

What House Bill 206 Actually Does
By Chip Dicks (3-21-2022)

HB 206 was the subject of a lot of discussion in the 2022 Virginia General Assembly. The purpose of this document is to summarize what HB 206 actually does, as it passed the House and the Senate. See the link: <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+HB206ER>

First. The provisions of HB 206 become effective upon the adoption of the implementing regulations by DEQ, which won't occur until at least July 1, 2024.

Second. The grandfather clause protects any solar project currently in process provided that that solar project makes an initial interconnect application, and such application is received by PJM or Dominion by December 31, 2024.

Third. HB 206 does not change the existing permitting processes at the local level, so localities continue to have the exact same approval powers as exist now. This means that solar projects follow the existing zoning regulations in each locality and any solar project greater than 5 MWs are subject to the requirements of a siting agreement under existing state law.

Fourth. HB 206 does not change the existing taxation of solar projects, under state and local law. This means the localities can assess M&T taxes or revenue share for a solar project and the locality can receive voluntary compensation from the solar developer through a use permit condition and a siting agreement.

Fifth. HB 206 puts a stakeholder process in place to determine what elements should be included in a mitigation plan through the state permit by rule or "PBR" process. Under existing law, which HB 206 does not change, an applicant cannot apply for its state approval until it has its local government permits in hand.

Sixth. Currently, a mitigation plan from a solar applicant for PBR approval only includes mitigation of wildlife and historic resources. HB 206 adds prime agricultural soils and forest lands as additional natural resources to be addressed in mitigation plans at the state level.

Seventh. HB 206 establishes a detailed stakeholder group process to assist in developing regulations to determine if a significant adverse impact to natural resources occurs. The stakeholder group will also assist in developing regulations that detail what should be included in a mitigation plan to "avoid, minimize or other mitigate any such impacts".

Eighth. DEQ is required to make a report to the General Assembly and the Governor on or before December 1, 2022. There may also additional legislation discussion in the 2023 General Assembly Session.