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HOUSE BILL 1008

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Morris, Chase, Upthegrove, Seaquist, and Morrell

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1            AN ACT Relating to small wind permitting standards; and adding a  
2 new chapter to Title 70 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that: (a) Wind  
5 energy is an abundant, renewable, and nonpolluting energy resource; (b)  
6 when converted to electricity, wind energy reduces dependence on  
7 nonrenewable energy resources and reduces air and water pollution that  
8 result from conventional sources; (c) distributed small wind energy  
9 systems also enhance the reliability and power quality of the power  
10 grid, reduce peak power demands, increase in-state electricity  
11 generation, diversify the state's energy supply portfolio, and make the  
12 electricity supply market more competitive by promoting consumer  
13 choice; and (d) small wind energy systems, designed for on-site home,  
14 farm, and small commercial use, are an excellent technology to help  
15 achieve the goals of increased in-state electricity generation, reduced  
16 demand on the state electric grid, increased consumer energy  
17 independence, and nonpolluting electricity generation.

18            (2) The legislature further finds that the implementation of

1 consistent statewide standards to achieve the timely and cost-effective  
2 installation of small wind energy systems is a matter of statewide  
3 concern.

4 (3) It is the intent of the legislature that this chapter apply to  
5 all local agencies.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Department" means the department of labor and industries.

9 (2) "Local agency" means any county, city, town, or local entity in  
10 the state of Washington with authority to enact construction or  
11 building ordinances or otherwise conduct construction or building  
12 permitting or zoning.

13 (3) "Small wind energy system" means a wind energy conversion  
14 system consisting of a wind turbine, a tower, and associated control or  
15 conversion electronics.

16 (4) "Tower height" means the height above grade of the fixed  
17 portion of the tower, excluding the wind turbine.

18 NEW SECTION. **Sec. 3.** (1) A local agency may, by ordinance,  
19 provide for the installation of a small wind energy system on parcels  
20 of land of at least one acre in its jurisdiction. The local agency may  
21 establish a process for the issuance of a conditional use permit for a  
22 small wind energy system.

23 (2) The ordinance may impose conditions on the installation of a  
24 small wind energy system that includes, but is not limited to, notice,  
25 tower height, setback, view protection, aesthetics, aviation, and  
26 design safety requirements. However, the ordinance may not require  
27 conditions on notice, tower height, setback, noise level, turbine  
28 approval, tower drawings, engineering analysis, or line drawings that  
29 are more restrictive than the following:

30 (a) Except as otherwise provided in this section, notice of an  
31 application for installation of a small wind energy system must be  
32 provided to property owners within three hundred feet of the property  
33 on which the system is to be located.

34 (b) Tower heights of not more than sixty-five feet must be allowed  
35 on parcels between one and five acres and tower heights of not more  
36 than eighty feet must be allowed on parcels of five acres or more,

1 provided that the application includes evidence that the proposed  
2 height does not exceed the height recommended by the manufacturer or  
3 distributor of the small wind energy system.

4 (c) Setback requirements for the small wind energy system tower may  
5 be no farther from the property line than the height of the system,  
6 provided that it also complies with any applicable fire setback  
7 requirements.

8 (d) Except during short-term events such as utility outages and  
9 severe windstorms, decibel levels for the small wind energy system may  
10 not exceed sixty decibels, as measured at the closest neighboring  
11 inhabited dwelling.

12 (e) The small wind energy system's turbine must be certified by a  
13 national safety certification program recognized by the department.  
14 For uncertified turbines, the turbine installer must have the turbine  
15 field evaluated by an independent electrical testing laboratory  
16 approved by the department, or reviewed and approved by an independent  
17 electrical engineer approved by the department.

18 (f) The application must include standard drawings and an  
19 engineering analysis of the small wind energy system's tower, showing  
20 compliance with the state building code, chapter 19.27 RCW, and  
21 certification by an engineer licensed under chapter 18.43 RCW.

22 (g) The small wind energy system must comply with all applicable  
23 federal aviation administration requirements, including 14 C.F.R. 77 et  
24 seq., Subpart B (2008), regarding installations close to airports.

25 (h) The application must include a line drawing of the electrical  
26 components of the system in sufficient detail to allow for a  
27 determination that the manner of installation conforms to the national  
28 electric code.

29 (3) The ordinance may require the applicant to provide information  
30 demonstrating that the small wind energy system will be used primarily  
31 to reduce on-site consumption of electricity. The ordinance may also  
32 require the application to include evidence, unless the applicant does  
33 not plan to connect the system to the electricity grid, that the  
34 electric utility that serves the proposed site has been informed of the  
35 applicant's intent to install an interconnected customer-owned  
36 electricity generator.

37 (4) In the event a small wind energy system is proposed to be sited  
38 in an agricultural area that may have aircraft operating at low

1 altitudes, the local agency shall take reasonable steps, concurrent  
2 with other notices issued under this section, to notify pest control  
3 aircraft pilots.

4 (5) A local agency may, if it deems it necessary due to  
5 circumstances specific to the proposed installation, provide notice by  
6 placing a display advertisement of at least one-eighth page in at least  
7 one newspaper of general circulation within the jurisdiction in which  
8 the installation is proposed.

9 (6) Nothing in this section alters or affects existing law  
10 regarding the authority of local agencies to review an application.

11 NEW SECTION. **Sec. 4.** (1) A local agency that does not adopt an  
12 ordinance under section 3 of this act shall approve applications for  
13 small wind energy systems if all of the following conditions are met:

14 (a) The size of the parcel where the system is located is at least  
15 one acre;

16 (b) The tower height on parcels that are less than five acres does  
17 not exceed eighty feet;

18 (c) No part of the system, including guy wire anchors, extends  
19 closer than thirty feet to the property boundary, if it also complies  
20 with any applicable fire setback requirements;

21 (d) Except during short-term events, such as a utility outage or a  
22 severe windstorm, the system does not exceed sixty decibels, as  
23 measured at the closest neighboring inhabited dwelling;

24 (e) The small wind energy system's turbine is certified by a  
25 national safety certification program recognized by the department.  
26 For uncertified turbines, the turbine installer must have the turbine  
27 field evaluated by an independent electrical testing laboratory  
28 approved by the department, or reviewed and approved by an independent  
29 electrical engineer approved by the department;

30 (f) The application includes standard drawings and an engineering  
31 analysis of the tower, showing compliance with the state building code,  
32 chapter 19.27 RCW, and certification by a professional engineer  
33 licensed under chapter 18.43 RCW;

34 (g) The small wind energy system complies with all applicable  
35 federal aviation administration requirements, including any necessary  
36 approvals for installations close to airports;

1 (h) The application includes a line drawing of the electrical  
2 components of the small wind energy system in sufficient detail to  
3 allow for a determination that the manner of installation conforms to  
4 the national electric code;

5 (i) Unless the applicant does not plan to connect the small wind  
6 energy system to the electricity grid, the application includes  
7 evidence that the electric utility service provider that serves the  
8 proposed site has been informed of the applicant's intent to install an  
9 interconnected customer-owned electricity generator; and

10 (j) If a proposed site for a small wind energy system is in an  
11 agricultural area that may have aircraft operating at low altitudes,  
12 the local agency shall take reasonable steps, concurrent with other  
13 notices issued under this chapter, to notify pest control aircraft  
14 pilots.

15 (2) No other local ordinance, policy, or regulation may be the  
16 basis for a local agency to deny the siting and operation of a small  
17 wind energy system under this section.

18 (3) No changes in the general plan are required to implement this  
19 section. A local agency, when amending its zoning ordinance or general  
20 plan to incorporate the policies, procedures, or other provisions  
21 applicable to the approval of small wind energy systems, must do so in  
22 a manner consistent with the requirements of this section.

23 NEW SECTION. **Sec. 5.** This chapter does not limit the authority of  
24 local agencies to adopt less restrictive requirements for the siting  
25 and operation of small wind energy systems.

26 NEW SECTION. **Sec. 6.** A local agency shall review an application  
27 for a small wind energy system as expeditiously as possible.

28 NEW SECTION. **Sec. 7.** Any requirement of notice to property owners  
29 imposed under section 3 of this act must ensure that responses to the  
30 notice are filed in a timely manner.

31 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute  
32 a new chapter in Title 70 RCW.

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