



Ohio Legislative Service Commission

Bill Analysis

Mary S. Connor

H.B. 169

128th General Assembly
(As Introduced)

Reps. Murray, Foley, Hagan, Domenick, Boyd, Okey

BILL SUMMARY

- Authorizes a local airport zoning board to zone, as to location, relocation, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement, any building or structure of a public utility or railroad that creates an airport hazard.

CONTENT AND OPERATION

Airport hazard law (R.C. 4563.01 to 4563.21) authorizes local¹ airport zoning boards to zone and adopt obstruction standards regarding structures and objects of natural growth within an airport hazard area of a publicly owned airport.² The law currently does not apply in regard to the location, relocation, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any

¹ Meaning, municipal, county, or township level, or county level if the airport hazard area is located in more than one such political subdivision (R.C. 4563.01 and 4563.03, unchanged by the bill).

² "Airport" means any area of land designed and set aside for the landing and taking off of aircraft, and for that purpose possessing one or more hard surfaced runways of a length of not less than 3,500 feet, and designed for the storing, repair, and operation of aircraft, and utilized or to be utilized in the interest of the public for such purposes, and any area of land designed for such purposes for which designs, plans, and specifications conforming to the above requirements have been approved by the office of aviation of the division of multi-modal planning and programs of the department of transportation and for which not less than 70% of the area shown by such designs and plans to constitute the total area has been acquired. An airport is "publicly owned" if the portion thereof used for the landing and taking off of aircraft is owned, operated, leased to, or leased by the United States, any agency or department thereof, this state or any other state, or any political subdivision of this state or any other state, or any other governmental body, public agency, or public corporation, or any combination thereof (R.C. 4563.01, unchanged by the bill).

building or structure,³ now existing or constructed in the future, of any public utility or railroad.

The bill authorizes a local airport zoning board to so zone a public utility or railroad building or structure that creates an airport hazard. Under continuing law, an "airport hazard" is any structure or object of natural growth or use of land within an airport hazard area that obstructs the air space required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such landing or taking off of aircraft.⁴

Presumably, the bill intends to preserve the prohibition in power siting law against local regulation of a major utility facility⁵ or economically significant wind farm,⁶ including with respect to the new authority the bill grants to local airport zoning boards. Power siting law prohibits any public agency or political subdivision requiring any approval, consent, permit, certificate, or other condition for the construction or initial operation of a major utility facility or an economically significant wind farm, except in the case of state laws for the protection of employees engaged in the construction of such facility or wind farm, and municipal regulations that do not pertain to the location or design of, or pollution control and abatement standards for, a certificated major utility facility or economically significant wind farm.⁷ Such a facility or wind farm must obtain a siting certificate from the Power Siting Board,⁸ which certificate must be conditioned upon the facility's or wind farm's compliance with

³ "Structure" means any erected object, including, without limitation, buildings, towers, smokestacks, and overhead transmission lines (R.C. 4563.01, unchanged by the bill).

⁴ R.C. 4563.01, unchanged by the bill.

⁵ A "major utility facility" is a (1) electric generating plant and associated facilities designed for, or capable of, operation at a capacity of 50 megawatts or more, (2) electric transmission line and associated facilities of a design capacity of 125 kilovolts or more, or (3) gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of 125 pounds per square inch. "Major utility facility" does not include any electric, gas, natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the Power Siting Board, any gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, or any solid waste facilities as defined in R.C. 6123.01 (R.C. 4906.01, unchanged by the bill).

⁶ "Economically significant wind farm" means 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 five or more megawatts but less than 50 megawatts, excluding any such wind farm in operation on June 24, 2008 (R.C. 4906.13, unchanged by the bill).

⁷ R.C. 4906.13, unchanged by the bill.

⁸ R.C. 4906.04 and 4906.20, unchanged by the bill.

airport obstruction standards adopted by the Director of Transportation based on federal standards.⁹

HISTORY

ACTION	DATE
Introduced	05-05-09

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⁹ R.C. 4561.32 and 4906.10, unchanged by the bill.

