HB678

152016-2

By Representative Davis

RFD: Transportation, Utilities and Infrastructure

First Read: 25-APR-13

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SYNOPSIS: This act would establish the Alabama Wind Energy Conversion Systems Act of 2013 to provide for the effective and efficient use of wind energy conversion systems.

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

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

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

This bill would also provide for the removal of abandoned wind energy conversion systems or systems that are not kept in proper working order.

A BILL

TO BE ENTITLED

AN ACT

Relating to wind energy conversion systems, to provide definitions; to require a person to obtain permits from the Alabama Department of Environmental Management prior to installing or operating a system; to provide for an application process for a permit; to require the certification of systems by a licensed engineer with certain experience; to provide for regulations for the design, construction, and operation of wind energy conversion systems; to provide for the removal of abandoned systems; and to provide rulemaking authority to the Alabama Department of Environmental Management.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Wind Energy Conversion Systems Act of 2013.

Section 2. It is the intent of the Legislature to provide for the effective and efficient use of wind energy conversion systems with the minimum regulation on the location, design, and installation of conversion systems while preserving the public health, safety, and welfare of neighboring property owners or occupants.

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

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

(2) DEPARTMENT. Alabama Department of Environmental Management.

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

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

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

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

Section 4. It shall be unlawful to construct, erect, install, alter, operate, or locate a wind energy conversion system in this state without first obtaining permits from the Alabama Department of Environmental Management pursuant to this act.

Section 5. (a) The Alabama Department of Environmental Management shall adopt rules governing the construction, installation, and operation of a wind energy conversion system, including the permit application process. At a minimum, the rules shall address the following:

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

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

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

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

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

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

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

a. Turbine types and designs.

b. Site layout and construction.

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

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

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

Section 6. (a) An applicant shall maintain financial assurance in an amount equal to the costs associated with the reclamation plan and the removal of abandoned or unused wind energy conversion systems.

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

Section 7. (a) The safety of the design of all conversion system towers shall be certified by a licensed engineer with prior experience with wind energy conversion systems. The standard for certification shall be good engineering practices, including the requirement that the systems comply with all building and electrical codes in this state.

(b) A wind energy conversion system shall be equipped with manual and automatic overspeed controls to limit

rotation of blades to a speed below the designed limits of the conversion system. A licensed engineer shall certify that the rotor and overspeed control design and fabrication conforms with good engineering practices. Any changes or alterations from the certified design shall not be permitted unless accompanied by a licensed engineer's statement of certification.

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

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

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

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

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

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

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

(g) It shall be the responsibility of the property owner or the applicant to contact all federal, state, and

local regulating agencies regarding additional permits necessary for the installation of wind energy conversion systems, to include, but not be limited to, the Federal Communications Commission, Federal Aviation Agency, and the Alabama Department of Transportation.

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

(i) The noise levels measured at the property line of the property on which the system has been installed shall not exceed 50 decibels.

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

Section 9. This act shall not interfere with, abrogate, or annul any covenant or other agreement between any parties. However, if this act imposes a greater restriction upon the use of a wind energy conversion system than is imposed by another law, rule, regulation, covenant, or

agreement, the more restrictive provision shall govern the wind energy conversion system.

Section 10. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.