

SB91 ENROLLED



1 SB91

2 6DP6ZZ1-3

3 By Senators Kelley, Jones

4 RFD: Veterans, Military Affairs and Public Safety

5 First Read: 04-Feb-25



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1 Enrolled, An Act,

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4 Relating to military installations; to amend Sections

5 11-106-3, 11-106-4, and 11-106-6, Code of Alabama 1975, to

6 revise the definition of the term "military installation"; to

7 require persons to obtain the approval of a local government

8 before constructing a tall structure within a certain distance

9 of a military installation; to authorize local governments to

10 seek enjoinder of the construction of a tall structure in

11 certain circumstances; and to make conforming changes.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 11-106-3, 11-106-4, and 11-106-6,

14 Code of Alabama 1975, are amended to read as follows:

15 "§11-106-3

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

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

22 (2) DEPARTMENT OF DEFENSE SITING CLEARINGHOUSE. The
23 Military Aviation and Installation Assurance Siting
24 Clearinghouse of the Department of Defense, as established by
25 10 U.S.C. § 183a.

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

27 (4) LOCAL IMPACT ISSUE. Any adoption or amendment by a
28 local government of a proposed zoning plan, comprehensive



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29 master plan, or land development regulations that, if
30 approved, may or will significantly affect any area or
31 airspace that is within two miles of a military installation.

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

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

42 (7) TALL STRUCTURE. Any building, structure, or unit
43 within a multiunit building with a vertical height of more
44 than 200 feet measured from the top of the foundation of the
45 building, structure, or unit to the uppermost point of the
46 building, structure, or unit. The term does not include: wind
47 energy facilities, electrical transmission towers, slender
48 structures, or minor vertical projections of a parent
49 building, including, but not limited to, chimneys, flagpoles,
50 flues, spires, steeples, belfries, cupolas, antennas, poles,
51 lines, or wires, except that no such structure or vertical
52 projection may project more than 20 vertical feet above the
53 parent building. The term also does not include any
54 communications structures requiring antenna structure
55 registration pursuant to 47 C.F.R. § 17.4.

56 (8) WIND ENERGY FACILITY. Facilities for the generation



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57 of electricity by wind power."

58 "§11-106-4

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

65 (b) Prior to approving any proposed tall structure or
66 wind energy facility, the local government shall follow the
67 requirements of Section 11-106-6. ~~The requirements of Section~~
68 ~~11-106-6 shall apply regardless of the distance of the tall~~
69 ~~structure or wind energy facility from any military~~
70 ~~installation and regardless of whether the local government's~~
71 ~~territorial boundaries are within two miles of all or any~~
72 ~~portion of a military installation."~~

73 "§11-106-6

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

78 (b) A person may not commence the construction of a
79 tall structure within two miles of a military installation
80 unless the person has obtained approval from the governing
81 body of the local government in which the tall structure will
82 be located as further provided in this section.

83 ~~(b)(c) A governing body of a local government, prior to~~
84 ~~approving an application for the construction of a tall~~



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85 ~~structure shall~~ approve an application to commence
86 construction of a tall structure within two miles of a
87 military installation once ~~require the applicant to file~~ has
88 filed an application with the Federal Aviation Administration
89 under 49 U.S.C. § 44718, and ~~provide~~ provided the governing
90 body of the local government either of the following:

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

94 (2) In coordination with any affected military
95 installation and the state Military Department, a written
96 determination resolving any adverse impact to military
97 operations identified during the aeronautics study conducted
98 pursuant to 14 C.F.R. Part 77, Subpart D.

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

105 (d) A local government may bring an action for
106 injunctive relief against any person that commences the
107 construction of a tall structure without obtaining prior
108 approval as required pursuant to this section.

109 ~~(e)~~ (e) A local government considering an application
110 for the construction of a wind energy facility shall require
111 the applicant to provide the following at least 270 days prior
112 to planned construction:



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113 (1) Documentation that the owner or applicant has
114 transmitted notice relating to the construction of the wind
115 energy facility to the Department of Defense Siting
116 Clearinghouse, the state Military Department, and the state
117 Department of Transportation.

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

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

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

128 (1) A completed Department of Defense Siting
129 Clearinghouse informal review resulting in a determination of
130 no presumed risk.

131 (2) A mitigation agreement between the owner or
132 applicant and the Department of Defense Siting Clearinghouse
133 resolving any notice of presumed risk.

134 (3) A written "Determination of No Hazard to Air
135 Navigation" issued by the Federal Aviation Administration
136 pursuant to 14 C.F.R. Part 77, Subpart D.

137 ~~(e)~~ (g) Notwithstanding subsection ~~(d)~~ (f), a local
138 government may approve an application for the construction of
139 a wind energy facility conditioned upon the applicant
140 providing documentation of one of the requirements set out in



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141 subsection—~~(d)~~ (f).

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

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

152 Section 2. This act shall become effective on October
153 1, 2025.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 06-Mar-25

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives

Passed: 08-Apr-25

By: Senator Kelley