

1 SB402
2 154848-2
3 By Senator Williams (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 25-FEB-14

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Cherokee County; to require a person to
14 obtain a permit from the applicable local governing body prior
15 to installing or operating a wind energy conversion system; to
16 require compliance with applicable zoning; to provide for an
17 application process for a permit; to require the certification
18 of systems by a licensed engineer with certain experience; to
19 provide for regulations for the design, construction, and
20 operation of wind energy conversion systems; and to provide
21 for the removal of abandoned systems.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall only apply in Cherokee
24 County.

25 Section 2. For the purposes of this act, the
26 following words shall have the following meanings:

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

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

6 (3) LICENSED ENGINEER. A professional engineer
7 licensed by the State of Alabama.

8 (4) LOCAL GOVERNING BODY OF CHEROKEE COUNTY. The
9 Cherokee County Commission or a city or town council of a
10 municipality or town located in Cherokee County within whose
11 limits a wind energy conversion system is proposed to be
12 constructed, maintained, or operated.

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

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

20 Section 3. (a) It shall be unlawful to construct,
21 erect, install, alter, operate, or locate a wind energy
22 conversion system in Cherokee County without first obtaining a
23 permit from a local governing body of Cherokee County.

24 (b) The property upon which the wind energy
25 conversion system is proposed to be located shall be
26 appropriately zoned by the respective municipal council or
27 county commission, if applicable.

1 (c) In the event a municipality elects to regulate
2 wind energy conversion systems within the corporate limits of
3 the municipality, the regulations of the municipality shall
4 govern.

5 Section 4. (a) Each local governing body of Cherokee
6 County shall adopt rules, laws, or ordinances governing the
7 construction, installation, and operation of a wind energy
8 conversion system, including the permit application process as
9 provided in Section 3. At a minimum, the rules, laws, or
10 ordinances shall address the following:

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

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

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

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

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

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

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

3 a. Turbine types and designs.

4 b. Site layout and construction.

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

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

12 e. Payment of fees for the necessary and reasonable
13 costs to the local governing body of Cherokee County,
14 including a fee of one thousand dollars (\$1,000) for each
15 system, and all costs to the local governing body of Cherokee
16 County to review the application, including any engineering
17 fees, inspection fees, and attorney fees incurred for the
18 duration of the permit.

19 Section 5. (a) An applicant shall maintain financial
20 assurance in an amount equal to the costs associated with the
21 reclamation plan and the removal of abandoned or unused wind
22 energy conversion systems.

23 (b) In addition to the financial assurance required
24 in subsection (a), an applicant shall maintain financial
25 assurance in the amount of one million dollars (\$1,000,000) to
26 cover any liability for damages to adjoining property and any
27 other damages under law. The financial assurance mechanism

1 shall remain in full force and effect during the construction
2 phase of any and all systems covered under the permit and
3 shall be maintained for the life of the system.

4 Section 6. (a) The safety of the design of all
5 conversion system towers shall be certified by a licensed
6 engineer with prior experience with wind energy conversion
7 systems. The standard for certification shall be good
8 engineering practices, including the requirement that the
9 systems comply with all building and electrical codes in this
10 state.

11 (b) A wind energy conversion system shall be
12 equipped with manual and automatic overspeed controls to limit
13 rotation of blades to a speed below the designed limits of the
14 conversion system. A licensed engineer shall certify that the
15 rotor and overspeed control design and fabrication conforms
16 with good engineering practices. Any changes or alterations
17 from the certified design shall not be permitted unless
18 accompanied by a licensed engineer's statement of
19 certification.

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

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

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

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

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

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

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

11 (g) It shall be the responsibility of the property
12 owner or the applicant to contact all federal, state, and
13 local regulating agencies regarding additional permits
14 necessary for the installation of wind energy conversion
15 systems, to include, but not be limited to, the Federal
16 Communications Commission, Federal Aviation Agency, and the
17 Alabama Department of Transportation.

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

22 (i) The noise levels measured at the property line
23 of the property on which the system has been installed shall
24 not exceed 40 decibels.

25 (j) A wind energy conversion system may not encroach
26 upon adjacent properties as determined by a measure of 2,500

1 feet from the center-mass base of the system to the nearest
2 edge of the adjacent property.

3 Section 7. A wind energy conversion system or tower
4 that does not operate continuously for 365 consecutive days
5 may be deemed abandoned and shall be removed by the operator
6 of the system. The permit holder may request that the local
7 governing body of Cherokee County delay the designation of
8 abandonment by submitting satisfactory proof that the system
9 has not been abandoned and a date when the system will become
10 operable. The decision to delay a designation of abandonment
11 shall be at the sole discretion of the local governing body.

12 Section 8. This act shall not interfere with,
13 abrogate, or annul any covenant or other agreement between any
14 parties. However, if this act imposes a greater restriction
15 upon the use of a wind energy conversion system than is
16 imposed by another law, rule, regulation, covenant, or
17 agreement, the more restrictive provision shall govern the
18 wind energy conversion system.

19 Section 9. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.