

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 604**

**Representative Strahorn**

**Cosponsors: Representatives Antonio, Holmes, Ashford, Boggs, Patterson, Miller,  
Brown, Craig, O'Brien, West, Smith, K.**

---

**A BILL**

To amend sections 4906.20, 4906.201, and 5727.75 of 1  
the Revised Code to alter the minimum setback 2  
requirement for wind farms of five or more 3  
megawatts and to make the authorization of 4  
qualified energy project property tax exemptions 5  
permanent. 6

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

**Section 1.** That sections 4906.20, 4906.201, and 5727.75 of 7  
the Revised Code be amended to read as follows: 8

**Sec. 4906.20.** (A) No person shall commence to construct an 9  
economically significant wind farm in this state without first 10  
having obtained a certificate from the power siting board. An 11  
economically significant wind farm with respect to which such a 12  
certificate is required shall be constructed, operated, and 13  
maintained in conformity with that certificate and any terms, 14  
conditions, and modifications it contains. A certificate shall 15  
be issued only pursuant to this section. The certificate may be 16  
transferred, subject to the approval of the board, to a person 17  
that agrees to comply with those terms, conditions, and 18

modifications. 19

(B) The board shall adopt rules governing the 20  
certificating of economically significant wind farms under this 21  
section. Initial rules shall be adopted within one hundred 22  
twenty days after June 24, 2008. 23

(1) The rules shall provide for an application process for 24  
certificating economically significant wind farms that is 25  
identical to the extent practicable to the process applicable to 26  
certificating major utility facilities under sections 4906.06, 27  
4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the 28  
Revised Code and shall prescribe a reasonable schedule of 29  
application filing fees structured in the manner of the schedule 30  
of filing fees required for major utility facilities. 31

(2) Additionally, the rules shall prescribe reasonable 32  
regulations regarding any wind turbines and associated 33  
facilities of an economically significant wind farm, including, 34  
but not limited to, their location, erection, construction, 35  
reconstruction, change, alteration, maintenance, removal, use, 36  
or enlargement and including erosion control, aesthetics, 37  
recreational land use, wildlife protection, interconnection with 38  
power lines and with regional transmission organizations, 39  
independent transmission system operators, or similar 40  
organizations, ice throw, sound and noise levels, blade shear, 41  
shadow flicker, decommissioning, and necessary cooperation for 42  
site visits and enforcement investigations. 43

(a) The rules also shall prescribe a minimum setback for a 44  
wind turbine of an economically significant wind farm. That 45  
minimum shall be equal to a horizontal distance, from the 46  
turbine's base to the property line of the wind farm property, 47  
equal to one and one-tenth times the total height of the turbine 48

structure as measured from its base to the tip of its highest 49  
blade and be at least one thousand one hundred twenty-five feet 50  
in horizontal distance from the tip of the turbine's nearest 51  
blade at ninety degrees to ~~property line~~ the exterior of the 52  
nearest habitable residential structure, if any, located on 53  
adjacent property at the time of the certification application. 54

(b) (i) For any existing certificates and amendments 55  
thereto, and existing certification applications that have been 56  
found by the chairperson to be in compliance with division (A) 57  
of section 4906.06 of the Revised Code before the effective date 58  
of the amendment of this section by H.B. 59 of the 130th general 59  
assembly, September 29, 2013, the distance shall be seven 60  
hundred fifty feet instead of one thousand one hundred twenty- 61  
five feet. 62

(ii) Any amendment made to an existing certificate after 63  
the effective date of the amendment of this section by H.B. 483 64  
of the 130th general assembly, September 15, 2014, and before 65  
the effective date of the amendment of this section by ...B... 66  
of the 132nd general assembly shall be subject to the setback 67  
provision of this section as amended by ~~that act~~ H.B. 483 of the 68  
130th general assembly. The amendments to this section by ~~that~~ 69  
~~act~~ H.B. 483 of the 130th general assembly shall not be 70  
construed to limit or abridge any rights or remedies in equity 71  
or under the common law. 72

(iii) Any amendment made to an existing certificate after 73  
the effective date of the amendment of this section by ...B... 74  
of the 132nd general assembly shall be subject to the setback 75  
provision of this section as amended by that act. The amendments 76  
to this section by that act shall not be construed to limit or 77  
abridge any rights or remedies in equity or under the common 78

law. 79

(c) The setback shall apply in all cases except ~~those in~~ 80  
~~which all owners when an owner of property adjacent to the a~~ 81  
~~parcel that abuts a parcel where a wind farm property waive~~ 82  
~~turbine is located waives~~ application of the setback to that 83  
~~property parcel~~ pursuant to a procedure the board shall 84  
establish by rule and except in which, in a particular case, the 85  
board determines that a setback greater than the minimum is 86  
necessary. 87

(C) As used in this section, "parcel" has the same meaning 88  
as in section 2329.66 of the Revised Code. 89

**Sec. 4906.201.** (A) An electric generating plant that 90  
consists of wind turbines and associated facilities with a 91  
single interconnection to the electrical grid that is designed 92  
for, or capable of, operation at an aggregate capacity of fifty 93  
megawatts or more is subject to the minimum setback requirements 94  
established in rules adopted by the power siting board under 95  
division (B) (2) of section 4906.20 of the Revised Code. 96

(B) (1) For any existing certificates and amendments 97  
thereto, and existing certification applications that have been 98  
found by the chairperson to be in compliance with division (A) 99  
of section 4906.06 of the Revised Code before the effective date 100  
of the amendment of this section by H.B. 59 of the 130th general 101  
assembly, September 29, 2013, the distance shall be seven 102  
hundred fifty feet instead of one thousand one hundred twenty- 103  
five feet. 104

(2) Any amendment made to an existing certificate after 105  
the effective date of the amendment of this section by H.B. 483 106  
of the 130th general assembly, September 15, 2014, and before 107

the effective date of the amendment of this section by ...B... of the 132nd general assembly shall be subject to the setback provision of this section as amended by ~~that act~~ H.B. 483 of the 130th general assembly. The amendments to this section by ~~that act~~ H.B. 483 of the 130th general assembly shall not be construed to limit or abridge any rights or remedies in equity or under the common law.

(3) Any amendment made to an existing certificate after the effective date of the amendment of this section by ...B... of the 132nd general assembly shall be subject to the setback provision of this section as amended by that act. The amendments to this section by that act shall not be construed to limit or abridge any rights or remedies in equity under the common law.

**Sec. 5727.75.** (A) For purposes of this section: 121

(1) "Qualified energy project" means an energy project certified by the director of development services pursuant to this section. 122  
123  
124

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility. 125  
126  
127

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E) (1) ~~(b)~~ (a) or ~~(e)~~ (b) of this section. 128  
129  
130

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours. 131  
132  
133  
134  
135

(5) "Solar energy project" means an energy project 136

composed of an energy facility using solar panels to generate 137  
electricity. 138

(B) (1) Tangible personal property of a qualified energy 139  
project using renewable energy resources is exempt from taxation 140  
~~for tax years 2011 through 2021~~ if all both of the following 141  
conditions, as applicable, are satisfied: 142

(a) ~~On or before December 31, 2020, the~~ The owner or a 143  
lessee pursuant to a sale and leaseback transaction of the 144  
project submits an application to the power siting board for a 145  
certificate under section 4906.20 of the Revised Code, or if 146  
that section does not apply, submits an application for any 147  
approval, consent, permit, or certificate or satisfies any 148  
condition required by a public agency or political subdivision 149  
of this state for the construction or initial operation of an 150  
energy project. 151

(b) ~~Construction or installation of the energy facility~~ 152  
~~begins on or after January 1, 2009, and before January 1, 2021.~~ 153  
~~For the purposes of this division, construction begins on the~~ 154  
~~earlier of the date of application for a certificate or other~~ 155  
~~approval or permit described in division (B) (1) (a) of this~~ 156  
~~section, or the date the contract for the construction or~~ 157  
~~installation of the energy facility is entered into.~~ 158

~~(e)~~ For a qualified energy project with a nameplate 159  
capacity of five megawatts or greater, a board of county 160  
commissioners of a county in which property of the project is 161  
located has adopted a resolution under division (E) (1) ~~(b)~~ (a) or 162  
~~(e)~~ (b) of this section to approve the application submitted 163  
under division (E) of this section to exempt the property 164  
located in that county from taxation. A board's adoption of a 165  
resolution rejecting an application or its failure to adopt a 166

resolution approving the application does not affect the tax- 167  
exempt status of the qualified energy project's property that is 168  
located in another county. 169

(2) If tangible personal property of a qualified energy 170  
project using renewable energy resources ~~was~~ is exempt from 171  
taxation under this section ~~beginning in any of tax years 2011-~~ 172  
~~through 2021,~~ and the certification under division (E) (2) of 173  
this section has not been revoked, the tangible personal 174  
property of the qualified energy project is exempt from taxation 175  
for the first tax year 2022 that the property would be listed 176  
for taxation and all ~~ensuing subsequent tax years if after the~~ 177  
property was placed into service ~~before January 1, 2022,~~ as 178  
certified in the construction progress report required under 179  
division (F) (2) of this section. ~~Tangible personal property that~~ 180  
~~has not been placed into service before that date is taxable~~ 181  
~~property subject to taxation. An~~, except that an energy project 182  
for which certification has been revoked ~~is ineligible for~~ 183  
~~further exemption under this section~~ shall be listed for 184  
taxation for the tax year following the tax year in which the 185  
certification is revoked and ensuing tax years. Revocation does 186  
not affect the tax-exempt status of the project's tangible 187  
personal property for the tax year in which revocation occurs or 188  
any prior tax year. 189

(C) Tangible personal property of a qualified energy 190  
project using clean coal technology, advanced nuclear 191  
technology, or cogeneration technology is exempt from taxation 192  
for the first tax year that the property would be listed for 193  
taxation and all subsequent years if ~~all~~ both of the following 194  
circumstances, as applicable, are met: 195

(1) ~~The property was placed into service before January 1,~~ 196

~~2021. Tangible personal property that has not been placed into  
service before that date is taxable property subject to  
taxation.~~ 197  
198  
199

~~(2)~~ For such a qualified energy project with a nameplate  
capacity of five megawatts or greater, a board of county  
commissioners of a county in which property of the qualified  
energy project is located has adopted a resolution under  
division (E) (1) ~~(b)~~ (a) or ~~(c)~~ (b) of this section to approve the  
application submitted under division (E) of this section to  
exempt the property located in that county from taxation. A  
board's adoption of a resolution rejecting the application or  
its failure to adopt a resolution approving the application does  
not affect the tax-exempt status of the qualified energy  
project's property that is located in another county. 200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210

~~(3)~~ (2) The certification for the qualified energy project  
issued under division (E) (2) of this section has not been  
revoked. An energy project for which certification has been  
~~revoked is ineligible for exemption under this section shall be~~  
listed for taxation for the tax year following the tax year in  
which the certification is revoked and ensuing tax years. 211  
212  
213  
214  
215  
216  
Revocation does not affect the tax-exempt status of the 217  
project's tangible personal property for the tax year in which 218  
revocation occurs or any prior tax year. 219

(D) Except as otherwise provided in this section, real 220  
property of a qualified energy project is exempt from taxation 221  
for any tax year for which the tangible personal property of the 222  
qualified energy project is exempted under this section. 223

(E) (1) (a) A person may apply to the director of 224  
development services for certification of an energy project as a 225  
qualified energy project ~~on or before the following dates:~~ 226



~~(i) December 31, 2020, for an energy project using  
renewable energy resources;~~ 227  
228

~~(ii) December 31, 2017, for an energy project using clean-  
coal technology, advanced nuclear technology, or cogeneration  
technology.~~ 229  
230  
231

~~(b) The~~ and the director shall forward a copy of each 232  
application for certification of an energy project with a 233  
nameplate capacity of five megawatts or greater to the board of 234  
county commissioners of each county in which the project is 235  
located and to each taxing unit with territory located in each 236  
of the affected counties. Any board that receives from the 237  
director a copy of an application submitted under this division 238  
shall adopt a resolution approving or rejecting the application 239  
unless it has adopted a resolution under division (E) (1) ~~(e)~~ (b) 240  
of this section. A resolution adopted under division (E) (1) ~~(b)~~ 241  
(a) or ~~(e)~~ (b) of this section may require an annual service 242  
payment to be made in addition to the service payment required 243  
under division (G) of this section. The sum of the service 244  
payment required in the resolution and the service payment 245  
required under division (G) of this section shall not exceed 246  
nine thousand dollars per megawatt of nameplate capacity located 247  
in the county. The resolution shall specify the time and manner 248  
in which the payments required by the resolution shall be paid 249  
to the county treasurer. The county treasurer shall deposit the 250  
payment to the credit of the county's general fund to be used 251  
for any purpose for which money credited to that fund may be 252  
used. 253

The board shall send copies of the resolution by certified 254  
mail to the owner of the facility and the director within thirty 255  
days after receipt of the application, or a longer period of 256

time if authorized by the director. 257

~~(e)-(b)~~ A board of county commissioners may adopt a 258  
resolution declaring the county to be an alternative energy zone 259  
and declaring all applications submitted to the director of 260  
development services under this division after the adoption of 261  
the resolution, and prior to its repeal, to be approved by the 262  
board. 263

All tangible personal property and real property of an 264  
energy project with a nameplate capacity of five megawatts or 265  
greater is taxable if it is located in a county in which the 266  
board of county commissioners adopted a resolution rejecting the 267  
application submitted under this division or failed to adopt a 268  
resolution approving the application under division (E) (1) ~~(b)~~ 269  
(a) or ~~(e)-(b)~~ of this section. 270

(2) The director shall certify an energy project if ~~all~~ 271  
both of the following circumstances exist: 272

(a) ~~The application was timely submitted.~~ 273

~~(b)~~ For an energy project with a nameplate capacity of 274  
five megawatts or greater, a board of county commissioners of at 275  
least one county in which the project is located has adopted a 276  
resolution approving the application under division (E) (1) ~~(b)~~ 277  
(a) or ~~(e)-(b)~~ of this section. 278

~~(e)-(b)~~ No portion of the project's facility was used to 279  
supply electricity before December 31, 2009. 280

(3) The director shall deny a certification application if 281  
the director determines the person has failed to comply with any 282  
requirement under this section. The director may revoke a 283  
certification if the director determines the person, or 284  
subsequent owner or lessee pursuant to a sale and leaseback 285

transaction of the qualified energy project, has failed to 286  
comply with any requirement under this section. Upon 287  
certification or revocation, the director shall notify the 288  
person, owner, or lessee, the tax commissioner, and the county 289  
auditor of a county in which the project is located of the 290  
certification or revocation. Notice shall be provided in a 291  
manner convenient to the director. 292

(F) The owner or a lessee pursuant to a sale and leaseback 293  
transaction of a qualified energy project shall do each of the 294  
following: 295

(1) Comply with all applicable regulations; 296

(2) File with the director of development services a 297  
certified construction progress report before the first day of 298  
March of each year during the energy facility's construction or 299  
installation indicating the percentage of the project completed, 300  
and the project's nameplate capacity, as of the preceding 301  
thirty-first day of December. Unless otherwise instructed by the 302  
director of development services, the owner or lessee of an 303  
energy project shall file a report with the director on or 304  
before the first day of March each year after completion of the 305  
energy facility's construction or installation indicating the 306  
project's nameplate capacity as of the preceding thirty-first 307  
day of December. ~~Not later than sixty days after June 17, 2010,~~ 308  
~~the owner or lessee of an energy project, the construction of~~ 309  
~~which was completed before June 17, 2010, shall file a~~ 310  
~~certificate indicating the project's nameplate capacity.~~ 311

(3) File with the director of development services, in a 312  
manner prescribed by the director, a report of the total number 313  
of full-time equivalent employees, and the total number of full- 314  
time equivalent employees domiciled in Ohio, who are employed in 315

the construction or installation of the energy facility; 316

(4) For energy projects with a nameplate capacity of five 317  
megawatts or greater, repair all roads, bridges, and culverts 318  
affected by construction as reasonably required to restore them 319  
to their preconstruction condition, as determined by the county 320  
engineer in consultation with the local jurisdiction responsible 321  
for the roads, bridges, and culverts. In the event that the 322  
county engineer deems any road, bridge, or culvert to be 323  
inadequate to support the construction or decommissioning of the 324  
energy facility, the road, bridge, or culvert shall be rebuilt 325  
or reinforced to the specifications established by the county 326  
engineer prior to the construction or decommissioning of the 327  
facility. The owner or lessee of the facility shall post a bond 328  
in an amount established by the county engineer and to be held 329  
by the board of county commissioners to ensure funding for 330  
repairs of roads, bridges, and culverts affected during the 331  
construction. The bond shall be released by the board not later 332  
than one year after the date the repairs are completed. The 333  
energy facility owner or lessee pursuant to a sale and leaseback 334  
transaction shall post a bond, as may be required by the Ohio 335  
power siting board in the certificate authorizing commencement 336  
of construction issued pursuant to section 4906.10 of the 337  
Revised Code, to ensure funding for repairs to roads, bridges, 338  
and culverts resulting from decommissioning of the facility. The 339  
energy facility owner or lessee and the county engineer may 340  
enter into an agreement regarding specific transportation plans, 341  
reinforcements, modifications, use and repair of roads, 342  
financial security to be provided, and any other relevant issue. 343

(5) Provide or facilitate training for fire and emergency 344  
responders for response to emergency situations related to the 345  
energy project and, for energy projects with a nameplate 346

capacity of five megawatts or greater, at the person's expense, 347  
equip the fire and emergency responders with proper equipment as 348  
reasonably required to enable them to respond to such emergency 349  
situations; 350

(6) Maintain a ratio of Ohio-domiciled full-time 351  
equivalent employees employed in the construction or 352  
installation of the energy project to total full-time equivalent 353  
employees employed in the construction or installation of the 354  
energy project of not less than eighty per cent in the case of a 355  
solar energy project, and not less than fifty per cent in the 356  
case of any other energy project. In the case of an energy 357  
project for which certification from the power siting board is 358  
required under section 4906.20 of the Revised Code, the number 359  
of full-time equivalent employees employed in the construction 360  
or installation of the energy project equals the number actually 361  
employed or the number projected to be employed in the 362  
certificate application, if such projection is required under 363  
regulations adopted pursuant to section 4906.03 of the Revised 364  
Code, whichever is greater. For all other energy projects, the 365  
number of full-time equivalent employees employed in the 366  
construction or installation of the energy project equals the 367  
number actually employed or the number projected to be employed 368  
by the director of development services, whichever is greater. 369  
To estimate the number of employees to be employed in the 370  
construction or installation of an energy project, the director 371  
shall use a generally accepted job-estimating model in use for 372  
renewable energy projects, including but not limited to the job 373  
and economic development impact model. The director may adjust 374  
an estimate produced by a model to account for variables not 375  
accounted for by the model. 376

(7) For energy projects with a nameplate capacity in 377

excess of two megawatts, establish a relationship with a member 378  
of the university system of Ohio as defined in section 3345.011 379  
of the Revised Code or with a person offering an apprenticeship 380  
program registered with the employment and training 381  
administration within the United States department of labor or 382  
with the apprenticeship council created by section 4139.02 of 383  
the Revised Code, to educate and train individuals for careers 384  
in the wind or solar energy industry. The relationship may 385  
include endowments, cooperative programs, internships, 386  
apprenticeships, research and development projects, and 387  
curriculum development. 388

(8) Offer to sell power or renewable energy credits from 389  
the energy project to electric distribution utilities or 390  
electric service companies subject to renewable energy resource 391  
requirements under section 4928.64 of the Revised Code that have 392  
issued requests for proposal for such power or renewable energy 393  
credits. If no electric distribution utility or electric service 394  
company ~~issues a request for proposal on or before December 31,~~ 395  
~~2010,~~ or accepts an offer for power or renewable energy credits 396  
within forty-five days after the offer is submitted, power or 397  
renewable energy credits from the energy project may be sold to 398  
other persons. Division (F) (8) of this section does not apply 399  
if: 400

(a) The owner or lessee is a rural electric company or a 401  
municipal power agency as defined in section 3734.058 of the 402  
Revised Code. 403

(b) The owner or lessee is a person that, before 404  
completion of the energy project, contracted for the sale of 405  
power or renewable energy credits with a rural electric company 406  
or a municipal power agency. 407

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development services and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of December 31, 2010, for tax year 2011, as of December 31, 2011, for tax year 2012, as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, as of December 31, 2014, for tax year 2015, as of December 31, 2015, for tax year 2016, and as of December 31, 2016, for tax year 2017 and each tax year thereafter;

(2) In the case of any other energy project using

renewable energy resources, the following: 438

(a) If the project maintains during the construction or 439  
installation of the energy facility a ratio of Ohio-domiciled 440  
full-time equivalent employees to total full-time equivalent 441  
employees of not less than seventy-five per cent, six thousand 442  
dollars per megawatt of nameplate capacity located in the county 443  
as of the thirty-first day of December of the preceding tax 444  
year; 445

(b) If the project maintains during the construction or 446  
installation of the energy facility a ratio of Ohio-domiciled 447  
full-time equivalent employees to total full-time equivalent 448  
employees of less than seventy-five per cent but not less than 449  
sixty per cent, seven thousand dollars per megawatt of nameplate 450  
capacity located in the county as of the thirty-first day of 451  
December of the preceding tax year; 452

(c) If the project maintains during the construction or 453  
installation of the energy facility a ratio of Ohio-domiciled 454  
full-time equivalent employees to total full-time equivalent 455  
employees of less than sixty per cent but not less than fifty 456  
per cent, eight thousand dollars per megawatt of nameplate 457  
capacity located in the county as of the thirty-first day of 458  
December of the preceding tax year. 459

(3) In the case of an energy project using clean coal 460  
technology, advanced nuclear technology, or cogeneration 461  
technology, the following: 462

(a) If the project maintains during the construction or 463  
installation of the energy facility a ratio of Ohio-domiciled 464  
full-time equivalent employees to total full-time equivalent 465  
employees of not less than seventy-five per cent, six thousand 466



dollars per megawatt of nameplate capacity located in the county 467  
as of the thirty-first day of December of the preceding tax 468  
year; 469

(b) If the project maintains during the construction or 470  
installation of the energy facility a ratio of Ohio-domiciled 471  
full-time equivalent employees to total full-time equivalent 472  
employees of less than seventy-five per cent but not less than 473  
sixty per cent, seven thousand dollars per megawatt of nameplate 474  
capacity located in the county as of the thirty-first day of 475  
December of the preceding tax year; 476

(c) If the project maintains during the construction or 477  
installation of the energy facility a ratio of Ohio-domiciled 478  
full-time equivalent employees to total full-time equivalent 479  
employees of less than sixty per cent but not less than fifty 480  
per cent, eight thousand dollars per megawatt of nameplate 481  
capacity located in the county as of the thirty-first day of 482  
December of the preceding tax year. 483

(H) The director of development services in consultation 484  
with the tax commissioner shall adopt rules pursuant to Chapter 485  
119. of the Revised Code to implement and enforce this section. 486

**Section 2.** That existing sections 4906.20, 4906.201, and 487  
5727.75 of the Revised Code are hereby repealed. 488