



**TESTIMONY ON  
HOUSE BILL 2104 – DECOMMISSIONING OF SOLAR AND WIND ENERGY DEVICES**

Presented to the House Environmental Resources and Energy Committee

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On behalf of the County Commissioners Association of Pennsylvania (CCAP), a statewide nonprofit, nonpartisan association representing all 67 counties in Pennsylvania, thank you for the opportunity to share our comments on House Bill 2104, which provides for the decommissioning of solar and wind facilities. With the expansion of alternative energy sources in the commonwealth, it is important to consider the long-term impacts of the rapid growth in popularity of new technologies. Additionally, we aim to provide a broad scope of the impact of this growth on Pennsylvania counties as it relates to local government operations.

House Bill 2104 sets requirements for decommissioning solar and wind facilities that are placed by a grantee on leased land in Pennsylvania. It contains several requirements for documentation by the county recorder of deeds and pre-empts any existing local government ordinances related to solar or alternative energy sources. The bill also requires a grantee, who is the owner of an alternative energy facility on leased property, to prove financial assurance of the cost of decommissioning as determined by a third-party expert at various intervals during the lease.

Overall, implementing a plan for the decommissioning of solar and other alternative energy devices is a prudent and necessary step in future planning. CCAP supports implementation of a decommissioning plan that ensures that the owners of the equipment are held accountable for the impacts of the facilities they seek to build and profit from. As well, we need assurance that a sustainable plan is in place to cover the costs and consider the ongoing environmental impacts of these devices that provide cleaner energy now, but could also have detrimental environmental considerations when they are no longer viable devices. We have seen a similar type of situation occur when dealing with the ramifications and scarce resources for electronics recycling overall, and the trickle-down effect that comes with devices being inappropriately disposed of in landfills, waterways and more. Counties want to ensure that as we plan for the future of alternative energy, negative impacts are considered and properly mitigated.

Additionally, the [Pennsylvania County Platform](#) provides the following guidance on our goals related to alternative energy development and resources:

The Association supports action by the administration and General Assembly to broadly view and address issues associated with energy development to minimize negative impacts on local communities throughout all development phases, from exploration through production, delivery and closure, including water quality, water quantity, flood encroachment, pipelines, maintenance of county and municipal roads and bridges, permitting, planning, human services, criminal justice, record maintenance, housing, economic development, local economies and emergency management.

The Association strongly encourages the commonwealth to provide resources which prioritize energy conservation, locally owned and used solar, respect for local land use plans, along with education and protection for property owners engaging in lease agreements with energy companies.

Related to our policy on alternative energy development, we appreciate the implementation of a plan for decommissioning solar and wind facilities that is the responsibility of the grantee as is proposed in HB 2104. However, we also respectfully acknowledge that a state preemption of local government policies related to energy development, decommissioning or the like undermines local efforts to address any situations or challenges that are forthcoming in local communities, and also could have the effect of preempting the ability of a county to act nimbly on behalf of its residents according to local needs.

Further on the issue of alternative energy development and use, we wish to offer additional comments on the county impacts of this growing industry. Land use, community and economic development and infrastructure are strongly interrelated and have significant impacts in almost every area of our communities. Counties are uniquely positioned at the crossroads of many of these aspects of planning because of the wide array of services they offer to their residents.

### **Land Use, Planning and Preservation**

To speak to land use and planning broadly, CCAP's legislative and policy platform, based on resolutions adopted by the membership, asks the General Assembly and administration to recognize county land use planning as important in creating an appropriate balance among environmental, infrastructure, public health and safety, and economic development needs and an appropriate balance among state, county and municipal prerogatives.

While CCAP's platform also supports study and planning for future energy needs, counties oppose laws that would pre-empt local control over land use policies for the siting of infrastructure, noting that siting decisions should be compatible with local land use policies, including protections for preserved farmland and open space, as well as other natural and environmentally significant areas. There is no one size-fits-all in any issue for a state as diverse as Pennsylvania; while a common thread may exist among the needs of all of our communities, the concerns experienced by our rural counties and our large urban centers, for instance, will be very different.

Our local governments are often best situated to understand and respond to these differences. Even where model solar plans and ordinances are available, through organizations such as the American Planning Association or regional entities such as the Tri-County Regional Planning Commission, those accessing the model documents are encouraged to examine their local situation and adopt the regulations that make the most sense for their municipalities. Counties, therefore, encourage compiling best practices and other resources that will offer consistent guidance to local governments across the state, rather than the adoption of uniform policies that may not adequately meet diverse community needs.

With respect to solar siting in particular, counties urge an emphasis on brownfields development and use of lands such as landfills and abandoned mines, over locations that can be used for other purposes such as preserving agricultural land, forest land and valuable habitat. In order for solar energy in particular to become an effective use of alternative energy, careful consideration must be given to the scale and future siting impacts, in addition to decommissioning, so as to

avoid negative long-term effects leading to loss of productive farmland and forests, preserving streams and waterways and avoiding further detriment to clean water, flood management and pollution. Again, these are critical discussions to have with each community to assure that local land use policies remain a priority.

### **Energy Portfolio and Economic Impacts**

Counties support development of alternative energy resources in Pennsylvania, however, we want to be clear in noting our opposition to alternative energy standards that mandate generation and procurement of specific levels of alternative energy in the commonwealth. Again, this should remain a local discussion based on community resources, needs and land use, rather than a sweeping statewide target.

In addition, alternative energy development will most certainly have a different impact on different communities, their local economies and the people living there. While this may bring opportunities for economic growth and jobs, these scenarios could displace coal and natural gas generation (the state's top energy generators currently) and would need to account for any reductions in other jobs in the energy industry that are offset by alternative energies, as well as other economic impacts. Given the important role that energy industries play in local economies and workforces – particularly in areas where one type of energy development, such as coal or natural gas dominates the local or regional economy – we need to ensure that counties are involved in discussions for any large-scale plans.

### **Tax Assessment and Incentives**

One issue that must be clarified with regard to solar or other alternative energy development, particularly utility-scale solar, is the question of how real property with this equipment should be assessed. Property taxes are the only form of local tax revenue available to counties and are a predominant revenue source for municipalities and school districts. However, equipment, or personal property, is not subject to the real property tax in Pennsylvania, so each project would need to be evaluated to determine how the system should be valued. Additionally, with specific preferential tax programs, such as Clean and Green, it is still unclear how land is to be valued with equipment based on it if there are other provisions that may loosely fit the Clean and Green law. Counties would want to be sure those impacts to landowners and program enrollees are properly considered, as there are hefty consequences for falling out of compliance of the program.

It has also been proposed to consider offering a tax exemption, or partial exemption, to properties that house solar facilities to promote the use of alternative energy or increase project economics, as the property tax is considered as one of the more expensive long-term line items for grid-scale solar facilities. However, each property tax exemption that is granted becomes a burden that must be borne by other taxpayers. Our tax base continues to erode by degrees, either by legislative action (Public Utility Realty Tax Act restructuring, Keystone zones, billboards) or by judicial fiat (oil and gas). As such, counties would resist any effort to provide additional exemptions that would increase inequities among our taxpayers.

For the purposes of determining next steps on assessing solar and other facilities placement, we strongly recommend engaging with county assessment offices to gain a clearer and more accurate picture of the property valuation process and other considerations that ultimately impact fair property assessment.

**Local Government Input**

As with many legislative and regulatory proposals, local government input will be of great importance to any new policy development that occurs related to solar or other alternative energies. Because the evolving future of energy development, whatever course it takes, will have an impact on our communities in many ways, we continue to urge collaboration with counties and municipalities before finalizing any statewide plans to better understand the opportunities and challenges that occur locally.

CCAP again extends its appreciation for the opportunity to share these comments on behalf of counties and we would be happy to answer questions or to provide further discussion.