

1 HB676
2 152636-2
3 By Representatives Davis, Baker, Faust and Shiver (N & P)
4 RFD: Baldwin County Legislation
5 First Read: 24-APR-13

1 ordinances, rules, or regulations adopted pursuant to this
2 act; to authorize the Baldwin County Commission to determine
3 the terms and conditions of any exceptions and exemptions from
4 the provisions of any laws, ordinances, rules, or regulations
5 adopted pursuant to this act; and to provide that the
6 authority granted to the Baldwin County Commission pursuant to
7 this act shall be in addition to, and not in substitution of,
8 any powers or authority granted to the Baldwin County
9 Commission pursuant to any other laws, rules or regulations.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This act shall apply within all
12 unincorporated areas of Baldwin County.

13 Section 2. (a) The county commission shall have
14 ~~zoning~~ authority and the power to establish and adopt
15 ordinances, resolutions, rules, regulations, and procedures to
16 regulate the permitting, construction, placement, and
17 operation of wind turbines, windmills, wind farms, and any
18 other wind-generated energy production facilities or equipment
19 operated, in whole or in part, by wind, sometimes referred to
20 collectively as "wind-generated energy production facilities,"
21 also including, but not limited to, regulations regarding the
22 size, location, and noise generated by wind-generated energy
23 production facilities. The regulations shall be adopted by
24 ordinance or resolution of the county commission at a
25 regularly scheduled meeting of the commission.

26 (b) The county commission shall have ~~zoning~~
27 authority and the power to establish and adopt ordinances,

1 resolutions, rules, regulations, and procedures establishing
2 standards, specifications, criteria, and conditions related to
3 the permitting, construction, placement, and operation of wind
4 turbines, wind mills, wind farms, and any other wind-generated
5 energy production facilities or equipment operated, in whole
6 or in part, by wind in the unincorporated areas of Baldwin
7 County.

8 (c) The county commission shall have ~~zoning~~
9 authority and the power to establish and adopt ordinances,
10 rules, regulations, policies, and procedures to establish and
11 determine the appropriate locations where wind turbines, wind
12 mills, wind farms, and any other wind-generated energy
13 production facilities or equipment operated, in whole or in
14 part, by wind may be located or allowed and to prohibit the
15 same, if deemed necessary by the county commission.

16 As part of the commission's authority, the
17 commission is to provide for a minimum setback for
18 wind-generated energy production facilities that is no closer
19 laterally than one and one-half times the height of the tower
20 to an overhead electrical power line, excluding secondary
21 electrical service lines or service drops. The commission may
22 also provide for a minimum setback from underground electrical
23 and gas distribution lines.

24 (d) If any building or structure is erected,
25 constructed, altered, repaired, converted, operated, or
26 maintained, or if any land is used, in violation of this act
27 or any ordinance, resolution, rule, regulation, or procedure

1 promulgated under the authority conferred by this act, the
2 county commission, or other appropriate administrative officer
3 designated by the county commission, may institute any
4 appropriate action or proceeding to prevent an unlawful
5 erection, construction, reconstruction, alteration, repair,
6 conversion, operation, maintenance, or use of the land or to
7 restrain, correct, or abate the violation, or to prevent the
8 use of any building or structure, or to prevent any illegal
9 act, conduct, business, or misuse in or upon any premises
10 regulated under the authority conferred by this act. In
11 addition to the foregoing, the county commission may adopt
12 ordinances or regulations providing for a penalty in the form
13 of a fine for the violation of the provisions of any
14 ordinance, resolution, rule, regulation, or procedure
15 promulgated under this act. The fine shall not exceed one
16 thousand dollars (\$1,000.00) and costs of court for each
17 offense. Each day the violation continues shall constitute a
18 separate offense. In addition, any violation shall be a public
19 nuisance. Upon a finding that a building or structure violates
20 the provisions of any ordinance, resolution, rule, regulation,
21 or procedure adopted pursuant to this act, the county
22 commission may remove such building or structure, and all
23 costs of removal shall be assessed against the landowner and
24 recorded as a lien on the property and may be enforced until
25 satisfied.

26 (e) The county commission may levy permit and
27 application fees deemed necessary to administer the

1 ordinances, resolutions, rules, regulations, or procedures
2 adopted pursuant to this act. The fees shall cover the cost of
3 administrative activities and the cost of reviewing
4 applications, including the costs or fees of any experts or
5 consultants deemed necessary to assist the county in reviewing
6 applications.

7 (f) The county commission shall have the authority
8 and power to establish rules and procedures to determine the
9 terms and conditions of any exceptions and exemptions from the
10 provisions of any laws, ordinances, rules, or regulations
11 adopted pursuant to this act. In addition, any ordinance or
12 resolution adopted pursuant to this act shall authorize a
13 variance process to be determined by the county commission.
14 Furthermore, any ordinance or resolution adopted pursuant to
15 this act shall include a variance appeals process for any
16 party aggrieved by a final variance decision of the county
17 commission to appeal therefrom to the Circuit Court of Baldwin
18 County.

19 (g) The authority granted to the county commission
20 pursuant to this act shall be in addition to, and not in
21 substitution of, any powers or authority granted to the County
22 Commission pursuant to any other laws, rules or regulations.

23 Nothing in this Act shall serve to alter, affect,
24 limit or avoid other state laws and regulations that would
25 otherwise be applicable to the permitting, construction,
26 placement, or operation of wind-generated energy production

1 facilities, or to sales therefrom, including but not limited
2 to the provisions of Title 37.

3 Section 3. The provisions of this act are severable.
4 If any part of this act is declared invalid or
5 unconstitutional, that declaration shall not affect the part
6 which remains

7 Section 4. All laws or parts of laws which conflict
8 with this act are repealed to the extent of such conflict.

9 Section 5. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Baldwin County
Legislation..... 24-APR-13

Read for the second time and placed
on the calendar 1 amendment 30-APR-13

Read for the third time and passed
as amended..... 02-MAY-13

Yeas 40, Nays 0, Abstains 45

Jeff Woodard
Clerk