

Ohio Enacts Legislation Providing Counties with the Authority to Block Solar and Wind Developments

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On July 12, 2021, Ohio Governor Mike DeWine signed into law **Senate Bill 52** providing counties with the authority to block the construction of certain large solar and wind facilities in unincorporated townships. The law goes into effect on October 11, 2021. In short, Senate Bill 52 allows county commissioners to establish restricted areas in unincorporated townships prohibiting the construction of solar developments with generating capacity over 50 MWs and wind farms with over 5 MWs of generating capacity. If a township is incorporated, it retains jurisdiction to regulate whether the development occurs rather than defer to the county commissioners. Senate Bill 52 also contains requirements pertaining to public meetings in the counties that the facility will be located and decommissioning requirements. Practically speaking, Senate Bill 52 means that even if a solar or wind company obtains the necessary land rights to construct a solar or wind facility, counties can block its construction.

Senate Bill 52 follows a **string of legislative actions** in Ohio that appear to have stifled development and investment in solar and wind in the state. For example, in 2014, Ohio passed legislation requiring wind farms to be setback a minimum of 1,125 feet from the nearest adjacent property line. In contrast, oil and gas production wells are only required to be located at least 100 feet from the nearest homes. Since Ohio enacted the wind farm setback requirement, only one wind farm has been approved in the state.

While the full impact of Senate Bill 52 is unknown at this time, solar and wind developers can expect some counties to begin using their authority to restrict the location of solar and wind developments after the law goes into effect in October.

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