

1 SB459  
2 167101-4  
3 By Senator Livingston (N & P)  
4 RFD: Local Legislation  
5 First Read: 07-MAY-15

1 SB459

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4 With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to DeKalb County; to require a person to  
8 obtain a permit from the applicable local governing body prior  
9 to installing or operating a wind energy conversion system; to  
10 require compliance with applicable zoning; to provide for an  
11 application process for a permit; to require the certification  
12 of systems by a licensed engineer with certain experience; to  
13 provide for regulations for the design, construction, and  
14 operation of wind energy conversion systems; and to provide  
15 for the removal of abandoned systems.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. This act shall only apply in DeKalb  
18 County.

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

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

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

1           (3) LICENSED ENGINEER. A professional engineer  
2 licensed by the State of Alabama.

3           (4) LOCAL GOVERNING BODY OF DeKalb COUNTY. The  
4 DeKalb County Commission or a city or town council of a  
5 municipality or town located in DeKalb County within whose  
6 limits a wind energy conversion system is proposed to be  
7 constructed, maintained, or operated.

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

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

15           Section 3. (a) It shall be unlawful to construct,  
16 erect, install, alter, operate, or locate a wind energy  
17 conversion system in DeKalb County without first obtaining a  
18 permit from a local governing body of DeKalb County.

19           (b) The property upon which the wind energy  
20 conversion system is proposed to be located shall be  
21 appropriately zoned by the respective municipal council or  
22 county commission, if applicable.

23           (c) In the event a municipality elects to regulate  
24 wind energy conversion systems within the corporate limits of  
25 the municipality, the regulations of the municipality shall

1 govern, provided that the regulations meet minimum standards  
2 established by the governing body of the county.

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

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

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

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

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

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

23 (2) Procedures for notification to the public of the  
24 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 DeKalb County, including  
14 a fee of one thousand dollars (\$1,000) for each system, and  
15 all costs to the local governing body of DeKalb County to  
16 review the application, including any engineering fees,  
17 inspection fees, and attorney fees incurred for the duration  
18 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

1 cover any liability for damages to adjoining property and any  
2 other damages under law. The financial assurance mechanism  
3 shall remain in full force and effect during the construction  
4 phase of any and all systems covered under the permit and  
5 shall be maintained for the life of the system.

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

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

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

1           Nothing in this act shall serve to alter, affect,  
2           limit, or avoid other state laws and regulations that would  
3           otherwise be applicable to the construction or operation of a  
4           wind energy conversion system, to sales therefrom, or the sale  
5           of a system, including, but not limited to, Title 37, Code of  
6           Alabama 1975.

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

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

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

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

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

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

22          (g) It shall be the responsibility of the property  
23          owner or the applicant to contact all federal, state, and  
24          local regulating agencies regarding additional permits  
25          necessary for the installation of wind energy conversion

1 systems, to include, but not be limited to, the Federal  
2 Communications Commission, Federal Aviation Agency, and the  
3 Alabama Department of Transportation.

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

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

11 (j) A wind energy conversion system may not encroach  
12 upon adjacent properties as determined by a measure of 2,500  
13 feet from the center-mass base of the system to the nearest  
14 edge of the adjacent property.

15 (k) In addition to the requirements of subsection  
16 (j), a wind energy conversion system shall also satisfy a  
17 minimum setback for the tower that is no closer laterally than  
18 one and one-half times the height of the tower to an overhead  
19 electrical power line, excluding secondary electrical service  
20 lines or service drops, and a minimum setback from underground  
21 electrical distribution lines at least one-half times the  
22 height of the tower. Any exception to the requirements of this  
23 subsection shall be obtained from the owner or operator of the  
24 electrical towers, lines, poles, or other facilities involved.



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

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

17           Section 9. To the extent that any applicant or owner  
18 of a wind energy conversion system undertakes business  
19 activities that cause it to be a utility or a commission  
20 non-jurisdictional electric supplier, the applicant or owner  
21 shall be subject to the jurisdiction and regulation of the  
22 Alabama Public Service Commission in the same manner and to  
23 the same extent as any other utility or commission  
24 non-jurisdictional electric supplier.

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB459

Senate 26-MAY-15

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

Patrick Harris  
Secretary

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House of Representatives  
Passed: 02-JUN-15

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By: Senator Livingston