

1 HB676  
2 152636-6  
3 By Representatives Davis, Baker, Faust and Shiver (N & P)  
4 RFD: Baldwin County Legislation  
5 First Read: 24-APR-13

1  
2 ENROLLED, An Act,

3           Relating to Baldwin County; to authorize the Baldwin  
4 County Commission to regulate the permitting, construction,  
5 placement, and operation of wind turbines, wind mills, wind  
6 farms and any other wind-generated energy production  
7 facilities or equipment operated, in whole or in part, by wind  
8 in the unincorporated areas of Baldwin County, Alabama; to  
9 authorize the Baldwin County Commission to establish  
10 standards, specifications, criteria, and conditions on the  
11 permitting, construction, placement, and operation of wind  
12 turbines, wind mills, wind farms, and any other wind-generated  
13 energy production facilities or equipment operated, in whole  
14 or in part, by wind in the unincorporated areas of Baldwin  
15 County; to authorize and allow the Baldwin County Commission  
16 to determine the appropriate locations where wind turbines,  
17 wind mills, wind farms, and any other wind-generated energy  
18 production facilities or equipment operated, in whole or in  
19 part, by wind may be located or allowed and to prohibit the  
20 same, if deemed necessary by the Baldwin County Commission; to  
21 authorize and allow the Baldwin County Commission to establish  
22 remedies and penalties for the violation of any laws,  
23 ordinances, rules, or regulations adopted pursuant to this  
24 act; to authorize the Baldwin County Commission to determine  
25 the terms and conditions of any exceptions and exemptions from

1 the provisions of any laws, ordinances, rules, or regulations  
2 adopted pursuant to this act; and to provide that the  
3 authority granted to the Baldwin County Commission pursuant to  
4 this act shall be in addition to, and not in substitution of,  
5 any powers or authority granted to the Baldwin County  
6 Commission pursuant to any other laws, rules or regulations.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. This act shall apply within all  
9 unincorporated areas of Baldwin County.

10 Section 2. (a) The county commission shall have  
11 zoning ~~zoning~~ authority and the power to establish and adopt  
12 ordinances, resolutions, rules, regulations, and procedures to  
13 regulate the permitting, construction, placement, and  
14 operation of wind turbines, windmills, wind farms, and any  
15 other wind-generated energy production facilities or equipment  
16 operated, in whole or in part, by wind, sometimes referred to  
17 collectively as "wind-generated energy production facilities,"  
18 also including, but not limited to, regulations regarding the  
19 size, location, and noise generated by wind-generated energy  
20 production facilities. The regulations shall be adopted by  
21 ordinance or resolution of the county commission at a  
22 regularly scheduled meeting of the commission.

23 (b) The county commission shall have zoning ~~zoning~~  
24 authority and the power to establish and adopt ordinances,  
25 resolutions, rules, regulations, and procedures establishing

1 standards, specifications, criteria, and conditions related to  
2 the permitting, construction, placement, and operation of wind  
3 turbines, wind mills, wind farms, and any other wind-generated  
4 energy production facilities or equipment operated, in whole  
5 or in part, by wind in the unincorporated areas of Baldwin  
6 County.

7 (c) The county commission shall have ~~zoning~~ zoning  
8 authority and the power to establish and adopt ordinances,  
9 rules, regulations, policies, and procedures to establish and  
10 determine the appropriate locations where wind turbines, wind  
11 mills, wind farms, and any other wind-generated energy  
12 production facilities or equipment operated, in whole or in  
13 part, by wind may be located or allowed and to prohibit the  
14 same, if deemed necessary by the county commission.

15 As part of the commission's authority, the  
16 commission is to provide for a minimum setback for  
17 wind-generated energy production facilities that is no closer  
18 laterally than one and one-half times the height of the tower  
19 to an overhead electrical power line, excluding secondary  
20 electrical service lines or service drops. The commission may  
21 also provide for a minimum setback from underground electrical  
22 and gas distribution lines.

23 (d) If any building or structure is erected,  
24 constructed, altered, repaired, converted, operated, or  
25 maintained, or if any land is used, in violation of this act

1 or any ordinance, resolution, rule, regulation, or procedure  
2 promulgated under the authority conferred by this act, the  
3 county commission, or other appropriate administrative officer  
4 designated by the county commission, may institute any  
5 appropriate action or proceeding to prevent an unlawful  
6 erection, construction, reconstruction, alteration, repair,  
7 conversion, operation, maintenance, or use of the land or to  
8 restrain, correct, or abate the violation, or to prevent the  
9 use of any building or structure, or to prevent any illegal  
10 act, conduct, business, or misuse in or upon any premises  
11 regulated under the authority conferred by this act. In  
12 addition to the foregoing, the county commission may adopt  
13 ordinances or regulations providing for a penalty in the form  
14 of a fine for the violation of the provisions of any  
15 ordinance, resolution, rule, regulation, or procedure  
16 promulgated under this act. The fine shall not exceed one  
17 thousand dollars (\$1,000.00) and costs of court for each  
18 offense. Each day the violation continues shall constitute a  
19 separate offense. In addition, any violation shall be a public  
20 nuisance. Upon a finding that a building or structure violates  
21 the provisions of any ordinance, resolution, rule, regulation,  
22 or procedure adopted pursuant to this act, the county  
23 commission may remove such building or structure, and all  
24 costs of removal shall be assessed against the landowner and

1 recorded as a lien on the property and may be enforced until  
2 satisfied.

3 (e) The county commission may levy permit and  
4 application fees deemed necessary to administer the  
5 ordinances, resolutions, rules, regulations, or procedures  
6 adopted pursuant to this act. The fees shall cover the cost of  
7 administrative activities and the cost of reviewing  
8 applications, including the costs or fees of any experts or  
9 consultants deemed necessary to assist the county in reviewing  
10 applications.

11 (f) The county commission shall have the authority  
12 and power to establish rules and procedures to determine the  
13 terms and conditions of any exceptions and exemptions from the  
14 provisions of any laws, ordinances, rules, or regulations  
15 adopted pursuant to this act. In addition, any ordinance or  
16 resolution adopted pursuant to this act shall authorize a  
17 variance process to be determined by the county commission.  
18 Furthermore, any ordinance or resolution adopted pursuant to  
19 this act shall include a variance appeals process for any  
20 party aggrieved by a final variance decision of the county  
21 commission to appeal therefrom to the Circuit Court of Baldwin  
22 County.

23 (g) The authority granted to the county commission  
24 pursuant to this act shall be in addition to, and not in

1 substitution of, any powers or authority granted to the County  
2 Commission pursuant to any other laws, rules or regulations.

3 Nothing in this Act shall serve to alter, affect,  
4 limit or avoid other state laws and regulations that would  
5 otherwise be applicable to the permitting, construction,  
6 placement, or operation of wind-generated energy production  
7 facilities, or to sales therefrom, including but not limited  
8 to the provisions of Title 37.

9 Section 3. The provisions of this act are severable.  
10 If any part of this act is declared invalid or  
11 unconstitutional, that declaration shall not affect the part  
12 which remains

13 Section 4. All laws or parts of laws which conflict  
14 with this act are repealed to the extent of such conflict.

15 Section 5. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.

