

June 10, 2023

Dear Co-Chairs Sanchez and Steiner, Joint Committee on Ways and Means, and Co-Chairs Pham and Dembrow, Subcommittee on Natural Resources:

I wanted to offer additional context and intent, for the record, on Sections 35-37 of HB 3409. I hope this will be helpful in supporting the implementation of what can often be a complicated and intricate area – land use rulemaking – to accomplish the bill’s overarching policy intent as indicated in its title “Finding Opportunities and Reducing Conflict in Utility Scale Photovoltaic Solar Siting.”

To accomplish this, Section 35 directs the Land Conservation and Development Commission to adopt administrative rules and specifies items to be included in these efforts. Under Section 35 it is intended, among other things, that the Land Conservation and Development Commission will consider and adopt, as needed, and based upon recommendations from a Rulemaking Advisory Committee (RAC), revisions to administrative rules that implement Goal 2 (Exceptions Process), Goal 3 (Agricultural Land), Goal 4 (Forest Land), and Goal 5 (Renewable Energy Resources).

Revisions to the Goal 5 rule are intended to be the centerpiece of the necessary rulemaking(s). Revisions to the Goal 5 rule are expected to include a “safe-harbor” option, which would allow for certain solar projects to not require other goal exceptions, and direction for counties interested in creating more detailed local programs. Both approaches – a “safe-harbor” or other Goal 5 revisions – are intended to be voluntary and allow counties to opt in as they see fit.

It is also the intent that administrative rules regarding facility siting adopted under Section 35 would include criteria based on broad consideration of community priorities and benefits. Equally, it is the intent that those adopted rules would also include connectivity of agricultural and forest lands and wildlife habitat areas in its consideration of natural resources and resource lands.

Section 37 provides direction for the establishment of a Rulemaking Advisory Committee (RAC) to assist the Land Conservation and Development Commission in carrying out their responsibilities under HB 3409. It is intended that the Department of Land Conservation and Development will initiate consultation with Tribal governments in advance of convening the RAC. Additionally, it is the intent that counties should be a central piece of the process and DLCD engagement, including through county membership on the RAC.

Thank you for your consideration.

Pam Marsh
State Representative
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