WV House Bill 2459

*Whereas the American Planning Association (APA) and the West Virginia Chapter of the American Planning Association (WV APA) are strong supporters of renewable energy sources such as wind and solar power, APA and WV APA are also staunch proponents of the ability for residents to have a say in what happens to their communities. Thus, WV APA, consistent with National policy, is concerned that House Bill (HB) 2459,* ***AS WRITTEN****, eliminates the ability of residents to have a say in what happens in their communities. HB 2459 is also written in such a way that other large scale power generation that is not renewable could also be allowed without any public say. WV APA welcomes the opportunity to work with legislators to craft a bill that would work to achieve what HB 2459 purports to promote, as well as all the goals that WV APA supports. We encourage concerned legislators to work with us to craft a bill we can all support.*

**Thus, the West Virginia Chapter of the American Planning Association (WV APA) strongly opposes HB 2459 as it is currently presented and its position is as follows:**

The proposed changes to West Virginia State Code Chapter 8A (Land Use) contained in this bill would exempt wholesale energy generators from local law and eliminate the ability of communities to place conditions on the development of energy production facilities in their communities; some of which could cover thousands of acres of a community.

Please understand that wholesale energy generators are owned by large, private corporations (most from out of state). Their primary purpose is to sell large amounts of energy to the interstate wholesale electricity market (the grid). This bill will only exempt these corporations from local oversight, it WILL NOT affect or assist small local energy production development that produces energy for local users, nor will it affect or assist public utilities.

These projects can impact hundreds or thousands of West Virginia landowners, cause physical and financial harm to individuals, impede on their property rights, reduce property values, and damage important local economic drivers. The original intent of the authorization of land use planning (through WV §8A) which includes local zoning was to give West Virginia localities the power to protect their citizens from such impacts. Energy production facilities have the potential to create some of the greatest impacts to communities thus should not be exempt from local regulation.

The WV APA supports the positions of the national chapter of the American Planning Association (APA) outlined in the APA Policy Guide on Energy in that we support diversifying and securing the energy grid, we support efficient renewable energy (especially through distributed energy generation), and we believe that those who benefit the most from energy production facilities should also bear most of the responsibility for any detriments stemming from the activity that generates the benefits.

Most relevant to HB 2459, we support the APA in their position on the siting of energy facilities as outlined below:

**ENERGY FACILITY SITING**

Every locality in America is unique in some manner. Local elected and appointed officials are in the best position to be able to determine how or if energy generation facilities, production, mining, or resource recovery fits within the fabric of their communities. Decisions with respect to siting, aesthetics, environmental concerns, and facilities management are most appropriately made closest to the communities and individuals most directly affected by the decision. For example, communities with historic districts may wish to regulate solar collection panels and wind turbines in a different manner than those communities without designated historic districts. Communities with exceptional scenic vistas may choose differing approaches to siting energy-related facilities. These are inherently local choices that should remain local.

However, as not all impacts are entirely local, citizens and officials within the larger area potentially impacted by a siting decision must be provided with an effective means of influencing the outcome. For example, the air and water emissions from a facility may have greater impacts downwind and downstream than at the source itself; the principle of environmental equity provides that those downwind and downstream communities should be able to provide input and have it considered in the decision process while still providing primacy to local land use authority.

State and federal rules and regulations that entirely preempt local land use authority should be avoided. Such efforts are better directed at developing best practices, enforcement of the Clean Air and Clean Water acts without loopholes, model ordinances, and by providing education to local authorities regarding what are and are not reasonable concerns to consider in making siting decisions.