

1 HB106
2 152016-4
3 By Representative Nordgren
4 RFD: Commerce and Small Business
5 First Read: 14-JAN-14
6 PFD: 01/10/2014

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8 SYNOPSIS: This act would establish the Alabama Wind
9 Energy Conversion Systems Act of 2014 to provide
10 for the effective and efficient use of wind energy
11 conversion systems.

12 This bill would require a person to obtain
13 permits from the Alabama Department of
14 Environmental Management prior to installing or
15 operating a wind energy conversion system.

16 This bill would authorize the department to
17 adopt rules regulating the location, design,
18 installation, and operation of wind energy
19 conversion systems.

20 This bill would require that the design of
21 all conversion system towers must be certified by a
22 licensed engineer with prior experience with wind
23 energy conversion systems.

24 This bill would also require approval of any
25 wind energy conversion system by the appropriate
26 local governing body and compliance with applicable
27 zoning.

1 This bill would also provide for the removal
2 of abandoned wind energy conversion systems or
3 systems that are not kept in proper working order.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to wind energy conversion systems, to
10 provide definitions; to require a person to obtain permits
11 from the Alabama Department of Environmental Management prior
12 to installing or operating a system; to provide for an
13 application process for a permit; to require the certification
14 of systems by a licensed engineer with certain experience; to
15 provide for regulations for the design, construction, and
16 operation of wind energy conversion systems; to provide for
17 approval of any wind energy conversion system by the
18 appropriate local governing body and for compliance with
19 applicable zoning; to provide for the removal of abandoned
20 systems; and to provide rulemaking authority to the Alabama
21 Department of Environmental Management.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall be known and may be cited
24 as the Alabama Wind Energy Conversion Systems Act of 2014.

25 Section 2. It is the intent of the Legislature to
26 provide for the effective and efficient use of wind energy
27 conversion systems with the minimum regulation on the

1 location, design, and installation of conversion systems while
2 preserving the public health, safety, and welfare of
3 neighboring property owners or occupants.

4 Section 3. For the purposes of this act, the
5 following words shall have the following meanings:

6 (1) DECIBEL. The unit of measure for sound pressure
7 using dBA scale.

8 (2) DEPARTMENT. Alabama Department of Environmental
9 Management.

10 (3) FINANCIAL ASSURANCE. Any assurance provided in
11 accordance with acceptable financial assurance instruments,
12 which include an escrow account, performance bond, or cash.

13 (4) LICENSED ENGINEER. A professional engineer
14 licensed by the State of Alabama.

15 (5) MANUAL AND AUTOMATIC CONTROLS. Devices that give
16 protection to power grids and limit rotation of the blades to
17 below the designed limits of the conversion system.

18 (6) WIND ENERGY CONVERSION SYSTEM or SYSTEM. Any
19 device such as a wind charger, windmill, or wind turbine that
20 is designed to convert wind energy to a form of usable energy
21 for the sole purpose of resale.

22 Section 4. No person shall construct, erect,
23 install, alter, or locate a wind energy conversion system in
24 the corporate limits of a municipality unless the respective
25 municipal governing body has approved the location of the
26 system. No person shall construct, erect, install, alter, or
27 locate a wind energy conversion system outside of the

1 corporate limits of a municipality unless the county
2 commission of the county has approved the location of the
3 system. In addition, the property upon which the system is
4 proposed to be located, shall be appropriately zoned by the
5 respective municipal or county government, if applicable.

6 Section 5. It shall be unlawful to construct, erect,
7 install, alter, operate, or locate a wind energy conversion
8 system in this state without first obtaining permits from the
9 Alabama Department of Environmental Management pursuant to
10 this act.

11 Section 6. (a) The Alabama Department of
12 Environmental Management shall adopt rules governing the
13 construction, installation, and operation of a wind energy
14 conversion system, including the permit application process.
15 At a minimum, the rules shall address the following:

16 (1) Submission of information in an application form
17 requiring, at a minimum, an applicant to submit all of the
18 following information:

19 a. The applicant's and property owner's name,
20 address, and email address or telephone number.

21 b. A plot plan showing the location of the
22 conversion system pole or tower, guy lines where required, guy
23 line anchor bases, and the distance of each from all property
24 lines.

25 c. A visual simulation of the proposed wind energy
26 conversion system.

1 d. A reclamation plan that stipulates how the site
2 will be restored to its natural state after it ceases to be
3 operational.

4 (2) Procedures for notification to the public of the
5 application.

6 (3) Conditions in the permit for all of the
7 following:

8 a. Turbine types and designs.

9 b. Site layout and construction.

10 c. Operation and maintenance of the system,
11 including the requirement to restore, to the extent possible,
12 the area affected by the construction of the system to the
13 natural conditions that existed immediately before
14 construction of the system.

15 d. Revocation and suspension of a permit when
16 violations of the permit or other requirements occur.

17 e. Payment of fees for the necessary and reasonable
18 costs of the department, including a fee of one thousand
19 dollars (\$1,000) for each system and all costs of the
20 department to review the application, including any
21 engineering fees, inspection fees, and attorney fees incurred
22 for the duration of the permit.

23 Section 7. (a) An applicant shall maintain financial
24 assurance in an amount equal to the costs associated with the
25 reclamation plan and the removal of abandoned or unused wind
26 energy conversion systems.

1 (b) In addition to the financial assurance required
2 in subsection (a), an applicant shall maintain financial
3 assurance in the amount of one million dollars (\$1,000,000) to
4 cover any liability for damages to adjoining property and any
5 other damages under law. The financial assurance mechanism
6 shall remain in full force and effect during the construction
7 phase of any and all systems covered under the permit and
8 shall be maintained for the life of the system.

9 Section 8. (a) The safety of the design of all
10 conversion system towers shall be certified by a licensed
11 engineer with prior experience with wind energy conversion
12 systems. The standard for certification shall be good
13 engineering practices, including the requirement that the
14 systems comply with all building and electrical codes in this
15 state.

16 (b) A wind energy conversion system shall be
17 equipped with manual and automatic overspeed controls to limit
18 rotation of blades to a speed below the designed limits of the
19 conversion system. A licensed engineer shall certify that the
20 rotor and overspeed control design and fabrication conforms
21 with good engineering practices. Any changes or alterations
22 from the certified design shall not be permitted unless
23 accompanied by a licensed engineer's statement of
24 certification.

25 (c) All electrical compartments, storage facilities,
26 wire conduit and interconnections with utility companies shall
27 conform to federal, state, and local law.

1 (d) A visible warning sign of "High Voltage" shall
2 be placed at the base of all systems. The letters of the sign
3 shall be a minimum of six inches in height.

4 (e) A tower or pole shall be unclimbable by design
5 or protected by any of the following anti-climbing devices:

6 (1) Fences with locking portals at least six feet
7 high.

8 (2) Anti-climbing devices 12 feet from the base of
9 the pole.

10 (3) Anchor points for guy wires supporting a tower
11 that are enclosed by a six-foot fence or located within the
12 confines of a yard that is completely surrounded by a fence.

13 (f) The compatibility of the tower structure with
14 the rotors and other components of the wind energy conversion
15 system shall be certified by a licensed engineer.

16 (g) It shall be the responsibility of the property
17 owner or the applicant to contact all federal, state, and
18 local regulating agencies regarding additional permits
19 necessary for the installation of wind energy conversion
20 systems, to include, but not be limited to, the Federal
21 Communications Commission, Federal Aviation Agency, and the
22 Alabama Department of Transportation.

23 (h) A licensed engineer shall certify that the
24 construction and installation of the wind energy conversion
25 system meets or exceeds the manufacturer's construction and
26 installation standards.

1 (i) The noise levels measured at the property line
2 of the property on which the system has been installed shall
3 not exceed 40 decibels.

4 (j) A wind energy conversion system may not encroach
5 upon adjacent properties as determined by a measure of 2,500
6 feet from the center-mass base of the system to the nearest
7 edge of the adjacent property.

8 Section 9. A wind energy conversion system or tower
9 that does not operate continuously for 365 consecutive days
10 may be deemed abandoned and shall be removed by the operator
11 of the system. The permit holder may request that the
12 department delay the designation of abandonment by submitting
13 satisfactory proof to the department that the system has not
14 been abandoned and a date when the system will become
15 operable. The decision to delay a designation of abandonment
16 shall be at the sole discretion of the department.

17 Section 10. This act shall not interfere with,
18 abrogate, or annul any covenant or other agreement between any
19 parties. However, if this act imposes a greater restriction
20 upon the use of a wind energy conversion system than is
21 imposed by another law, rule, regulation, covenant, or
22 agreement, the more restrictive provision shall govern the
23 wind energy conversion system.

24 Section 11. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.