

109TH CONGRESS
1ST SESSION

H. R. 2938

To provide for local control for the siting of windmills.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2005

Mr. DUNCAN (for himself and Mr. GORDON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Resources and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for local control for the siting of windmills.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Environmentally Re-
5 sponsible Windpower Act of 2005”.

6 **SEC. 2. LOCAL CONTROL FOR SITING OF WINDMILLS.**

7 (a) LOCAL NOTIFICATION.—Prior to the Federal En-
8 ergy Regulatory Commission issuing to any wind turbine
9 project its Exempt-Wholesale Generator Status, Market-
10 Based Rate Authority, or Qualified Facility rate schedule,

1 the wind project shall complete its Local Notification
2 Process.

3 (b) LOCAL NOTIFICATION PROCESS.—(1) In this sec-
4 tion, the term “Local Authorities” means the governing
5 body, and the senior executive of the body, at the lowest
6 level of government that possesses authority under State
7 law to carry out this Act.

8 (2) An applicant shall notify in writing the Local Au-
9 thorities on the day of the filing of such Market-Based
10 Rate application or Federal Energy Regulatory Commis-
11 sion Form number 556 (or a successor form) at the Fed-
12 eral Energy Regulatory Commission. Evidence of such no-
13 tification shall be submitted to the Federal Energy Regu-
14 latory Commission.

15 (3) The Federal Energy Regulatory Commission shall
16 notify in writing the Local Authorities within 10 days of
17 the filing of such Market-Based Rate application or Fed-
18 eral Energy Regulatory Commission Form number 556
19 (or a successor form) at the Federal Energy Regulatory
20 Commission.

21 (4) The Federal Energy Regulatory Commission shall
22 not issue to the project Market-Based Rate Authority, Ex-
23 empt Wholesaler Generator Status, or Qualified Facility
24 rate schedule, until 180 days after the date on which the

1 Federal Energy Regulatory Commission notifies the Local
2 Authorities under paragraph (3).

3 (c) HIGHLY SCENIC AREA AND FEDERAL LAND.—

4 (1) A Highly Scenic Area is—

5 (A) any area listed as an official United Na-
6 tions Educational, Scientific, and Cultural Organiza-
7 tion World Heritage Site, as supported by the De-
8 partment of the Interior, the National Park Service,
9 and the International Council on Monuments and
10 Sites;

11 (B) land designated as a National Park;

12 (C) a National Lakeshore;

13 (D) a National Seashore;

14 (E) a National Wildlife Refuge that is adjacent
15 to an ocean; or

16 (F) a National Military Park.

17 (2) A Qualified Wind Project is any wind-turbine
18 project located—

19 (A)(i) in a Highly Scenic Area; or

20 (ii) within 20 miles of the boundaries of an area
21 described in subparagraph (A), (B), (C), (D), or (F)
22 of paragraph (1); or

23 (B) within 20 miles off the coast of a National
24 Wildlife Refuge that is adjacent to an ocean.

1 (3) Prior to the Federal Energy Regulatory Commis-
2 sion issuing to a Qualified Wind Project its Exempt-
3 Wholesale Generator Status, Market-Based Rate Author-
4 ity, or Qualified Facility rate schedule, an environmental
5 impact statement shall be conducted and completed by the
6 lead agency in accordance with the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If
8 no lead agency is designated, the lead agency shall be the
9 Department of the Interior.

10 (4) The environmental impact statement determina-
11 tion shall be issued within 12 months of the date of appli-
12 cation.

13 (5) Such environmental impact statement review
14 shall include a cumulative impacts analysis addressing vis-
15 ual impacts and avian mortality analysis of a Qualified
16 Wind Project.

17 (6) A Qualified Wind Project shall not be eligible for
18 any Federal tax subsidy.

19 (d) EFFECTIVE DATE.—(1) This section shall expire
20 10 years after the date of enactment of this Act.

21 (2) Nothing in this section shall prevent or discour-
22 age environmental review of any wind projects or any
23 Qualified Wind Project on a State or local level.

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