OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 52
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 52's Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Reineke and McColley

Local Impact Statement Procedure Required: No

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Highlights

- The bill would permit township voters, through a referendum petition process, to overturn a decision of the Ohio Power Siting Board (OPSB) to permit the construction, operation, or maintenance of a utility facility[1] in that township. If electors utilize such a referendum process, each participating precinct might incur minimal costs to conduct an election.
- If voters overturned an OPSB permit, local taxing jurisdictions would lose millions of dollars in annual property tax revenue they would have received if the utility facility had been placed into service. Such a result would be permissive for the township or townships involved, but other political subdivisions that overlap the townships, primarily school districts, could lose such revenue due to decisions of voters outside the subdivision.

Detailed Analysis

The bill specifies conditions for a new certificate, or an amendment to an existing certificate, when the Ohio Power Siting Board (OPSB) issues such a certificate for the construction, operation, or maintenance of a large solar facility, a large wind farm, or an economically significant wind farm located in the unincorporated area of a township. The bill specifies that OPSB approval takes effect after 90 days unless a referendum petition is filed with the board of elections within 90 days. For these purposes, an economically significant wind farm refers to wind turbines and associated facilities with a single interconnection with the electrical

[1] "Utility facility" means an economically significant wind farm, a large wind farm, or a large solar facility.

grid capable of generating at least five megawatts (MWs) but not more than 50 MWs.[2] A large solar facility or large wind farm means an electric generating plant that consists of solar panels and associated facilities or wind turbines and associated facilities with a single interconnection to the electrical grid that is capable of generating more than 50 MWs. Similar provisions apply to an economically significant solar facility, the definition of which is comparable to that for an economically significant wind farm. The bill specifies a referendum petition process for the electors of an unincorporated area of a township and requirements related to the petition. Please see the LSC bill analysis for the details of the process.[3]

The bill also revises the setback requirement applicable to wind turbines of economically significant and large wind farms by making it the greater of: (1) the distance specified in existing law, or (2) the setback distance recommended in the wind turbine manufacturer's safety specifications, as measured from the property line of the nearest adjacent property.

Local referendum costs

The referendum provisions of the bill could result in additional election costs for either county boards of elections or for the participating political subdivisions, depending on the timing of the referendum, the number of precincts involved in the referendum, and the number of political subdivisions voting on the referendum. The Secretary of State (SOS) estimates that the per-precinct costs for conducting elections range from $800 to $1,500 based on a number of factors such as size and location. Smaller and rural precincts tend to have lower costs than larger precincts, which are generally in urban areas.

The costs of primary and general elections held during even-numbered years are borne by the applicable county board of elections. In these cases, only the ballot advertising costs for the referendum under the bill would be paid by the participating subdivisions. However, for primary and general elections that occur in odd-numbered years, political subdivisions holding an election are responsible for a proportional share of the cost based upon a per-precinct ratio calculated by the county board of elections in addition to the referendum's ballot advertising costs. Ballot advertising costs vary widely based on the length of the measure appearing on the ballot. Additionally, the number of publications in which the referendum language appears would also impact the ballot advertising costs.

Furthermore, in odd-numbered year elections, the costs of the utility facility referendum process in the bill would depend on whether the participating political subdivisions had other candidates or measures on the ballot. If the utility facility referendum were among other items on the ballot, then there would be some additional incremental cost. However, there could be situations when a utility facility referendum was the only item on the ballot. In these cases, the costs for holding the referendum election would ultimately depend on the number of voting precincts involved in the referendum measure.

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[2] The definition excludes any such wind farm in operation on June 24, 2008, or wind turbines and associated facilities of 20 or less megawatts that are primarily dedicated to providing electricity to a single customer at a single location.

[3] Among other things, the bill specifies the results of a situation in which a proposed utility facility is located in more than one township and voters in only some townships reject the proposed facility.

Local revenue impact

The primary effect of the bill on local revenues would depend on the number of pending applications and future applications to OPSB to site relevant wind and solar generating facilities in the state. Table 1 below shows three wind energy projects that had applications pending before OPSB as of February 5, 2021, while Table 2 shows 25 solar facilities with a capacity rating of 50 MWs or greater that had applications pending before OPSB as of March 5, 2021.

Table 1. Wind Farm Applications Pending before the Ohio Power Siting Board

Project Name	County	MWs	Application Filing Date	OPSB Case Number
Republic	Seneca, Sandusky	200	02/02/2018	17-2295-EL-BGN
Emerson Creek	Erie, Huron	297.7	01/31/2019	18-1607-EL-BGN
Grover Hill	Paulding	150	pre-application	20-0417-EL-BGN

Source: Power Siting Wind Case Status, as of February 5, 2021

Table 2. Pending and Pre-Application Solar Facilities (50 MWs or greater)

OPSB Case Number	Project Name	Filing Date	County	MWs
18-1578-EL-BGN	Alamo	12/10/2018	Preble	69.9
18-1579-EL-BGN	Angelina	12/03/2018	Preble	80
19-1823-EL-BGN	Madison (Big Plain)	04/27/2020	Madison	196
20-1084-EL-BGN	Powell Creek	10/07/2020	Putnam	150
20-0931-EL-BGN	Fox Squirrel	10/14/2020	Madison	577
20-0979-EL-BGN	Arche	07/30/2020	Fulton	107
20-1288-EL-BGN	New Market	09/03/2020	Highland	100
20-1362-EL-BGN	Clearview	12/18/2020	Champaign	144
20-1380-EL-BGN	Ross County	10/30/2020	Ross	120
20-1405-EL-BGN	Union County	12/24/2020	Union	325
20-1529-EL-BGN	Wheatsborough	02/11/2021	Erie	125
20-1605-EL-BGN	Birch	02/12/2021	Allen, Auglaize	300
20-1612-EL-BGN	Mark Center	12/18/2020	Defiance	110
20-1677-EL-BGN	Cadence	02/01/2021	Union	275
20-1678-EL-BGN	Hardin III	02/11/2021	Hardin	300
20-1679-EL-BGN	Pleasant Prairie	02/19/2021	Franklin	250
20-1680-EL-BGN	Yellow Wood	02/24/2021	Clinton	300
20-1757-EL-BGN	Union Ridge	pre-application	Licking	108
20-1760-EL-BGN	Juliet	pre-application	Wood	101

Table 2. Pending and Pre-Application Solar Facilities (50 MWs or greater)				
OPSB Case Number	**Project Name**	**Filing Date**	**County**	**MWs**
20-1762-EL-BGN	Sycamore Creek	02/12/2021	Crawford	117
20-1814-EL-BGN	Dodson Creek	pre-application	Highland	117
21-0004-EL-BGN	Tymochtee	pre-application	Wyandot	120
21-0036-EL-BGN	Marion County	03/05/2021	Marion	100
21-0041-EL-BGN	Palomino	pre-application	Highland	200
21-0117-EL-BGN	Kingwood	pre-application	Greene	175
			Total	**4,566.9**

Source: Power Siting Solar Case Status, as of March 5, 2021

Since the proposed facilities have not been placed into service, they are not yet subject to property taxation. If they became operational, the facilities would bring millions of dollars of annual revenue to the local taxing authorities, but the referendum provision in the bill could nullify those potential gains. Any revenue loss for the township would be permissive, but there would be revenue losses to other political subdivisions that would not be permissive.

Similarly, the bill may result in township voters nullifying property tax revenue that would otherwise result from future applications for wind farms. The prospective revenue impact would vary depending on whether a given utility facility project is taxable, or if the project's owner instead received a tax benefit that significantly reduces their payments to applicable political subdivisions.

The bill also applies the referendum process to amendments to existing certificates already approved by OPSB and such lists of approved projects and facilities are available on the OPSB website.[4] The referendum process provides a disincentive for project owners to amend their existing certificates, so it is unclear to LBO whether the owner of an approved wind farm would initiate a change that might prompt a referendum.

Prospective school district receipts

Generally, school districts are the largest recipients of property tax revenue for a given taxing district. A school district's share often exceeds 60% of the total amount levied by all governmental authorities. Consequently, school districts would financially benefit the most from additional revenue attributed to utility facilities. If local referendum voters reject OPSB's approval of a utility facility, the school districts' potential revenue gains would not materialize.

The wind farms and solar facilities with applications pending before OPSB have disclosed potential wind turbine or solar facilities sites to OPSB, the Federal Aviation Administration,[5] or

[4] Information related to operational, approved, pending, and pre-application wind farms, including location of such farms is included in the Power Siting Wind Case Status as of 2/5/2021. Information related to approved, pending, and pre-application solar facilities, including location of such facilities is included in the Power Siting Solar Case Status as of 3/5/2021.

[5] https://oeaaa.faa.gov/oeaaa/external/portal.jsp.

both. The wind farms' and solar facilities' developers submitted their anticipated project costs in applications before OPSB, but those amounts were redacted to the public. In addition, estimated tax revenues to applicable counties, townships, and municipalities were included in their applications.

To illustrate the estimated effects on property tax revenue, LBO staff used projected costs reported by the wind farms' developers, which were consistent with wind projects reported by the U.S. Department of Energy's annual "Wind Technologies Market Report." The 2018 edition noted that recently completed projects in the Great Lakes region cost $1.6 million per MW.[6] Wind turbines would be classified as public utility tangible personal property if they were placed into service. The taxable value of this type of property equals 24% of its "true value" (e.g., installed cost less depreciation), which is about $0.4 million per MW in the first taxable year. Tax rates vary in this region, but a typical school district levies about 40 mills, which would raise $16,000 per MW.[7] Thus estimated school district property tax revenue from one MW of wind farm property would initially be about $16,000 in the first year the property was installed.

The estimated $16,000 per MW exceeds a school district's likely share of payments in lieu of taxes (PILOTs). The maximum PILOT value permitted under codified law would yield about $5,700 per MW, which is about 63% of the maximum. The PILOT pays a fixed amount to all local taxing authorities over the wind turbine's lifespan. In contrast, personal property tax receipts would decline over 30 years as wind turbines depreciate throughout their useful life. Actual amounts vary on a number of forthcoming decisions by the utility facility developers (site selection, turbine model selection, etc.) as well as ballot questions determined by the applicable voters.

Wind farm setback requirement (indirect fiscal effects)

The bill's modification of the minimum setback requirement may in some cases increase the minimum setback. In such a case, fewer wind turbines could be included in a proposed wind farm, which could make the entire proposed wind farm uneconomic in terms of its return on investment. In such a case, none of the potential property tax revenues or PILOTs for political subdivisions discussed in the previous section would be realized from that project.

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[6] See Figure 49, https://www.energy.gov/eere/wind/downloads/2018-wind-technologies-market-report.

[7] Multiply $0.4 million by 40 mills (or 4%) to yield $16,000.