

HOUSE BILL REPORT

SHB 1008

As Passed House:

March 3, 2009

Title: An act relating to small wind permitting standards.

Brief Description: Concerning permit requirements for small wind energy systems.

Sponsors: House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Upthegrove, Seaquist and Morrell).

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/26/09, 2/19/09 [DPS].

Floor Activity

Passed House: 3/3/09, 97-0.

Brief Summary of Substitute Bill

- Specifies that local authorities may, by ordinance, provide for the installation of a small wind energy system on parcels of land at least one acre in size.
- Provides that a local authority that does not adopt an ordinance must approve applications for small wind energy systems if certain statutory conditions are met.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Finn, Hasegawa, Herrera, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

Staff: Kara Durbin (786-7133)

Background:

A person or entity seeking to construct a small wind energy system generally must secure a permit from the local authority where the system will be constructed. The permit process

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varies depending on the jurisdiction, and it may include a building permit application process, a conditional use application process, and related administrative hearings.

Energy facilities of any size that exclusively use alternative energy resources, such as wind power, can also opt-in to the Energy Facility Site Evaluation Council (EFSEC) review and certification process. If the applicant chooses to go through the EFSEC process, the applicant must pay for the costs of the EFSEC to process the application.

Summary of Substitute Bill:

A local agency may, by ordinance, provide for the installation of a small wind energy system in its jurisdiction on parcels of land of at least one acre in size. The local agency may establish a process for the issuance of a conditional use permit for a small wind energy system. The ordinance may impose conditions on the installation of a small wind energy system that includes, but is not limited to, notice, tower height, setback, view protection, aesthetics, aviation, and design safety requirements.

A local agency that does not adopt an ordinance must approve applications for small wind energy systems if all of the following conditions are met:

- A wind tower for a small wind energy system must be setback a distance equal to its total height from any public road right-of-way, overhead utility lines, or property lines. A wind tower may be placed closer if written permission is granted by the affected government entity, utility, or land owner.
- All ground-mounted electrical and control equipment must be labeled or secured to prevent unauthorized access.
- The tower must be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
- All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.
- A wind tower and generator may not be artificially lighted unless the lighting is required by the Federal Aviation Administration.
- The wind generator and tower must remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
- All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road, are prohibited.
- A small wind energy system, including a tower, must comply with all applicable state construction and electrical codes, and the National Electrical Code.
- Small wind energy systems that connect to an electric utility must comply with applicable interconnection standards.
- Meteorological towers must be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.

A building permit is required for the installation of a small wind energy system. The building permit application must be accompanied by a plot plan that includes the following:

- property lines and physical dimensions of the property;
- location, dimensions, and types of major existing structures on the property;
- location of the proposed wind system tower;
- the right-of-way of any public road that is contiguous with the property;
- any overhead utility lines;
- wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (freestanding or guyed);
- tower foundation blueprints or drawings; and
- tower blueprint or drawing.

A permit issued expires if: (1) the small wind energy system is not installed and functioning within 24 months from the date the permit is issued; or (2) the small wind energy system is out of service or otherwise unused for a continuous 12-month period.

An owner must submit an application to the local agency for a building permit for a small wind energy system. The local agency must issue a permit or deny the application within one month of the date on which the application is received. The local agency must issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this chapter. If the application is rejected, the local agency must notify the applicant in writing and provide a written statement of the reason why the application was rejected.

The owner must conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Local planning agencies often do not have energy expertise available to them to evaluate the emerging energy technologies. There needs to be a model ordinance at the state level that indicates the preferred path for the permitting and siting of these emerging energy technologies. The bill is based on the best available siting standards that have been developed nationally.

(In support with concerns) The location of wind turbine structures may have an impact on sensitive bird and bat populations. Efforts must be undertaken to reduce the impact on these populations. Currently, the permitting process for small wind turbines is confusing and discouraging to individuals wishing to put a system on their property. The definition of a

small wind system should be restricted to its nameplate capacity and not be restricted by height. The wind turbine systems should only have to meet the sound and setback requirement. A height restriction may stifle innovation.

(Opposed) The bill says that local governments may adopt a conditional use process for small wind turbine systems. However, the bill really preempts local decision making and control if a local government does not have a permitting process in place. The bill allows wind towers to be as high as 170 feet. This equals a 16-story building. This bill does not reflect a model ordinance. It is a one size fits all approach.

Persons Testifying: (In support) Representative Morris, prime sponsor.

(In support with concerns) Travis Nelson, Washington Department of Fish and Wildlife; and Carrie Dolwick, Northwest Energy Coalition.

(Opposed) Scott Merrimas, Association of Counties.

Persons Signed In To Testify But Not Testifying: None.