

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

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Baldwin County; to authorize the Baldwin
14 County Commission to regulate the permitting, construction,
15 placement, and operation of wind turbines, wind mills, wind
16 farms and any other wind-generated energy production
17 facilities or equipment operated, in whole or in part, by wind
18 in the unincorporated areas of Baldwin County, Alabama; to
19 authorize the Baldwin County Commission to establish
20 standards, specifications, criteria, and conditions on the
21 permitting, construction, placement, and operation of wind
22 turbines, wind mills, wind farms, and any other wind-generated
23 energy production facilities or equipment operated, in whole
24 or in part, by wind in the unincorporated areas of Baldwin
25 County; to authorize and allow the Baldwin County Commission
26 to determine the appropriate locations where wind turbines,
27 wind mills, wind farms, and any other wind-generated energy

1 production facilities or equipment operated, in whole or in
2 part, by wind may be located or allowed and to prohibit the
3 same, if deemed necessary by the Baldwin County Commission; to
4 authorize and allow the Baldwin County Commission to establish
5 remedies and penalties for the violation of any laws,
6 ordinances, rules, or regulations adopted pursuant to this
7 act; to authorize the Baldwin County Commission to determine
8 the terms and conditions of any exceptions and exemptions from
9 the provisions of any laws, ordinances, rules, or regulations
10 adopted pursuant to this act; and to provide that the
11 authority granted to the Baldwin County Commission pursuant to
12 this act shall be in addition to, and not in substitution of,
13 any powers or authority granted to the Baldwin County
14 Commission pursuant to any other laws, rules or regulations.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall apply within all
17 unincorporated areas of Baldwin County.

18 Section 2. (a) The county commission shall have
19 zoning authority and the power to establish and adopt
20 ordinances, resolutions, rules, regulations, and procedures to
21 regulate the permitting, construction, placement, and
22 operation of wind turbines, windmills, wind farms, and any
23 other wind-generated energy production facilities or equipment
24 operated, in whole or in part, by wind, sometimes referred to
25 collectively as "wind-generated energy production facilities,"
26 also including, but not limited to, regulations regarding the
27 size, location, and noise generated by wind-generated energy

1 production facilities. The regulations shall be adopted by
2 ordinance or resolution of the county commission at a
3 regularly scheduled meeting of the commission.

4 (b) The county commission shall have zoning
5 authority and the power to establish and adopt ordinances,
6 resolutions, rules, regulations, and procedures establishing
7 standards, specifications, criteria, and conditions related to
8 the permitting, construction, placement, and operation of wind
9 turbines, wind mills, wind farms, and any other wind-generated
10 energy production facilities or equipment operated, in whole
11 or in part, by wind in the unincorporated areas of Baldwin
12 County.

13 (c) The county commission shall have zoning
14 authority and the power to establish and adopt ordinances,
15 rules, regulations, policies, and procedures to establish and
16 determine the appropriate locations where wind turbines, wind
17 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 county commission.

21 (d) If any building or structure is erected,
22 constructed, altered, repaired, converted, operated, or
23 maintained, or if any land is used, in violation of this act
24 or any ordinance, resolution, rule, regulation, or procedure
25 promulgated under the authority conferred by this act, the
26 county commission, or other appropriate administrative officer
27 designated by the county commission, may institute any

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

23 (e) The county commission may levy permit and
24 application fees deemed necessary to administer the
25 ordinances, resolutions, rules, regulations, or procedures
26 adopted pursuant to this act. The fees shall cover the cost of
27 administrative activities and the cost of reviewing

1 applications, including the costs or fees of any experts or
2 consultants deemed necessary to assist the county in reviewing
3 applications.

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

16 (g) The authority granted to the county commission
17 pursuant to this act shall be in addition to, and not in
18 substitution of, any powers or authority granted to the County
19 Commission pursuant to any other laws, rules or regulations.

20 Section 3. The provisions of this act are severable.
21 If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains

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

1 Section 5. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.