

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 223

Representatives Strahorn, Skindell

Cosponsors: Representatives Miller, J., Smith, K., Upchurch, O'Brien, Lepore-Hagan, Boggs, Galonski, Holmes, G.

A BILL

To amend sections 4906.20 and 4906.201 of the 1
Revised Code to alter the minimum setback 2
requirement for wind farms of five or more 3
megawatts. 4

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

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

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

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

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

(2) Additionally, the rules shall prescribe reasonable 30
regulations regarding any wind turbines and associated 31
facilities of an economically significant wind farm, including, 32
but not limited to, their location, erection, construction, 33
reconstruction, change, alteration, maintenance, removal, use, 34
or enlargement and including erosion control, aesthetics, 35
recreational land use, wildlife protection, interconnection with 36
power lines and with regional transmission organizations, 37
independent transmission system operators, or similar 38
organizations, ice throw, sound and noise levels, blade shear, 39
shadow flicker, decommissioning, and necessary cooperation for 40
site visits and enforcement investigations. 41

(a) The rules also shall prescribe a minimum setback for a 42
wind turbine of an economically significant wind farm. That 43
minimum shall be equal to a horizontal distance, from the 44
turbine's base to the property line of the wind farm property, 45
equal to one and one-tenth times the total height of the turbine 46
structure as measured from its base to the tip of its highest 47

blade and be at least one thousand one hundred twenty-five feet 48
in horizontal distance from the tip of the turbine's nearest 49
blade at ninety degrees to ~~property line~~ the exterior of the 50
nearest habitable residential structure, if any, located on 51
adjacent property at the time of the certification application. 52

(b) (i) For any existing certificates and amendments 53
thereto, and existing certification applications that have been 54
found by the chairperson to be in compliance with division (A) 55
of section 4906.06 of the Revised Code before the effective date 56
of the amendment of this section by H.B. 59 of the 130th general 57
assembly, September 29, 2013, the distance shall be seven 58
hundred fifty feet instead of one thousand one hundred twenty- 59
five feet. 60

(ii) Any amendment made to an existing certificate after 61
the effective date of the amendment of this section by H.B. 483 62
of the 130th general assembly, September 15, 2014, and before 63
the effective date of the amendment of this section by ...B... 64
of the 133rd general assembly shall be subject to the setback 65
provision of this section as amended by ~~that act~~ H.B. 483 of the 66
130th general assembly. The amendments to this section by ~~that~~ 67
~~act~~ H.B. 483 of the 130th general assembly shall not be 68
construed to limit or abridge any rights or remedies in equity 69
or under the common law. 70

(iii) Any amendment made to an existing certificate after 71
the effective date of the amendment of this section by ...B... 72
of the 133rd general assembly shall be subject to the setback 73
provision of this section as amended by that act. The amendments 74
to this section by that act shall not be construed to limit or 75
abridge any rights or remedies in equity or under the common 76
law. 77

(c) The setback shall apply in all cases except those in 78
which all owners of property adjacent to the wind farm property 79
waive application of the setback to that property pursuant to a 80
procedure the board shall establish by rule and except in which, 81
in a particular case, the board determines that a setback 82
greater than the minimum is necessary. 83

Sec. 4906.201. (A) An electric generating plant that 84
consists of wind turbines and associated facilities with a 85
single interconnection to the electrical grid that is designed 86
for, or capable of, operation at an aggregate capacity of fifty 87
megawatts or more is subject to the minimum setback requirements 88
established in rules adopted by the power siting board under 89
division (B) (2) of section 4906.20 of the Revised Code. 90

(B) (1) For any existing certificates and amendments 91
thereto, and existing certification applications that have been 92
found by the chairperson to be in compliance with division (A) 93
of section 4906.06 of the Revised Code before the effective date 94
of the amendment of this section by H.B. 59 of the 130th general 95
assembly, September 29, 2013, the distance shall be seven 96
hundred fifty feet instead of one thousand one hundred twenty- 97
five feet. 98

(2) Any amendment made to an existing certificate after 99
the effective date of the amendment of this section by H.B. 483 100
of the 130th general assembly, September 15, 2014, and before 101
the effective date of the amendment of this section by ...B... 102
of the 133rd general assembly shall be subject to the setback 103
provision of this section as amended by ~~that act~~ H.B. 483 of the 104
130th general assembly. The amendments to this section by ~~that~~ 105
~~act~~ H.B. 483 of the 130th general assembly shall not be 106
construed to limit or abridge any rights or remedies in equity 107

or under the common law. 108

(3) Any amendment made to an existing certificate after 109
the effective date of the amendment of this section by ...B... 110
of the 133rd general assembly shall be subject to the setback 111
provision of this section as amended by that act. The amendments 112
to this section by that act shall not be construed to limit or 113
abridge any rights or remedies in equity or under the common 114
law. 115

Section 2. That existing sections 4906.20 and 4906.201 of 116
the Revised Code are hereby repealed. 117