
INTRODUCTION TO SENATE BILL 52: WIND AND SOLAR UTILITY SITING AUTHORITY

**CORY NOONAN, ALLEN COUNTY COMMISSIONER
JON HONECK, SENIOR POLICY ANALYST**

**COUNTY COMMISSIONERS ASSOCIATION OF OHIO
SEPTEMBER 1, 2021**



SENATE BILL 52 OVERVIEW

Grants boards of
commissioners new authority
with respect to local wind and
solar projects

Effective October 11, 2021,
commissioners can:

- Limit renewable energy construction projects in all or part of the county
- Approve or limit project requests
- Serve on the Ohio Power Siting Board



OVERVIEW OF PRESENTATION

- I. Background on Federal and State Regulatory Agencies: PJM Interconnection and Power Siting Board
- II. Key Concepts and Definitions: “Utility Facility” and “Material Amendment”
- III. Designation of Restricted Areas by the Board of County Commissioners
- IV. Referendum on Designation of Restricted Area
- V. Proposed Projects: Public Meeting and Commissioner Response
- VI. Ad Hoc Membership on the Ohio Power Siting Board
- VII. Facility Decommissioning Requirements
- VIII. Grandfather clause / Safe Harbor for Current Applications

SB 52 becomes effective October 11, 2021



HISTORY OF SB 52

- Introduced in February, 2021 as companion legislation in House and Senate
 - SB 52 (Reineke and McColley, sponsors); HB 118 (Reidel and Stein, sponsors)
- Hearings held in both chambers; Senate version became vehicle after concept changed from township to county authority; favorably reported by Senate Energy and Public Utilities Committee after six hearings in early June and passed by Senate
- House Public Utilities Committee held five hearings in June, reported favorably on June 28 and passed both chambers that day
- Bill does not affect Commissioner authority for Alternative Energy Zones / PILOT payments
- **Law becomes effective October 11, 2021**
- ***CCAO remained neutral on bill throughout process; Policy staff updated CCAO JEDI committee***



PJM INTERCONNECTION: FIRST STEP IN PROJECT DEVELOPMENT

- PJM Interconnection is a federally-regulated organization that coordinates the connection between electricity generation facilities and the power grid in Ohio and 12 other states
- A utility project must complete the PJM application process
- The application process is designed to study the project's impact on the electric grid and the costs to establish a new connection, while meeting reliability standards



PJM INTERCONNECTION: APPLICATION PROCESS

“New Services Queue”

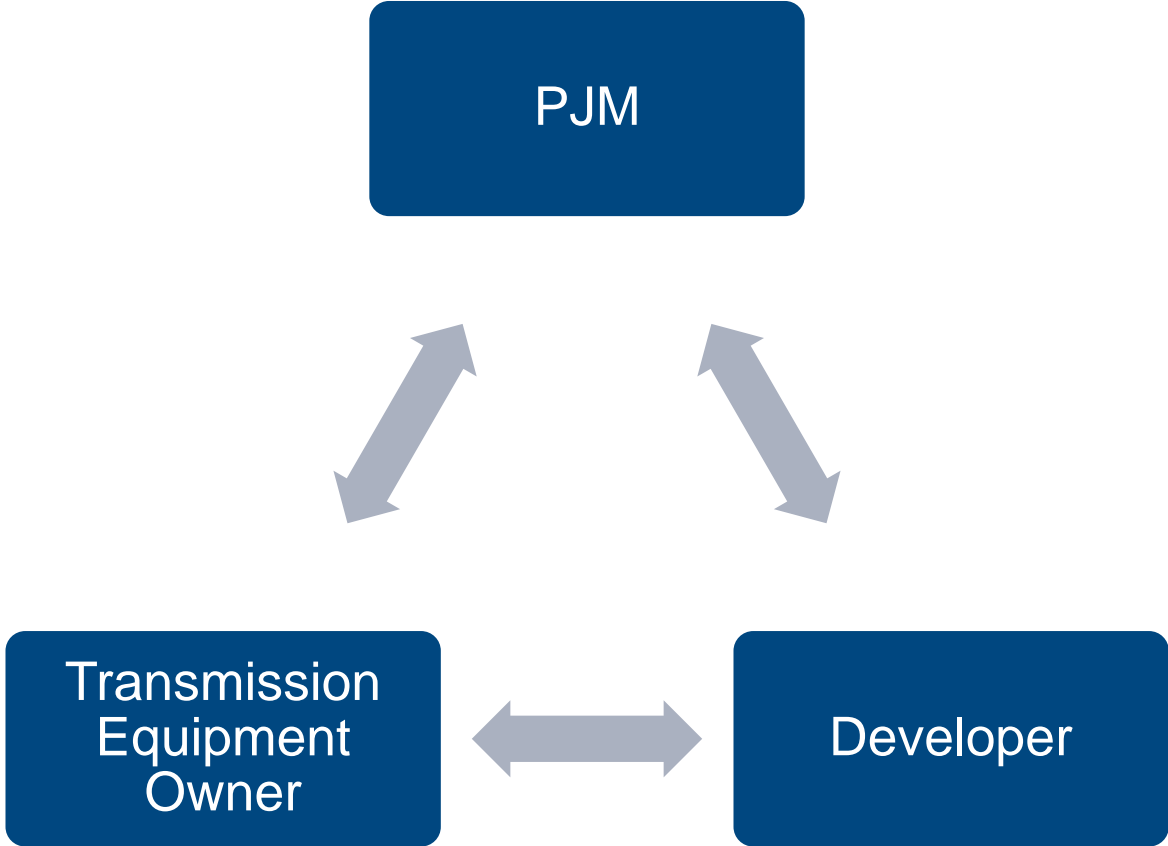
Engineering studies become more detailed and expensive with each step



In order to have a complete application ready for review by the OPSB, the developer must have a completed PJM System Impact Study



INTERCONNECTION SERVICE AGREEMENT



OHIO POWER SITING BOARD

A DEVELOPER MUST OBTAIN A CERTIFICATE FROM THE OPSB IN ORDER TO CONSTRUCT AND OPERATE A UTILITY-SCALE GENERATION FACILITY IN OHIO

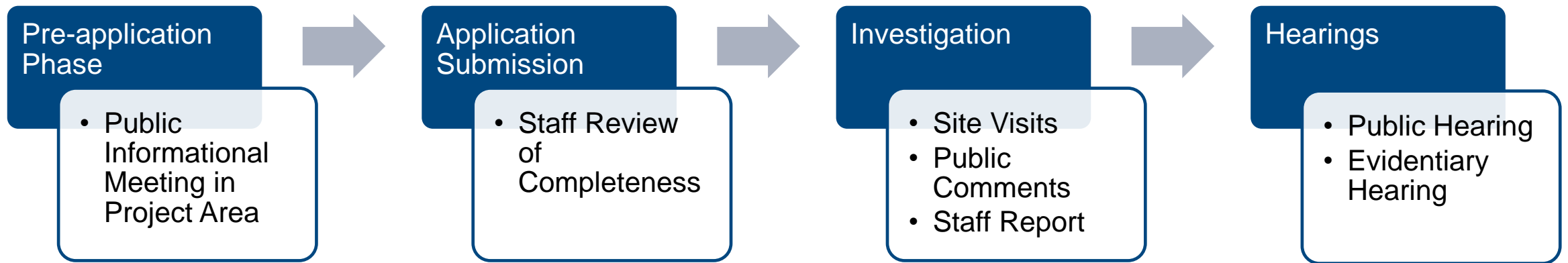
<https://opsb.ohio.gov/wps/portal/gov/opsb/>

NINE VOTING MEMBERS OF OHIO POWER SITING BOARD (AFTER OCT. 11)

- DIRECTORS OF SIX STATE AGENCIES: PUCO, EPA, ODA, ODOD, ODH, ODNR
- TWO “AD HOC” MEMBERS FROM PROJECT AREA
- ONE PUBLIC MEMBER (ENGINEER)
-- AND --
- FOUR NON-VOTING LEGISLATIVE MEMBERS



OHIO POWER SITING BOARD STANDARD APPLICATION PROCESS



- After the Hearings Phase, an Administrative Law Judge makes a final recommendation.
- The Board may approve, deny or approve with conditions.
- Parties may request a rehearing within 30 days of the decision.
- After adverse decision on rehearing, a party may appeal to the Supreme Court.



SCOPE AND DEFINITIONS

Facility Type	Generation Capacity
Large Solar Farm	50 Megawatts or more
Large Wind Farm	50 Megawatts or more
Economically-significant Wind Farm	Between 5 and 49 Megawatts

A “Utility facility” that meets any of these definitions is subject to SB 52’s provisions if the developer files a new application with the OPSB or an application for a “material amendment”



SCOPE AND DEFINITIONS (CONTINUED)

- “Material Amendment” to an Application:
 - Changes to the facility’s generation type
 - Increases to the facility’s nameplate capacity
 - Changes to the boundaries of the facilities, unless footprint grows smaller or new components are underground
 - For wind farms – increasing the number of turbines or the height of existing turbines



DESIGNATION OF RESTRICTED AREAS

- ***A board of county commissioners may adopt a resolution to prohibit the construction of an economically significant wind farm, large wind farm, or large solar facility:***
 - A) Throughout the entire unincorporated area of the county, or
 - B) In one or more restricted areas in the county
- Proper notice and procedures must be followed
- The OPSB may not accept an application for a new project or a material amendment to a certificate for a project located within a restricted area
- Subject to a referendum



DESIGNATION OF RESTRICTED AREA: NOTICE AND PROCEDURES

- Notice requirements, at least 30 days prior to the meeting at which the resolution will be adopted:
 - Provide public notice of the date and time of the meeting in one publication in a newspaper of general circulation in the county
 - Post a map showing the boundaries of the proposed restricted area at all public libraries within the county;
 - 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, in the proposed restricted area.
- Requirements for the resolution:
 - Map of the restricted area with a description of its boundaries

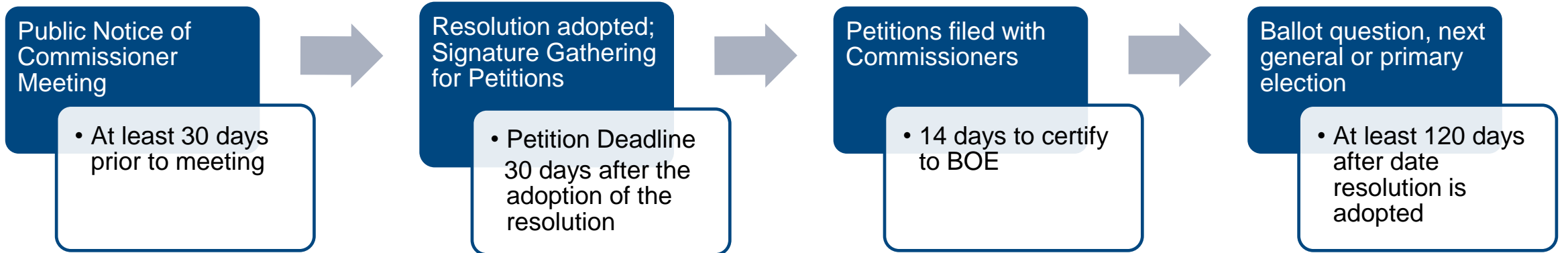


DESIGNATION OF A RESTRICTED AREA: PETITION FOR REFERENDUM

- Voters have 30 days after the adoption of the resolution to gather signatures for a referendum
- Threshold for valid petitions = 8% of the number of registered electors who voted in the county in the most recent gubernatorial election
- Signed petitions are initially filed with the board of county commissioners; must be certified to the BOE within two weeks of receipt
- If the BOE certifies that there are sufficient valid signatures, the question will be placed on the ballot at the next general or primary election that occurs 120 days after the filing date with the commissioners
- If voters approve the restricted area, the board of county commissioners must file the resolution and maps of the restricted area with the county recorder and any county or regional planning commission



TIMELINE FOR DESIGNATION OF A RESTRICTED AREA: RESOLUTION AND POSSIBLE REFERENDUM



MANDATORY DEVELOPER PUBLIC MEETING FOR A PROPOSED PROJECT

- Each project developer must hold a public meeting in the project area, at least 90 days, but not more than 300 days, prior to making an application to the OPSB
- Notice requirements to commissioners and affected board of township trustees at least 14 days prior to the meeting
- Information provided in writing to the commissioners and at the meeting:
 - Designation of the facility as an economically significant wind farm, large wind farm, or large solar facility
 - Maximum nameplate capacity of the facility
 - Map of the proposed geographic boundaries of the project



COMMISSIONER RESPONSE TO DEVELOPER MEETING

- No later than 90 days after the public meeting, the commissioners may adopt a resolution to do one of the following:
 - A) Prohibit the construction of the utility facility, or
 - B) Limit the project's geographic boundaries.
- If the project is located in multiple counties, each board of county commissioners may adopt a resolution pertaining to the portion of the project within its area.
- If no resolution is adopted, the project may proceed as proposed
- The OPSB cannot grant a certificate for a project that the commissioners have prohibited; project boundaries must be within those established by the commissioners



AD HOC OPSB MEMBERS

- Two Ad Hoc voting members of the OPSB are appointed for each project:
 - The president of the board of county commissioners, or president's designee
 - The chairperson of the board of township trustees, or chairperson's designee
- If a project is located in multiple counties or townships, then affected boards decide on appointment by majority vote
- Appointment must be made no later than 30 days after OPSB notification to the board that the application is accepted and complete
- Designee must be a resident or elected official from the same county or township



AD HOC MEMBERSHIP ON THE OHIO POWER SITING BOARD

- Conflict of interest provisions – individual may not serve as an Ad Hoc Member if:
 - Designee or an immediate family member has a financial interest in the project
 - An immediate family member has intervened at an OPSB proceeding after appointment
- If the county is an official intervenor with the OPSB, the Ad Hoc Member may not vote on any resolution pertaining to the project after the date of appointment
- Confidentiality requirements
- After appointment, the Member must disclose all *ex parte* communications with any party that is an official intervenor with the OPSB



FACILITY DECOMMISSIONING REQUIREMENTS

- Developers are required to submit a facility decommissioning plan to the OPSB at least 60 days prior to beginning construction
- The plan must contain all the following:
 - A list of all parties responsible for decommissioning
 - A schedule of decommissioning activities (must completed 12 months after ceasing operation)
 - Estimate of the full costs of decommissioning
- Developer must post a bond for the full cost, updated every five years



SAFE HARBOR PROVISIONS – CURRENT APPLICATIONS

- OPSB Ad Hoc Membership – If an application has been deemed complete and accepted by the OPSB as of Oct. 11, the county and township may not appoint ad hoc members
- Commissioner authority to review and disapprove an individual project (ORC 303.62)
 - **WIND** – An application that is deemed complete and accepted by the OPSB by Nov. 10 is not subject to review by the board of county commissioners;
 - **SOLAR** – Commissioner review does not apply if the application is found to be complete and accepted by October 11, and both of the following apply:
 - The applicant has received a completed System Impact study from PJM;
 - The applicant has paid the fee for the Facilities study to PJM.



QUESTIONS?

Jon Honeck

Senior Policy Analyst

County Commissioners Association of Ohio

jhoneck@ccao.org

(614) 220-7982

Reminder:

Wednesday, September 15 webinar: “Ohio Power Siting Board Process and Public Participation”

Resources:

County Advisory Bulletin: <https://ccao.org/news-and-publications/county-advisory-bulletins/>

Legislative documents: <https://www.legislature.ohio.gov/>

