



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Maura McClelland

S.B. 184

132nd General Assembly
(As Introduced)

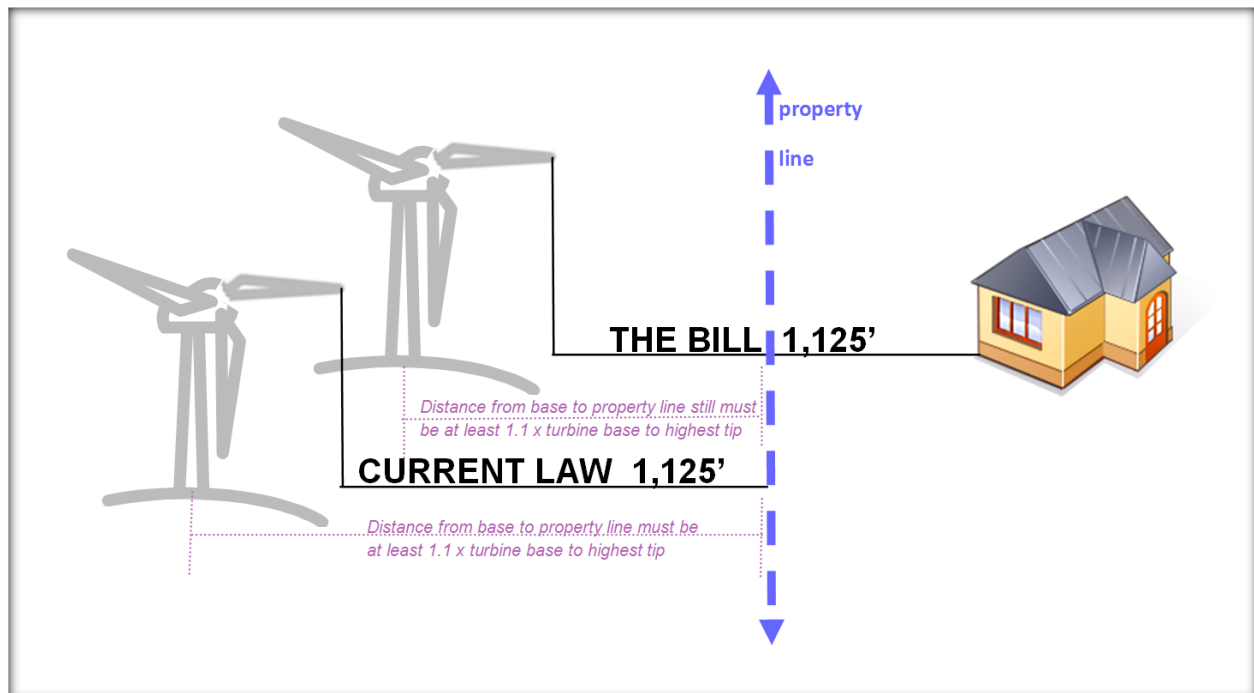
Sens. Skindell, Yuko, O'Brien, Brown, Schiavoni, Tavares, Thomas, Williams

BILL SUMMARY

- Returns the wind-turbine setback to what it was before Am. Sub. H.B. 483 of the 130th General Assembly (specifically, changing the measurement point for the 1,125-foot setback from the *property line* of the nearest adjacent property to the *exterior of the nearest habitable residential structure*, if any, located on adjacent property).

CONTENT AND OPERATION

Changing the measurement point for the wind-turbine setback



The bill returns the wind-turbine setback to what it was before Am. Sub. H.B. 483 of the 130th General Assembly. Specifically, the bill changes the measurement point for the 1,125-foot setback from the *property line* of the nearest adjacent property to the *exterior of the nearest habitable residential structure*, if any, located on adjacent property at the time of the certification application.

Under continuing law, there are two minimum setbacks for wind turbines: (1) the 1,125-foot-minimum setback (or in certain cases, a 750-foot-minimum-grandfathered setback) measured from the turbine *blade*, affected by the bill as discussed above, and (2) a setback measured from the turbine *base*, unchanged by the bill. The setback measured from the turbine base requires a minimum setback distance from the turbine's base to the wind farm property line of at least 1.1 multiplied by the distance from the turbine's base to the tip of the highest blade.¹ The above diagram illustrates both setback requirements and the changes made by the bill to the setback under (1).

Applicability

Wind farm size

The bill's setback change applies to any wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of at least five megawatts.²

Amendments to existing certificates for wind farms

The bill modifies continuing provisions that prescribe the setback for amendments to existing certificates for wind farms. The current provisions state that any amendment made to an existing certificate after September 15, 2014, must be subject to the setback in current law. The bill modifies these provisions to say that any amendment to an existing certificate after September 15, 2014, *and before the bill's effective date* must be subject to the setback in current law. So, an amendment made to an existing certificate between September 15, 2014, and the bill's effective date would be subject to the property-line setback. And an amendment made to an existing certificate after the bill's effective date would be subject to the residential-structure setback.³

¹ R.C. 4906.20 and 4906.201.

² R.C. 4906.13(A), not in the bill, 4906.20(B)(2)(a), and 4906.201.

³ R.C. 4906.20(B)(2)(b)(ii) and (iii) and 4906.201(B)(2) and (3).



Common law rights and remedies

The bill states that its changes must not be construed to limit or abridge any rights or remedies in equity under the common law.⁴

History of legislative changes affecting the wind-farm setback

The following is a summary of the legislative changes that have affected the wind-farm setback since its enactment:

Effective date	Bill	Action
June 24, 2008	Am. Sub. H.B. 562	Enacted the original setback, which applied only to wind farms of 5-50 megawatts: <ul style="list-style-type: none"> • 750 feet from the tip of the turbine's nearest blade at ninety degrees to the exterior of the nearest, habitable, residential structure; and • 1.1 times the total turbine height measured from its base to the tip of its highest blade.⁵
Sept. 10, 2012	Am. Sub. S.B. 315	Repealed provisions that made certificate approval expressly conditional on whether the wind farm would comply with (1) applicable rules, including the setback, and (2) certain airport rules for the height and location of structures. These provisions applied only to wind farms of 5-50 megawatts. ⁶
Sept. 29, 2013	Am. Sub. H.B. 59	<ul style="list-style-type: none"> • Changed the setback distance from 750 feet to 1,125 feet (but left the measurement point as the residential structure). • Made the 1,125 setback applicable to <i>all</i> wind farms over 5 megawatts (not just wind farms of 5-50 megawatts). • Grandfathered "existing certification applications" found to be in compliance with application rules before Sept. 23, 2013, which made those existing certificates and amendments subject to the 750-foot distance.⁷

⁴ R.C. 4906.20(B)(2)(b)(iii) and 4906.201(B)(3).

⁵ R.C. 4906.13(A), not in S.B. 184, and 4906.20(B).

⁶ R.C. 4906.13(A), not in S.B. 184, 4906.20(C), repealed by S.B. 315, and 4561.32, not in S.B. 184.

⁷ R.C. 4906.20(B)(2) and 4906.201.



Sept. 15, 2014	Am. Sub. H.B. 483	<ul style="list-style-type: none"> • Changed the 1,125 foot measurement point from the residential structure to the property line. • Made amendments to existing certificates subject to the new setback.⁸
----------------	-------------------	---

HISTORY

ACTION	DATE
Introduced	08-31-17

⁸ R.C. 4906.20(B)(2)(a) and (B)(2)(b)(ii) and 4906.201(B)(2).

