

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4906.01, 4906.02, and 4906.10 be amended and sections 303.57, 303.58, 303.59, 303.60, 303.61, 303.62, 4906.021, 4906.022, 4906.023, 4906.024, 4906.025, 4906.101, 4906.102, 4906.103, 4906.21, 4906.211, 4906.212, 4906.22, 4906.221, 4906.222, 4906.30, and 4906.31 of the Revised Code be enacted to read as follows:

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

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

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

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

(a) For utility facilities:

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

(ii) Increases the facility's nameplate capacity;

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

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

(i) Increases the number of wind turbines;

(ii) Increases the height of a wind turbine.

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

(D) "Utility facility" means an economically significant wind farm, a large wind farm, or a large solar facility.

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

(1) An economically significant wind farm;

(2) A large wind farm;

(3) A large solar facility.

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

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

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

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

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

(c) Provide written notice of the meeting, by first class mail, to all school districts, municipal corporations, and boards of township trustees located in whole, or in part, within the boundaries of the proposed restricted area.

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

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

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

Sec. 303.59. A resolution designating a restricted area prohibiting the construction of utility facilities, if adopted by the board of county commissioners, becomes effective thirty days after the date of its adoption, unless, within thirty days after the adoption, there is presented to the board of county commissioners a petition, signed by a number of registered electors residing in the county equal to not less than eight per cent of the total vote cast for all candidates for governor in that county at the most recent general election at which a governor was elected, requesting the board of county commissioners to submit the resolution to the electors of that county for approval or rejection at a special election to be held on the day of the next primary or general election that occurs at least one hundred twenty days after the petition is filed. Each part petition shall contain the number and the full and correct title, if any, of the resolution, motion, or application, furnishing the name by which the resolution is known and a brief summary of its contents. In addition to meeting the requirements of this section, each petition shall be governed by the rules specified in section 3501.38 of the Revised Code.

The form of a petition calling for a referendum on the designation of a restricted area and the

statement of the circulator shall be substantially as follows:

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

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

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

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

We, the undersigned, being electors residing in _____ county, equal to not less than eight per cent of the total vote cast for all candidates for governor in the county at the preceding general election at which a governor was elected, request the board of county commissioners to submit this designation of a restricted area to the electors of _____ county, for approval or rejection at a special election to be held on the day of the primary or general election to be held on _____ (date), pursuant to section 303.59 of the Revised Code.

Signature

Residence address

Date of signing

STATEMENT OF CIRCULATOR

I, _____ (name of circulator), declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing part petition containing _____ (number) signatures; that I have witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

(Signature of circulator)

(Circulator's residence address)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

The petition shall be filed with the board of county commissioners. Within two weeks after receiving a petition filed under this section, the board of county commissioners shall certify the petition to the board of elections. A petition filed under this section shall be certified to the board of elections not less than ninety days prior to the election at which the question is to be voted upon.

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

No resolution designating a restricted area for which such a referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the resolution. Upon certification by the board of elections that the resolution has been approved by the

voters, it shall take immediate effect.

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

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

Sec. 303.60. If a resolution described in this section is adopted and becomes effective under sections 303.58 and 303.59 of the Revised Code, no person shall file, and the power siting board shall not accept, an application for a certificate, or a material amendment to an existing certificate, to construct, operate, or maintain a utility facility in a restricted area where the construction of such a utility facility is prohibited by the resolution.

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

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

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

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

(a) Whether the utility facility will be:

(i) A large wind farm;

(ii) An economically significant wind farm; or

(iii) A large solar facility.

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

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

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

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

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

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

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

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

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

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

(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.

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

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

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

(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.

(2) "Major utility facility" does not include any of the following:

(a) Gas transmission lines over which an agency of the United States has exclusive jurisdiction;

(b) Any solid waste facilities as defined in section 6123.01 of the Revised Code;

(c) Electric distributing lines and associated facilities as defined by the power siting board;

(d) Any manufacturing facility that creates byproducts that may be used in the generation of electricity as defined by the power siting board;

(e) Gathering lines, gas gathering pipelines, and processing plant gas stub pipelines as those terms are defined in section 4905.90 of the Revised Code and associated facilities;

(f) Any gas processing plant as defined in section 4905.90 of the Revised Code;

(g) Natural gas liquids finished product pipelines;

(h) Pipelines from a gas processing plant as defined in section 4905.90 of the Revised Code to a natural gas liquids fractionation plant, including a raw natural gas liquids pipeline, or to an interstate or intrastate gas pipeline;

(i) Any natural gas liquids fractionation plant;

(j) A production operation as defined in section 1509.01 of the Revised Code, including all pipelines upstream of any gathering lines;

(k) Any compressor stations used by the following:

(i) A gathering line, a gas gathering pipeline, a processing plant gas stub pipeline, or a gas processing plant as those terms are defined in section 4905.90 of the Revised Code;

(ii) A natural gas liquids finished product pipeline, a natural gas liquids fractionation plant, or any pipeline upstream of a natural gas liquids fractionation plant; or

(iii) A production operation as defined in section 1509.01 of the Revised Code.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or

uses in securing geological data, including necessary borings to ascertain foundation conditions.

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

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

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

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

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

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

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

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

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

Sec. 4906.02. ~~(A)~~(A)~~(1)~~ There is hereby created within the public utilities commission the power siting board, composed of the ~~chairman~~chairperson of the public utilities commission, the director of environmental protection, the director of health, the director of development, the director of natural resources, the director of agriculture, and a representative of the public who shall be an engineer and shall be appointed by the governor, from a list of three nominees submitted to the governor by the office of the consumers' counsel, with the advice and consent of the senate and shall serve for a term of four years. The ~~chairman~~chairperson of the public utilities commission shall be ~~chairman~~chairperson of the board and its chief executive officer. The ~~chairman~~chairperson shall designate one of the voting members of the board to act as ~~vice-chairman~~vice-chairperson who shall possess during the absence or disability of the ~~chairman~~chairperson all of the powers of the ~~chairman~~chairperson. All hearings, studies, and consideration of applications for certificates shall be conducted by the board or representatives of its members.

In addition, the board shall include four legislative members who may participate fully in all the board's deliberations and activities except that they shall serve as nonvoting members. The speaker of the house of representatives shall appoint one legislative member, and the president of the senate and minority leader of each house shall each appoint one legislative member. Each such

legislative leader shall designate an alternate to attend meetings of the board when the regular legislative member ~~he~~ appointed by the legislative leader is unable to attend. Each legislative member and alternate shall serve for the duration of the elected term that ~~he~~ the legislative member is serving at the time of ~~his~~ appointment. A quorum of the board is a majority of its voting members.

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

(2) In all cases involving an application for a certificate or a material amendment to an existing certificate for a utility facility, as defined in section 303.57 of the Revised Code, the board shall include two voting ad hoc members, as described in section 4906.021 of the Revised Code.

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

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

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

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

Sec. 4906.021. (A) For the purposes of this section and section 4906.022 of the Revised Code:

(1) "Immediate family member" means a person's:

(a) Spouse;

(b) Brother or sister of the whole, or of the half, blood, or by marriage;

(c) Children, including adopted children; and

(d) Parents.

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

(B) Whenever an application is made to the power siting board for a certificate or a material amendment to an existing certificate for a utility facility, the board shall include two voting ad hoc members to represent the interests of the residents of the area in which the utility facility is to be

located.

(C)(1) The ad hoc members shall be:

(a) The chairperson of the board of township trustees of the township in which the utility facility is to be located or the chairperson's designee;

(b) The president of the board of county commissioners of the county in which the utility facility is to be located or the president's designee.

(2) If a utility facility is to be located in multiple townships, a single ad hoc member to represent the townships shall be chosen by a majority vote of all of the boards of township trustees of the townships in which the utility facility is to be located.

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

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

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

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

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

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

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

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

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

(a) Another elected official;

(b) A resident.

Sec. 4906.022. (A) Voting ad hoc members of the power siting board under section 4906.021 of the Revised Code shall be designated not later than thirty days after a board of county commissioners or a board of township trustees receives notification that an application, for which an ad hoc member shall be included, has been 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.

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

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

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

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

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

(1) The date of the conversation;

(2) All participants in the conversation who are parties to the case.

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:

(A) Statutory law;

(B) Notice the ad hoc member received designating the information as confidential and both of the following apply:

(1) The status of the proceedings, or the circumstances under which the information was received, warrants its confidentiality;

(2) Preserving its confidentiality is necessary to the proper conduct of governmental activities.

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.

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

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

(2) The nature of the probable environmental impact;

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

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

(5) That the facility will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those chapters and under section 4561.32 of the Revised Code. In determining whether the facility will comply with all rules and standards adopted under section 4561.32 of the Revised Code, the board shall consult with the office of aviation of the

division of multi-modal planning and programs of the department of transportation under section 4561.341 of the Revised Code.

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

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

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

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

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

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

(B) The power siting board shall not grant a certificate for the construction, operation, and maintenance of, or material amendment to an existing certificate for, a utility facility, either as proposed or as modified by the board, to be constructed in a restricted area of the unincorporated area of a county, as designated by that county's board of county commissioners under sections 303.58 and 303.59 of the Revised Code, if the utility facility is of a type prohibited in the restricted area.

Sec. 4906.102. (A) 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 board of county commissioners of the county in which a utility facility is to be located has adopted a resolution prohibiting the construction of the utility facility as described in section 303.62 of the Revised Code.

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

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

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

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

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

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

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

(B) The plan shall contain the following:

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

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

(3) An estimate of the full costs of decommissioning the utility facility, including the proper disposal of all facility components and restoration of the land on which the facility is located to its pre-construction state. The estimate shall not take into account the salvage value of any materials from the facility.

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

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

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

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

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

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

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

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.

(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:

(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;

(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;

(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.

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 board of trustees and each board of county commissioners of the townships or counties in which the facility is to be located.

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

(1) Paper copy;

(2) Electronic format;

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

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

SECTION 3. (A) The provisions of this act shall apply to any application for a certificate, or a material amendment to an existing certificate, for an economically significant wind farm or large wind farm that is not 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 accepted by the board not later than thirty days after the effective date of S.B. 52 of the 134th general assembly.

(B) Any application or a material amendment for an economically significant wind farm or large wind farm not 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 accepted by the board not later than thirty days after the effective date of this section shall be subject to review by the board of county commissioners of the county in which the utility facility is to be located. The board of county commissioners shall have ninety days after the effective date of this section to review the application and to 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 submits a new queue position for an increase in its capacity interconnection rights, the change in capacity interconnection rights shall not subject the facility to the provisions of this act, provided that the change in rights occurs without increasing the facility's nameplate capacity.

SECTION 5. For all power siting board proceedings under which an application for a certificate, or a material amendment to an existing certificate, for an economically significant wind farm, large wind farm, or a large solar facility that has not been 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 accepted by the board as of the effective date of this section, the board shall include the voting ad hoc members required by section 4906.02 of the Revised Code.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 52

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____