

SB91 ENGROSSED



1 SB91

2 6DP6ZZ1-2

3 By Senators Kelley, Jones

4 RFD: Veterans, Military Affairs and Public Safety

5 First Read: 04-Feb-25



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A BILL
TO BE ENTITLED
AN ACT

Relating to military installations; to amend Sections 11-106-3, 11-106-4, and 11-106-6, Code of Alabama 1975, to revise the definition of the term "military installation"; to require persons to obtain the approval of a local government before constructing a tall structure within a certain distance of a military installation; to authorize local governments to seek enjoinder of the construction of a tall structure in certain circumstances; and to make conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-106-3, 11-106-4, and 11-106-6, Code of Alabama 1975, are amended to read as follows:

"§11-106-3

As used in this chapter, the following words ~~shall~~ have the following meanings:

(1) ADVERSE IMPACT ON MILITARY OPERATIONS AND READINESS. The same meaning as provided ~~for that term~~ in 10 U.S.C. § 183a(h), and consistent with ~~Section 3.1.a.4~~ of DoD Instruction 4180.02.

(2) DEPARTMENT OF DEFENSE SITING CLEARINGHOUSE. The Military Aviation and Installation Assurance Siting



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29 Clearinghouse of the Department of Defense, as established by
30 10 U.S.C. § 183a.

31 (3) LOCAL GOVERNMENT. Any county or municipality.

32 (4) LOCAL IMPACT ISSUE. Any adoption or amendment by a
33 local government of a proposed zoning plan, comprehensive
34 master plan, or land development regulations that, if
35 approved, may or will significantly affect any area or
36 airspace that is within two miles of a military installation.

37 (5) MILITARY INSTALLATION. Any base, camp, post,
38 station, airfield, yard, center, or any other land area under
39 the jurisdiction of the United States Department of Defense,
40 including any leased facility, ~~the total acreage of which~~
41 ~~installation is in excess of 500 acres.~~ The term ~~military~~
42 ~~installation~~ does not include any facility used primarily for
43 civil works, river projects, or flood control projects.

44 (6) NOTICE OF PRESUMED RISK. The notice provided by the
45 Department of Defense Siting Clearinghouse to an owner of an
46 energy facility pursuant to 10 U.S.C. § 183a(c)(2).

47 (7) TALL STRUCTURE. Any building, structure, or unit
48 within a multiunit building with a vertical height of more
49 than 200 feet measured from the top of the foundation of the
50 building, structure, or unit to the uppermost point of the
51 building, structure, or unit. The term does not include: wind
52 energy facilities, electrical transmission towers, slender
53 structures, or minor vertical projections of a parent
54 building, including, but not limited to, chimneys, flagpoles,
55 flues, spires, steeples, belfries, cupolas, antennas, poles,
56 lines, or wires, except that no such structure or vertical



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57 projection may project more than 20 vertical feet above the
58 parent building. The term also does not include any
59 communications structures requiring antenna structure
60 registration pursuant to 47 C.F.R. § 17.4.

61 (8) WIND ENERGY FACILITY. Facilities for the generation
62 of electricity by wind power."

63 "§11-106-4

64 (a) Each local government whose territorial boundaries
65 are within two miles of ~~all or~~ any portion of a military
66 installation shall provide written notice to the military
67 installation's commanding officer and the flying mission
68 commanding officer if applicable, or their designees, of any
69 local impact issue.

70 (b) Prior to approving any proposed tall structure or
71 wind energy facility, the local government shall follow the
72 requirements of Section 11-106-6. ~~The requirements of Section~~
73 ~~11-106-6 shall apply regardless of the distance of the tall~~
74 ~~structure or wind energy facility from any military~~
75 ~~installation and regardless of whether the local government's~~
76 ~~territorial boundaries are within two miles of all or any~~
77 ~~portion of a military installation."~~

78 "§11-106-6

79 (a) The construction or operation of any tall structure
80 or wind energy facility in this state shall not encroach upon
81 or otherwise have an adverse impact on military operations and
82 readiness of any military installation or branch of military.

83 (b) A person may not commence the construction of a
84 tall structure within two miles of a military installation



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85 unless the person has obtained approval from the governing
86 body of the local government in which the tall structure will
87 be located as further provided in this section.

88 ~~(b)~~ (c) A governing body of a local government, ~~prior to~~
89 ~~approving an application for the construction of a tall~~
90 ~~structure shall approve an application to commence~~
91 ~~construction of a tall structure within two miles of a~~
92 ~~military installation once require the applicant to file has~~
93 ~~filed an application with the Federal Aviation Administration~~
94 ~~under 49 U.S.C. § 44718, and provide provided the governing~~
95 ~~body of the local government either of the following:~~

96 (1) A written "Determination of No Hazard to Air
97 Navigation" issued by the Federal Aviation Administration
98 pursuant to 14 C.F.R. Part 77, Subpart D.

99 (2) In coordination with any affected military
100 installation and the state Military Department, a written
101 determination resolving any adverse impact to military
102 operations identified during the aeronautics study conducted
103 pursuant to 14 C.F.R. Part 77, Subpart D.

104 ~~(3) The tall structure shall be in compliance with~~
105 ~~subsection (a) even if the local government either does not~~
106 ~~require an application prior to the construction of a tall~~
107 ~~structure or does not require the application outlined in this~~
108 ~~subsection if the applicant has otherwise complied with the~~
109 ~~requirements of subdivision (1) or (2).~~

110 (d) A local government may bring an action for
111 injunctive relief against any person that commences the
112 construction of a tall structure without obtaining prior



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113 approval as required pursuant to this section.

114 ~~(e)~~ (e) A local government considering an application
115 for the construction of a wind energy facility shall require
116 the applicant to provide the following at least 270 days prior
117 to planned construction:

118 (1) Documentation that the owner or applicant has
119 transmitted notice relating to the construction of the wind
120 energy facility to the Department of Defense Siting
121 Clearinghouse, the state Military Department, and the state
122 Department of Transportation.

123 (2) A map showing the specific location and tower hub
124 height with rotor diameter for each proposed wind turbine.

125 (3) Documentation that the facility owner has either
126 initiated an informal review with the Department of Defense
127 Siting Clearinghouse under 32 C.F.R. § 211.7 or filed for a
128 formal review with the Secretary of Transportation and the
129 Federal Aviation Administration pursuant to 49 U.S.C. § 44718.

130 ~~(d)~~ (f) A local government may not approve an
131 application for the construction of a wind energy facility
132 prior to receiving documentation of one of the following:

133 (1) A completed Department of Defense Siting
134 Clearinghouse informal review resulting in a determination of
135 no presumed risk.

136 (2) A mitigation agreement between the owner or
137 applicant and the Department of Defense Siting Clearinghouse
138 resolving any notice of presumed risk.

139 (3) A written "Determination of No Hazard to Air
140 Navigation" issued by the Federal Aviation Administration



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141 pursuant to 14 C.F.R. Part 77, Subpart D.

142 ~~(e)~~ (g) Notwithstanding subsection ~~(d)~~ (f), a local
143 government may approve an application for the construction of
144 a wind energy facility conditioned upon the applicant
145 providing documentation of one of the requirements set out in
146 subsection ~~(d)~~ (f).

147 ~~(f)~~ (h) If any dispute arises between a local government
148 and an applicant or military installation relating to the
149 approval of any tall structure or wind energy facility, the
150 local government shall provide notice to the Governor or the
151 ~~Governor's~~ Governor's designee to facilitate resolution of the
152 dispute.

153 ~~(g)~~ (i) A local government may not require any other
154 formal written approval from a military installation to
155 approve an application for the construction of a tall
156 structure or wind energy facility."

157 Section 2. This act shall become effective on October
158 1, 2025.



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161 Senate

162 Read for the first time and referred04-Feb-25
163 to the Senate committee on Veterans,
164 Military Affairs and Public Safety
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166 Read for the second time and placed12-Feb-25
167 on the calendar:
168 1 amendment
169
170 Read for the third time and passed06-Mar-25
171 as amended
172 Yeas 27
173 Nays 0
174 Abstains 0
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176

Patrick Harris,
Secretary.

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