

Amendment No. 1 to SB2424

Southerland
Signature of Sponsor

AMEND Senate Bill No. 2424

House Bill No. 2541*

by deleting all the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 13-4-310(d)(2), is amended by inserting the language ", excluding any vesting period provided for in subdivision (l)(2)," immediately following the language "from the date of the approval of the preliminary development plan".

SECTION 2. Tennessee Code Annotated, Section 13-4-310(d)(3), is amended by inserting the language ", excluding any vesting period provided for in subdivision (l)(2)," immediately following the language "from the date of the approval of the preliminary development plan for the first section or phase".

SECTION 3. Tennessee Code Annotated, Section 13-4-310(k), is amended by adding the following as a new, appropriately designated subdivision:

() "Energy siting agreement" means a voluntary energy siting agreement approved by a local government pursuant to § 5-6-119 or § 6-54-148;

SECTION 4. Tennessee Code Annotated, Section 13-4-310, is amended by adding the following language as a new subsection (l):

(l)

(1) A vested property right is also established with respect to property upon the approval of an energy siting agreement by the legislative body of the local government in which the property is situated. During the vesting period described in subdivision (l)(2), the locally adopted development standards that are in effect on the date of approval of an energy siting agreement, including any

modifications to such standards pursuant to the terms of the energy siting agreement, remain the development standards applicable to that property or building during the vesting period.

(2) The vesting period applicable to an energy siting agreement precedes the vesting periods described in subsections (c) and (d) and shall be for the following period, unless the energy siting agreement expires or is validly terminated by the local government in accordance with its terms during the vesting period:

(A) Ten (10) years where no preliminary or final development plan is required by ordinance;

(B) Seven (7) years where no preliminary development plan is required by ordinance; or

(C) Five (5) years where a preliminary development plan is required by ordinance.

SECTION 5. Tennessee Code Annotated, Section 13-3-413(d)(2), is amended by inserting the language ", excluding any vesting period provided for in subdivision (l)(2)," immediately following the language "from the date of the approval of the preliminary development plan".

SECTION 6. Tennessee Code Annotated, Section 13-3-413(d)(3), is amended by inserting the language ", excluding any vesting period provided for in subdivision (l)(2)," immediately following the language "from the date of the approval of the preliminary development plan for the first section or phase".

SECTION 7. Tennessee Code Annotated, Section 13-3-413(k), is amended by adding the following as a new, appropriately designated subdivision:

() "Energy siting agreement" means a voluntary energy siting agreement approved by a local government pursuant to § 5-6-119 or § 6-54-148;

SECTION 8. Tennessee Code Annotated, Section 13-3-413, is amended by adding the following language as a new subsection (l):

(l)

(1) A vested property right is also established with respect to any property upon the approval of an energy siting agreement by the legislative body of the local government in which the property is situated. During the vesting period described in subdivision (l)(2), the locally adopted development standards that are in effect on the date of approval of the energy siting agreement, including any modifications to such standards pursuant to the terms of the energy siting agreement, remain the development standards applicable to that property or building during the vesting period.

(2) The vesting period applicable to an energy siting agreement precedes the vesting periods described in subsections (c) and (d) and shall be for the following period, unless the energy siting agreement expires or is validly terminated by the local government in accordance with its terms during the vesting period:

(A) Ten (10) years where no preliminary or final development plan is required by ordinance;

(B) Seven (7) years where no preliminary development plan is required by ordinance; or

(C) Five (5) years where a preliminary development plan is required by ordinance.

SECTION 9. Tennessee Code Annotated Title 5, Chapter 6, Part 1, is amended by adding the following new section:

5-6-119. Energy siting agreements.

(a) As used in this section, unless the context otherwise requires:

(1) "County" means a county or metropolitan form of government, including any consolidated government established pursuant to the power granted by the Constitution of Tennessee, Article XI, Section 9;

(2) "Energy project" means energy infrastructure improvements, whether composed of real or personal property, or both, for clean energy or renewable energy as those terms are defined in § 7-51-2401, including all sources listed in §§ 7-51-2403 and 7-51-2404; and

(3) "Energy siting agreement" means a voluntary agreement by and between a county and a developer of energy infrastructure improvements approving the siting in the county of one (1) or more energy projects upon a finding that such an agreement is in the best interest of the county.

(b) A county mayor may negotiate an energy siting agreement with a developer of an energy project, which agreement takes effect upon approval of the county legislative body by resolution and execution by the developer of the energy project.

(c) An energy siting agreement must specify the following:

(1) The duration of the energy siting agreement;

(2) The proposed tract or tracts of land on which the energy project is proposed to be located;

(3) A description of the proposed energy project together with the nature of any allowable modifications to the described or depicted design of the energy project; and

(4) Any additional terms determined to be necessary by the county and the developer.

(d) An energy siting agreement may include reductions in setbacks, vegetative buffers, or other visual screening or fencing requirements that would otherwise be imposed on the energy project under existing applicable county ordinances or resolutions based upon site-specific conditions or a written waiver of such requirements

by a landowner or landowners of property adjoining the affected tract of land where the energy project is proposed to be located.

(e) Because the characteristics of energy projects may be consistent with agricultural uses, an energy siting agreement may authorize the siting of an energy project in a zoning district intended to be used primarily for agricultural or similar uses or in other rural areas upon a finding by the legislative body of the county that the proposed energy project is consistent with present or future agricultural uses in the surrounding area.

(f) Modifications of design standards or conditions included in an energy siting agreement are binding during the vested period on all county agencies, boards, and commissions with the power to recommend, approve, or disapprove applications for a special exception, use permitted on appeal, conditional use permit, site plan, building permit, or another similar permit or approval required to site, construct, or operate an energy project in the county.

(g) This section does not authorize a county to take any action that would constitute a de facto prohibition, as that term is used in § 7-51-2202, of any form of energy project based solely on the failure of an energy project to be the subject of an energy siting agreement.

(h) Except to the extent expressly authorized in this section or another law, an energy siting agreement does not relieve any public agency of actual and timely performance of any obligation or responsibility imposed upon it by law.

SECTION 10. Tennessee Code Annotated, Title 6, Chapter 54, is amended by adding the following new section:

6-54-148. Energy siting agreements.

(a) As used in this section, unless the context otherwise requires:

(1) "Energy project" means energy infrastructure improvements, whether composed of real or personal property, or both, for clean energy or renewable

energy as those terms are defined in § 7-51-2401, including all sources listed in §§ 7-51-2403 and 7-51-2404; and

(2) "Energy siting agreement" means a voluntary agreement by and between a municipality and a developer of energy infrastructure improvements approving the siting in the municipality of one (1) or more energy projects upon a finding that such an agreement is in the best interest of the municipality.

(b) A municipality may enter into an energy siting agreement with a developer of an energy project, which agreement takes effect upon approval of the municipal legislative body by resolution and execution by the developer of the energy project.

(c) An energy siting agreement shall specify the following:

(1) The duration of the energy siting agreement;

(2) The proposed tract or tracts of land on which the energy project is proposed to be located;

(3) A description of the proposed energy project together with the nature of any allowable modifications to the described or depicted design of the energy project; and

(4) Any additional terms determined to be necessary by the municipality and the developer.

(d) An energy siting agreement may include reductions in setbacks, vegetative buffers, or other visual screening or fencing requirements that would otherwise be imposed on the energy project under existing applicable municipal ordinances or resolutions based upon site-specific conditions or a written waiver of such requirements by a landowner or landowners of property adjoining the affected tract of land where the energy project is proposed to be located.

(e) Because the characteristics of energy projects may be consistent with agricultural uses, an energy siting agreement may authorize the siting of an energy project in a zoning district intended to be used primarily for agricultural or similar uses or

in other rural areas upon a finding by the legislative body of the municipality that the proposed energy project is consistent with present or future agricultural uses in the surrounding area.

(f) Modifications of design standards or conditions included in an energy siting agreement are binding during the vested period on all municipal agencies, boards, and commissions with the power to recommend, approve, or disapprove applications for a special exception, use permitted on appeal, conditional use permit, site plan, building permit, or another similar permit or approval required to site, construct, or operate an energy project in the municipality.

(g) This section does not authorize a municipality to take any action that would constitute a de facto prohibition, as that term is used in § 7-51-2202, of any form of energy project based solely on the failure of an energy project to be the subject of an energy siting agreement.

(h) Except to the extent expressly authorized in this section or another law, an energy siting agreement does not relieve any public agency of actual and timely performance of any obligation or responsibility imposed upon it by law.

SECTION 11. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 12. This act takes effect on June 1, 2024, the public welfare requiring it.