

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1731 – SB 1793

March 26, 2018

SUMMARY OF ORIGINAL BILL: Urges the Department of Environment and Conservation (TDEC), in consultation with the Municipal Technical Advisory Service (MTAS) and the County Technical Advisory Service (CTAS), to study local government regulations that have been adopted in Tennessee related to the siting of wind energy facilities in their jurisdictions. Requires TDEC to submit a written summary to the Agriculture and Natural Resources Committee of the House of Representatives and the Energy, Agriculture and Natural Resources Committee of the Senate within 60 days of such study.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (014781, 015998): Amendment 014781 deletes all language after the enacting clause.

Clarifies that a “wind energy facility”, as defined under Tenn. Code Ann. § 65-17-101, only applies to facilities that measure in excess of 200 feet in height.

Defines “public utility”, for purposes of regulation by the Tennessee Public Utility Commission (TPUC), to include a “wind energy facility”, but not a wind energy facility for which a local government adopted regulations related to the siting of such facility prior to July 1, 2017.

Prohibits any person from undertaking the construction, operation, or redevelopment of a wind energy facility or a wind energy facility expansion unless a certificate of public convenience and necessity is first obtained from the TPUC and a permit is obtained from the local legislative body of the local government in which the facility or expansion will be located.

Authorizes a local government to adopt local legislation that regulates and establishes the conditions and criteria for the construction, operation, or redevelopment of wind energy facilities and for wind energy facility expansions.

Establishes certain requirements that must be included in any local legislation adopted pursuant to the proposed legislation, e.g., minimum setback, noise restrictions, environment assessment, and wildlife assessment.

Amendment 015998 adds a section to the proposed legislation changing the application of the moratorium on wind energy facilities found in Tenn. Code Ann. §§ 65-17-101 to -103.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – Potential increases in revenue to the Tennessee Public Utility Commission (TPUC) from certificates of public convenience and necessity fees and inspection fees paid to the Commission. Potential increases in expenditures to the TPUC to regulate and inspect wind energy facilities.

Permissive increases in revenue to local governments from application fees. Permissive increases in local expenditures of \$200 for each required public notice published. The extent and timing of such permissive impacts are unknown for they are dependent upon several unknown factors.

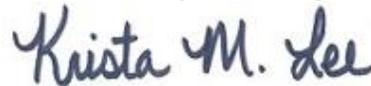
Assumptions for the bill as amended:

- The proposed legislation establishes wind energy facilities as public utilities subject to regulation by the TPUC. A person must obtain a certificate of public convenience and necessity and a permit from the appropriate local legislative body.
- Tennessee Code Annotated § 65-2-103 establishes a \$25 filing fee that must accompany any petition for a certificate. Further, Tenn. Code Ann. § 65-4-301 et seq. authorizes the TPUC to collect inspection, control, and supervision fees based on the amount of gross receipts from intrastate operations of each public utility.
- The proposed legislation authorizes a local government to adopt legislation to regulate and establish the conditions and criteria for the construction, operation, or redevelopment of wind energy facilities.
- Local governments are permitted to charge an application fee for each permit sought. Further, a local government must conduct a public hearing on each permit application and provide public notice for two consecutive weeks in a newspaper of general circulation before holding the public hearing.
- Based on responses to the 2017 Local Government Survey conducted by the Fiscal Review Committee, local governments spend an average of \$113 per public notice advertised in a newspaper of general circulation. The proposed legislation requires the notice to run for two consecutive weeks. For each public hearing conducted, the local government will incur a permissive increase in local expenditures of \$226.
- To the extent a local government adopts local legislation authorized by the proposed legislation and a person obtains the necessary certification from TPUC and the necessary permit from the local government, the proposed legislation will increase state revenue to the TPUC and increase local revenue to the local government reviewing a permit application. However, due to multiple unknown factors the amount of such increases cannot reasonably be estimated.
- The proposed legislation requires a local government to send a certified copy of any legislation adopted pursuant to the proposed legislation to the Department of Environment and Conservation. The department can receive these documents within existing resources.

- The proposed legislation requires the Tennessee Wildlife Resources Agency (TWRA) to review any wildlife impact assessment. The TWRA can review such assessments within existing resources.
- The proposed legislation requires County Technical Assistance Service (CTAS) and the Municipal Technical Advisory Service (MTAS) to disseminate model local legislation. CTAS and MTAS currently disseminate several models of local legislation. CTAS and MTAS can develop and disseminate the required model legislation within existing resources.
- Tennessee Code Annotated § 65-17-103 prohibits any person, from May 11, 2017, to July 1, 2018, from constructing, operating, or redeveloping a wind energy facility or initiating a wind energy facility expansion in the state. Tennessee Code Annotated § 65-17-102 provides that the moratorium in Tenn. Code Ann. § 65-17-103 does not apply to local governments that adopted regulations related to the siting of wind energy facilities in its jurisdiction on or before July 1, 2017. The proposed legislation changes “July 1, 2017”, to “January 1, 2019”, within Tenn. Code Ann. § 65-17-102.
- Changing the applicability of the moratorium will not significantly impact local government operations.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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