



House Ways and Means Committee
Buckeye Association of School Administrators, County Commissioners
Association of Ohio, Ohio Association of School Business Officials, Ohio School
Boards Association, and Ohio Township Association
HB 218 Testimony
June 24, 2009

Good afternoon, Mr. Chairman, Committee members. My name is Barbara Shaner and I represent the Ohio Association of School Business Officials (OASBO). With me today for this testimony are Tom Ash from the Buckeye Association of School Administrators (BASA), Josh Hahn from the County Commissioners Association of Ohio (CCAO), Jennifer Economus from the Ohio School Boards Association (OSBA) and Heidi Fought representing the Ohio Township Association (OTA). We appreciate the opportunity to speak to you about our concerns with HB 218.

First, we would like to thank the Chairman and the bill sponsor for convening a number of stakeholder meetings regarding the issues raised in HB 218. The meetings gave our organizations an opportunity to express our concerns and to learn more about the implications of changing tax policy for alternative energy production facilities.

We are here today to share our thoughts about the provisions contained in proposed HB 218. We have also asked consultant Howard Fleeter from the firm Driscoll & Fleeter to speak to you regarding his research on this issue. His work through the Education Tax Policy Institute (ETPI) has been beneficial to us in understanding the effects of the proposed bill.

Attached to this testimony is a list of points outlining why we have concerns with the bill. It provides a chronological accounting of the steps Ohio has already taken toward encouraging alternative energy uses and to allow for competition in the energy generation marketplace. We will not review those points in detail, but we urge you to read them at your convenience.

We would, however, point out some of the important highlights of the list for you to consider. First, we believe local governments and schools have already made great concessions for purposes of encouraging alternative energy usage in Ohio. In 1999, the listing rate for Utility Tangible Personal Property was reduced from 88% to 25% (SB 3) in an effort to allow generation providers to compete with one another. This represents a loss of \$3.25 billion from the local tax base, taking with it the potential to raise additional revenue at the local level. This means that the other property making up the tax base, like residential and agriculture property, has to make up that difference through higher millage rates and more frequent levies.

Next, sweeping tax reform measures (HB 66) passed in 2005 included a further reduction of the listing rate to 24% where it remains today. As part of a broader tax reform package, the rate was deemed appropriate for power generation and as a crucial portion of the State's taxation/revenue structure. Also part of the tax reform changes was the elimination of the Corporate Franchise Tax that would otherwise be required of power generation providers.

In 2008, legislation (SB 221) addressed the needs of alternative energy providers through requirements and benchmarks for alternative energy use in Ohio, as well as penalties for non-compliance on the part of utility companies. These requirements represent the third most aggressive standard in the country, according to the U.S. Department of Energy.

Finally, demonstrating their support for alternative energy options, local governments have made concessions to allow for a statewide “siting” process (HB 562) to allow wind developers to use a “one-stop-shop” for siting decisions at the state level. This adds to a growing list of concessions made by local governments and schools as Ohio’s public policy decisions have evolved to be sure that Ohio is well placed on matters of energy and competition.

In summary, Ohio has already taken responsible steps to allow for alternative energy options to be developed. We believe the mandates for transitioning to these options should be allowed to work. Local governments and schools cannot afford to concede more in the way of local revenues in order to make alternative energy companies viable. There are many ways to become more environmentally friendly and to reduce energy use. Possible investment in these alternatives has not been fully explored, and we have some concerns about the adoption of the provisions in HB 218 given the steps that have already been taken.

Particularly in light of the current financial crises we are all experiencing, we urge you to take more time to investigate options for Ohio. While the implications for HB 218 may appear to some to be minimal, the broader implications for undermining the changes already made through previous legislation are monumental.

Thank you for the opportunity to speak to you today. We are happy to address your questions.



HB 218 Talking Points

The state faces up to a \$3.2 billion dollar budget gap for the coming biennium. Local governments will be faced with a correlating reduction in Local Government Fund revenues, nearing a twenty percent decline in just one year, and education funding has become much more difficult.

We understand the importance of fostering alternative energy options in Ohio and the nation. However, we believe that strong steps already have been taken through the implementation of sound public policy that will promote investment in these types of energy generation. We are concerned about the wind industry's request for further changes to Ohio's tax code and the possible domino effect of giving preferential treatment to one segment of this industry.

And the target for relief continues to move. Just last week the advocates sought changes in distribution and transmission equipment tax rate, in addition to the utility tax. Our preference is to let the current system, outlined below, work.

The following represents the history of policy changes in Ohio related to electric generation and changes to local revenue in the name of "competition":

Electric Deregulation: Senate Bill 3 (123rd G.A.).

- Ohio made significant restructuring changes in utility tangible personal property taxes paid by generation providers (including wind power) because of the pressures of competition.
- Local government entities and school districts experienced a substantial loss in their local tax base as part of this important policy decision – **a loss of \$3.25 billion from the local tax base, this potential to raise new revenue gone forever.**
 - The listing rate for which utility tangible personal property was taxed dropped from 88% to 25%.
 - KWH tax replaced the lost revenue from tangible tax levies for local governments and schools (the KWH tax does not provide replacement money for new levies passed after SB3 was enacted).
 - Schools and local governments accepted this as a necessary means to allowing competitors for generation of all sorts to enter the market in Ohio.

Sweeping Tax Reform: HB 66 (126th G.A.)

- Included the elimination of the Corporate Franchise Tax which will benefit alternative energy companies,
- Reduced from 25% to 24% the listing rate for utility tangible tax as part of that tax reform package.
- Intended to make Ohio's business tax structure competitive, while maintaining necessary revenues to keep the State's services viable.
- Local government services and public education also were impacted by the provisions in HB 66 with further reductions in the local business tax base. (We continue to work with the legislature to find solutions for the effects of those losses).

Electric Re-regulation: SB 221 (127th GA)

- Included major move for Ohio in the adoption of the alternative energy portfolio standard.

- Requires that by 2025, 25% of electricity sold in Ohio must be generated from alternative energy sources, such as clean coal, nuclear energy, fuel cells and cogeneration.
- Half of this standard (12.5%) must be met with renewable sources, including a 0.5% solar set aside.
- Also, half of the advanced energy and renewable energy must be located in Ohio.
- Included within SB 221 were benchmarks for energy efficiency and renewable energy standards that must be met or penalties will be levied.
- This significant effort, coupled with a considerable portfolio requirement, represents the third most aggressive standard in the country, according to the U.S. Department of Energy.
- **SB 221 should be allowed to work.**

Streamlined “siting” options: HB 562 (127th G.A.)

- CCAO and the OTA supported an amendment which proposed a statewide siting standard for wind systems.
 - Generally allows for utility grade wind systems of 5MW or greater to use the Power Siting Board for siting approval, rather than dealing with multiple local governments.
 - Local jurisdictions maintain siting for systems of less than 5MW.
- Important sacrifice for local governments as zoning authority is perhaps one of their most important responsibilities for which they have been entrusted.
 - **As far as we know, Ohio is unique in having such a "one-stop shop" process.**

American Recovery and Reinvestment Act (also known as the Federal stimulus package or ARRA): Passed February, 2009

- Some argue that certain types of electricity generation should be given more favorable tax treatment than others – the AARA provides just that.
 - Includes an extension of the renewable energy production tax credit (PTC) first created under the Energy Policy Act of 1992, allowing wind developers the option of choosing a 30% Investment Tax Credit (ITC) for generating facilities placed in service by the end of 2012 provided that construction begins before the end of 2010.
 - ITC can be easily converted to grant from the US Treasury Dept instead of a tax credit.
 - When Congress enacted the 30% tax credit/grant for wind power investments they did not make this subsidy contingent upon additional state or local subsidies. **The federal subsidy does not require matching local contributions.**
- The proposed local tax benefit for Ohio wind generators would provide a subsidy in addition to the federal subsidy.
 - For a wind generation facility with an estimated cost of \$200 million, using the industry prototype already presented through testimony, the federal investment tax credit or grant has a value of \$60 million.
 - The proposed local tax benefit for wind generators would amount to an additional subsidy on a \$200 million facility approximately equal to \$975,000 per year, or roughly \$29 million over 30 years.
 - Based on estimates about the amount of power actually sold by the wind generators, a local tax subsidy of this magnitude would mean a reduction of one-half cent (\$.005) per KWH if it were passed on to consumers.
 - Any additional local subsidy appears negligible to the industry compared to the overall project, but could have a serious negative impact on the locals.