H-1268.2

SUBSTITUTE HOUSE BILL 1008

State of Washington 61st Legislature 2009 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Upthegrove, Seaquist, and Morrell)

READ FIRST TIME 02/23/09.

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

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

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

installation of small wind energy systems is a matter of statewide concern.

(2) It is the intent of the legislature to reduce a known barrier to small wind energy generation systems, namely, that many local government jurisdictions have either an outdated permitting process or code, or no permitting process or code for the safest permitting standards for small wind energy systems. In order to address this issue, the legislature intends to create an expedited path for small wind energy systems that meet the nationally recognized safest standards contained in this chapter.

(3) The legislature intends that small wind energy systems whose variations fall outside the parameters prescribed in this chapter must proceed through a local government permitting process.

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

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

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

(2) "Meteorological tower" is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(3) "Owner" means the individual or entity that intends to own and operate the small wind energy system.

(4) "Rotor diameter" means the cross-sectional dimension of the circle swept by the rotating blades.

(5) "Small wind energy system" means a wind energy system that:

(a) Is used to generate electricity;

(b) Has a nameplate capacity of one hundred kilowatts or less; and

(c) Has a total height of one hundred seventy feet or less.

(6) "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(7) "Tower" means the monopole, freestanding, or guyed structure that supports a wind generator.

(8) "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usage forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other component used in the system.

(9) "Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the tower.

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

(2) 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.

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

(a) A wind tower for a small wind energy system must be setback a distance equal to its total height from:

(i) Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;

(ii) Any overhead utility lines, unless written permission is granted by the affected utility;

(iii) All property lines, unless written permission is granted from the affected land owner or neighbor.

(b) 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 to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

(c) 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.

(d) A wind tower and generator may not be artificially lighted unless the lighting is required by the federal aviation administration.

(e) 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.

(f) 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.

(g) A small wind energy system, including tower, must comply with all applicable state construction and electrical codes, and the national electrical code.

(h) Small wind energy systems that connect to an electric utility must comply with applicable interconnection standards.

(i) Meteorological towers must be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.

(2) 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:

(a) Property lines and physical dimensions of the property;

(b) Location, dimensions, and types of existing major structures on the property;

(c) Location of the proposed wind system tower;

(d) The right-of-way of any public road that is contiguous with the property;

(e) Any overhead utility lines;

(f) Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (freestanding or guyed);

(g) Tower foundation blueprints or drawings; and

(h) Tower blueprint or drawing.

(3) The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a permitted accessory use.

(4) A permit issued under this section expires if:

(a) The small wind energy system is not installed and functioning within twenty-four months from the date the permit is issued; or

(b) The small wind energy system is out-of-service or otherwise unused for a continuous twelve-month period.

(5) An owner shall submit an application to the local agency for a building permit for a small wind energy system. The application must be on a form approved by the local agency and must be accompanied by two copies of the plot plan identified in subsection (2) of this section.

(6) The local agency shall issue a permit or deny the application within one month of the date on which the application is received.

(7) The local agency shall 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.

(8) If the application is approved, the local agency must return one signed copy of the application with the permit and retain the other copy with the application.

(9) 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.

(10) The owner shall 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.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 70 RCW.

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