

SB0370/767171/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 370

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 21, after the second “Act;” insert “providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act;”; and after line 27, insert:

“BY adding to

Article – Local Government

Section 13-706

Annotated Code of Maryland

(As enacted by Chapter (H.B. 472) of the Acts of the General Assembly of 2013)”.

AMENDMENT NO. 2

On page 2, in line 5, after “(2)” insert “(I)”; in line 8, strike “SYSTEM, INCLUDING” and substitute “SYSTEM.”

**(II) UNLESS THE PROPERTY OWNER SPECIFIES OTHERWISE, “DECOMMISSIONING” INCLUDES THE REMOVAL AND LEGAL DISPOSAL OF**;

in line 27, after “OF” insert “THE TOWER OF A WIND TURBINE IN”; and in line 28, strike “, COMMERCIAL, PUBLIC, OR AGRICULTURAL” and substitute “OR SCHOOL”.

On page 3, in line 10, after “PROPOSED” insert “WIND TURBINE IN AN INDUSTRIAL”; in line 11, after “PROPOSED” insert “INDUSTRIAL”; in line 15, strike “A” and substitute “AN OCCUPANCY”; in line 19, after “A” insert “NET”; in line 20, after “SITE” insert “, LESS THE SALVAGE VALUE OF THE INDUSTRIAL WIND”

(Over)

ENERGY CONVERSION SYSTEM"; and in line 23, strike "A" and substitute "AN ESTIMATED".

On page 4, in line 1, after "A" insert "NET"; in line 2, strike ", WITHOUT REGARD TO SALVAGE VALUE,"; in line 3, after "SITE" insert ", LESS THE SALVAGE VALUE OF THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM"; in line 6, strike "SUBPARAGRAPH (I) OF THIS PARAGRAPH" and substitute "PARAGRAPH (1)(II) OF THIS SUBSECTION"; and in line 20, strike "180" and substitute "365".

AMENDMENT NO. 3

On page 4, after line 31, insert:

"SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Local Government

13-706.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (i) "DECOMMISSIONING" MEANS THE REMOVAL AND LEGAL DISPOSAL OF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM AND ANY OTHER COMPONENTS RELATED TO THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM.

(ii) UNLESS THE PROPERTY OWNER SPECIFIES OTHERWISE, "DECOMMISSIONING" INCLUDES THE REMOVAL AND LEGAL DISPOSAL OF

BUILDINGS, ROADS, CONCRETE, FENCING, GRAVEL, STONE, AND FOUNDATIONS TO A DEPTH OF 36 INCHES.

(3) “INDUSTRIAL WIND ENERGY CONVERSION SYSTEM” MEANS AN AGGREGATION OF PARTS, INCLUDING THE BASE, WIND TURBINE, GENERATOR, SUPPORTS, GUY WIRES, AND ACCESSORY EQUIPMENT IN A CONFIGURATION NECESSARY TO CONVERT THE POWER OF WIND INTO MECHANICAL OR ELECTRICAL ENERGY THAT IS INTENDED FOR SALE TO ENERGY PROVIDERS THROUGH THE ELECTRIC TRANSMISSION GRID.

(4) “RESTORATION OF PAD SITE” MEANS, AT THE LOCATION OF THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM:

(I) STABILIZING, GRADING, AND SEEDING DISTURBED AREAS TO GROW GROUND COVER; AND

(II) REPLACING THE EXCAVATED FOUNDATION AREAS WITH TOPSOIL THAT:

1. IS FREE OF NOXIOUS WEEDS, ROCKS, ROOT MAT, OR FOREIGN OBJECTS LARGER THAN 2 INCHES IN SIZE; AND

2. HAS PROPER SOIL NUTRIENTS TO PROVIDE AND SUSTAIN THE GROWTH OF GROUND COVER.

(5) “SETBACK DISTANCE” MEANS THE DISTANCE MEASURED FROM THE BASE OF THE TOWER OF A WIND TURBINE IN AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM TO ANY RESIDENTIAL OR SCHOOL BUILDING IN ALL DIRECTIONS.

(6) "STRUCTURE HEIGHT" MEANS THE MEASUREMENT FROM GROUND LEVEL AT THE BASE OF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM TO THE HIGHEST POINT OF THE STRUCTURE OR THE HIGHEST POINT OF THE BLADE AT ITS GREATEST EXTENSION.

(7) "WIND TURBINE" MEANS THE TOWER, HUB, BLADES, AND NACELLE.

(B) THIS SECTION DOES NOT APPLY TO ANY INDUSTRIAL WIND ENERGY CONVERSION SYSTEM THAT HAS SUBMITTED AN INTERCONNECTION APPLICATION TO THE PJM INTERCONNECTION QUEUE BEFORE MARCH 1, 2013.

(C) (1) IN GARRETT COUNTY, EACH INDIVIDUAL INDUSTRIAL WIND ENERGY CONVERSION SYSTEM SHALL COMPLY WITH A MINIMUM SETBACK DISTANCE EQUAL TO NO LESS THAN TWO AND ONE-HALF TIMES THE STRUCTURE HEIGHT.

(2) ON WRITTEN AUTHORIZATION OF ALL PROPERTY OWNERS OF ADJOINING PARCELS TO A PROPOSED WIND TURBINE IN AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM, THE APPLICANT OF THE PROPOSED INDUSTRIAL WIND ENERGY CONVERSION SYSTEM MAY SEEK A VARIANCE WITH THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT OF UP TO 50% OF THE MINIMUM SETBACK DISTANCE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) (1) BEFORE AN OCCUPANCY PERMIT IS ISSUED FOR AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM IN GARRETT COUNTY, THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT SHALL:

(I) AT THE APPLICANT'S EXPENSE, RETAIN AN INDEPENDENT AND CERTIFIED PROFESSIONAL ENGINEER TO PREPARE A NET COST ESTIMATE FOR DECOMMISSIONING AND RESTORATION OF THE PAD SITE, LESS THE SALVAGE VALUE OF THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM; AND

(II) REQUIRE THE APPLICANT TO POST A BOND EQUAL TO 100% OF THE COST ESTIMATE DETERMINED UNDER ITEM (I) OF THIS PARAGRAPH AND ADJUSTED BY AN ESTIMATED CONSTRUCTION PRICING INDEX TO ENSURE THAT COST INCREASES DURING THE FOLLOWING 5-YEAR INTERVAL WILL NOT DECREASE THE VALUE OF THE BOND.

(2) A BOND POSTED IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE HELD BY THE GARRETT COUNTY FINANCE DEPARTMENT TO BE USED AS SURETY IN THE EVENT OF NONCOMPLIANCE WITH A REQUIREMENT UNDER THIS SECTION BY AN OWNER OF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM.

(3) (I) ON COMPLETION OF THE CONSTRUCTION OF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM IN GARRETT COUNTY, AND EVERY 10 YEARS THEREAFTER, THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT, AT THE APPLICANT'S EXPENSE, SHALL RETAIN AN INDEPENDENT CERTIFIED PROFESSIONAL ENGINEER TO PREPARE A NET COST ESTIMATE FOR DECOMMISSIONING AND RESTORATION OF THE PAD SITE, LESS THE SALVAGE VALUE OF THE INDUSTRIAL WIND ENERGY CONVERSION SYSTEM.

(II) THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT MAY ALTER THE AMOUNT OF THE BOND DETERMINED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION TO PROVIDE ADEQUATE SECURITY FOR THE COSTS OF DECOMMISSIONING AND RESTORATION OF THE PAD SITE.

(4) IF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM IN GARRETT COUNTY IS SOLD, THE BOND POSTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL BE RELEASED IF THE NEW OWNER POSTS A BOND WITH THE GARRETT COUNTY FINANCE DEPARTMENT THAT:

(I) IS EQUAL TO THE AMOUNT OF THE BOND POSTED BY THE SELLER; OR

(II) IS A GREATER AMOUNT IF THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT DETERMINES THAT ADDITIONAL SECURITY IS NECESSARY TO PROVIDE FOR THE COST OF DECOMMISSIONING AND RESTORATION OF THE PAD SITE.

(5) (I) IF AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM IN GARRETT COUNTY HAS NOT GENERATED ELECTRICITY FOR A CONTINUOUS PERIOD OF 365 DAYS OR AN OWNER HAS ABANDONED AN INDUSTRIAL WIND ENERGY CONVERSION SYSTEM, THE GARRETT COUNTY DEPARTMENT OF PLANNING AND LAND DEVELOPMENT MAY REQUIRE THE OWNER TO DECOMMISSION AND RESTORE THE PAD SITE.

(II) IF THE OWNER FAILS TO COMPLY WITH THE REQUIREMENTS UNDER THIS PARAGRAPH, THE BOND SHALL BE USED BY

GARRETT COUNTY TO COVER THE COSTS OF DECOMMISSIONING AND RESTORATION OF THE PAD SITE.

AMENDMENT NO. 4

On page 4, in line 32, strike “2.” and substitute “3.”.

On page 5, in lines 1 and 6, strike “3.” and “4.”, respectively, and substitute “4.” and “6.”, respectively; strike beginning with “this” in line 1 down through “Act” in line 5 and substitute “, notwithstanding Section 3 of this Act, Garrett County may not adopt a rule, a regulation, a law, or an ordinance for zoning of an industrial wind energy conversion system that has submitted an application to the PJM Interconnection queue before March 1, 2013”; after line 5, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter (H.B. 472) of the Acts of the General Assembly of 2013. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.”;

and in line 9, after “and” insert “, except as provided in Section 5 of this Act.”.