492
exempt from any limitations on ex parte communications. 493

(B) If such an ad hoc member communicates with a party, 494
including any party who is an intervenor, to a board proceeding, 495
the ad hoc member and the party shall disclose the following to 496
the board: 497

<u>(1) The date of the conversation;</u>	498
<u>(2) All participants in the conversation who are parties to the case.</u>	499 500
<u>Sec. 4906.025. No present or former voting ad hoc member of the power siting board shall disclose or use, without appropriate authorization, information acquired in the course of official duties that is confidential because of either of the following:</u>	501 502 503 504 505
<u>(A) Statutory law;</u>	506
<u>(B) Notice the ad hoc member received designating the information as confidential and both of the following apply:</u>	507 508
<u>(1) The status of the proceedings, or the circumstances under which the information was received, warrants its confidentiality;</u>	509 510 511
<u>(2) Preserving its confidentiality is necessary to the proper conduct of governmental activities.</u>	512 513
<u>Sec. 4906.10. (A) The power siting board shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, or modifications of the construction, operation, or maintenance of the major utility facility as the board considers appropriate. The certificate shall be subject to sections 4906.101, 4906.102, and 4906.103 of the Revised Code and conditioned upon the facility being in compliance with standards and rules adopted under section 4561.32 and Chapters 3704., 3734., and 6111. of the Revised Code. An applicant may withdraw an application if the board grants a certificate on terms, conditions, or modifications other than those proposed by the applicant in the application.</u>	514 515 516 517 518 519 520 521 522 523 524 525 526

The board shall not grant a certificate for the 527
construction, operation, and maintenance of a major utility 528
facility, either as proposed or as modified by the board, unless 529
it finds and determines all of the following: 530

(1) The basis of the need for the facility if the facility 531
is an electric transmission line or gas pipeline; 532

(2) The nature of the probable environmental impact; 533

(3) That the facility represents the minimum adverse 534
environmental impact, considering the state of available 535
technology and the nature and economics of the various 536
alternatives, and other pertinent considerations; 537

(4) In the case of an electric transmission line or 538
generating facility, that the facility is consistent with 539
regional plans for expansion of the electric power grid of the 540
electric systems serving this state and interconnected utility 541
systems and that the facility will serve the interests of 542
electric system economy and reliability; 543

(5) That the facility will comply with Chapters 3704., 544
3734., and 6111. of the Revised Code and all rules and standards 545
adopted under those chapters and under section 4561.32 of the 546
Revised Code. In determining whether the facility will comply 547
with all rules and standards adopted under section 4561.32 of 548
the Revised Code, the board shall consult with the office of 549
aviation of the division of multi-modal planning and programs of 550
the department of transportation under section 4561.341 of the 551
Revised Code. 552

(6) That the facility will serve the public interest, 553
convenience, and necessity; 554

(7) In addition to the provisions contained in divisions 555

(A) (1) to (6) of this section and rules adopted under those 556
divisions, what its impact will be on the viability as 557
agricultural land of any land in an existing agricultural 558
district established under Chapter 929. of the Revised Code that 559
is located within the site and alternative site of the proposed 560
major utility facility. Rules adopted to evaluate impact under 561
division (A) (7) of this section shall not require the 562
compilation, creation, submission, or production of any 563
information, document, or other data pertaining to land not 564
located within the site and alternative site. 565

(8) That the facility incorporates maximum feasible water 566
conservation practices as determined by the board, considering 567
available technology and the nature and economics of the various 568
alternatives. 569

(B) If the board determines that the location of all or a 570
part of the proposed facility should be modified, it may 571
condition its certificate upon that modification, provided that 572
the municipal corporations and counties, and persons residing 573
therein, affected by the modification shall have been given 574
reasonable notice thereof. 575

(C) A copy of the decision and any opinion issued 576
therewith shall be served upon each party. 577

Sec. 4906.101. (A) For purposes of this section and 578
sections 4906.102 and 4906.103 of the Revised Code, "material 579
amendment" and "utility facility" have the same meanings as in 580
section 303.57 of the Revised Code. 581

(B) The power siting board shall not grant a certificate 582
for the construction, operation, and maintenance of, or material 583
amendment to an existing certificate for, a utility facility, 584

either as proposed or as modified by the board, to be 585
constructed in a restricted area of the unincorporated area of a 586
county, as designated by that county's board of county 587
commissioners under sections 303.58 and 303.59 of the Revised 588
Code, if the utility facility is of a type prohibited in the 589
restricted area. 590

Sec. 4906.102. (A) The power siting board shall not grant 591
a certificate for the construction, operation, and maintenance 592
of, or a material amendment to an existing certificate for, a 593
utility facility, either as proposed or as modified by the 594
board, to be constructed in the unincorporated area of a county, 595
if the board of county commissioners of the county in which a 596
utility facility is to be located has adopted a resolution 597
prohibiting the construction of the utility facility as 598
described in section 303.62 of the Revised Code. 599

(B) If the utility facility is to be located in multiple 600
counties and less than all of the boards of county commissioners 601
adopt a resolution prohibiting the construction of a utility 602
facility, the power siting board shall modify the certificate or 603
material amendment to exclude the area of each county whose 604
board of county commissioners rejected the certificate or 605
material amendment. 606

Sec. 4906.103. If a board of county commissioners has 607
adopted a resolution which limits the boundaries of the proposed 608
utility facility to a smaller geographic area of the county, 609
completely within what was proposed by the applicant, as 610
described in section 303.62 of the Revised Code, the power 611
siting board shall not grant a certificate or material amendment 612
that includes an area outside of the geographic area approved by 613
the board of county commissioners of the county in which the 614

utility facility is to be located. 615

Sec. 4906.21. (A) For the purposes of this section and 616
sections 4906.21 to 4906.232 of the Revised Code: 617

(1) "Applicant" means an applicant for a certificate, or a 618
material amendment to an existing certificate, from the power 619
siting board to construct, operate, or maintain a utility 620
facility, and includes any subsequent person to whom the 621
certificate is transferred. 622

(2) "Material amendment" and "utility facility" have the 623
same meanings as in section 303.57 of the Revised Code. 624

(B) At least sixty days prior to the commencement of 625
construction of a utility facility, the applicant shall submit a 626
comprehensive decommissioning plan for review and approval by 627
the power siting board. 628

Sec. 4906.211. (A) The decommissioning plan submitted to 629
the power siting board under section 4906.21 of the Revised Code 630
shall be prepared by a professional engineer registered with the 631
state board of registration for professional engineers and 632
surveyors. The board may reject the engineer chosen by the 633
applicant and to require the applicant to choose another 634
qualified engineer. 635

(B) The plan shall contain the following: 636

(1) A list of all parties responsible for decommissioning; 637

(2) A schedule of decommissioning activities, not to 638
extend beyond twelve months from the date the utility facility 639
ceases operation; 640

(3) An estimate of the full costs of decommissioning the 641
utility facility, including the proper disposal of all facility 642

components and restoration of the land on which the facility is 643
located to its pre-construction state. The estimate shall not 644
take into account the salvage value of any materials from the 645
facility. 646

Sec. 4906.212. The estimate of the total decommissioning 647
costs of a utility facility, as described in division (B)(3) of 648
section 4906.211 of the Revised Code, shall be recalculated 649
every five years by an engineer retained by the applicant. 650

Sec. 4906.22. (A) Prior to beginning construction, the 651
applicant shall post a performance bond to ensure that funds are 652
available for the decommissioning of the facility. 653

(B) The power siting board shall be the obligee of the 654
bond. 655

Sec. 4906.221. The performance bond required by section 656
4906.22 of the Revised Code shall be equal to the estimate of 657
the costs of decommissioning included in the decommissioning 658
plan described in section 4906.211 of the Revised Code. 659

Sec. 4906.222. (A) The performance bond for the 660
decommissioning of a utility facility shall be updated every 661
five years, based on the most recent estimates, as described in 662
section 4906.212 of the Revised Code. 663

(B) If the costs of decommissioning are greater in the 664
most recent estimate than the costs of the immediately preceding 665
estimate, the performance bond shall be increased 666
proportionately. 667

(C) If the costs of decommissioning are lower in the most 668
recent estimate than the costs of the immediately preceding 669
estimate, the performance bond shall not be decreased. 670

Sec. 4906.30. (A) For purposes of this section and section 4906.31 of the Revised Code, "material amendment" and "utility facility" have the same meanings as in section 303.57 of the Revised Code. 671
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(B) The power siting board shall not grant a certificate for the construction, operation, and maintenance of, or a material amendment to an existing certificate for, a utility facility, either as proposed or as modified by the board, to be constructed in the unincorporated area of a county, if the facility has any of the following: 675
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(1) A nameplate capacity exceeding that which was provided to that county's board of county commissioners under section 303.61 of the Revised Code; 681
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(2) A geographic area that is not completely within the boundaries provided to that county's board of county commissioners under section 303.61 of the Revised Code or the limited boundaries provided by that county's board of county commissioners under section 303.62 of the Revised Code; 684
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(3) A type of generation that is different than that which was provided to that county's board of county commissioners under section 303.61 of the Revised Code. 689
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Sec. 4906.31. (A) Not later than three days after an application for a certificate, or a material amendment to an existing certificate, for a utility facility is found to be in compliance with division (A) of section 4906.06 of the Revised Code by the chairperson of the power siting board or the chairperson's designee, is accepted by the power siting board, and the filing fee is paid by the applicant, the board shall provide a full and complete copy of the application to each 692
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board of trustees and each board of county commissioners of the 700
townships or counties in which the facility is to be located. 701

(B) The copy of the application may be provided in any of 702
the following formats: 703

(1) Paper copy; 704

(2) Electronic format; 705

(3) An electronic communication containing a link to the 706
application, if posted on the board's web site. 707

Section 2. That existing sections 4906.01, 4906.02, and 708
4906.10 of the Revised Code are hereby repealed. 709

Section 3. (A) The provisions of this act shall apply to 710
any application for a certificate, or a material amendment to an 711
existing certificate, for an economically significant wind farm 712
or large wind farm that is not found to be in compliance with 713
division (A) of section 4906.06 of the Revised Code by the 714
chairperson of the power siting board or the chairperson's 715
designee and accepted by the board not later than thirty days 716
after the effective date of S.B. 52 of the 134th general 717
assembly. 718

(B) Any application or a material amendment for an 719
economically significant wind farm or large wind farm not found 720
to be in compliance with division (A) of section 4906.06 of the 721
Revised Code by the chairperson of the power siting board or the 722
chairperson's designee and accepted by the board not later than 723
thirty days after the effective date of this section shall be 724
subject to review by the board of county commissioners of the 725
county in which the utility facility is to be located. The board 726
of county commissioners shall have ninety days after the 727
effective date of this section to review the application and to 728

adopt such resolution as set forth in section 303.62 of the Revised Code.

Section 4. (A) The provisions of this act shall not apply to any application for a certificate, or material amendment to an existing certificate, from the power siting board for a large solar facility that is in the PJM interconnection and regional transmission organization, L.L.C., new services queue at the time the application is found to be in compliance with division (A) of section 4906.06 of the Revised Code by the chairperson of the power siting board or the chairperson's designee and is accepted by the board if, as of the effective date of this section:

(1) The applicant has received a completed system impact study from PJM for the large solar facility; and

(2) The applicant has paid the fee for the facilities study to PJM.

(B) For any large solar facility that meets the requirements of division (A) of this section and has multiple positions in the PJM new services queue under the same legal entity as the applicant, all of the queue positions in effect as of the effective date of this section shall be exempt from the provisions of this act, subject to division (C) of this section.

(C) If, after the effective date of this section, an applicant for a large solar facility files an additional new service request with PJM, pertaining to the same facility that is in the new services queue, the application shall be subject to review by the board of county commissioners of the county in which the utility facility is to be located.

(D) If, after the effective date of this section, in order

to participate in PJM's capacity market, a large solar facility 758
submits a new queue position for an increase in its capacity 759
interconnection rights, the change in capacity interconnection 760
rights shall not subject the facility to the provisions of this 761
act, provided that the change in rights occurs without 762
increasing the facility's nameplate capacity. 763

Section 5. For all power siting board proceedings under 764
which an application for a certificate, or a material amendment 765
to an existing certificate, for an economically significant wind 766
farm, large wind farm, or a large solar facility that has not 767
been found to be in compliance with division (A) of section 768
4906.06 of the Revised Code by the chairperson of the power 769
siting board or the chairperson's designee and accepted by the 770
board as of the effective date of this section, the board shall 771
include the voting ad hoc members required by section 4906.02 of 772
the Revised Code. 773