



**House County and Municipal Government Reported
Substitute for HB329**

A BILL

TO BE ENTITLED

AN ACT

Relating to military installations; to amend Sections 11-106-3, 11-106-4, and 11-106-6, Code of Alabama 1975, to revise the definition of the term "military installation"; to require persons to obtain the approval of a local government before constructing a tall structure within a certain distance of a military installation; to authorize local governments to seek enjoinder of the construction of a tall structure in certain circumstances; and to make conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-106-3, 11-106-4, and 11-106-6, Code of Alabama 1975, are amended to read as follows:

"§11-106-3

As used in this chapter, the following words ~~shall~~ have the following meanings:

(1) ADVERSE IMPACT ON MILITARY OPERATIONS AND READINESS. The same meaning as provided ~~for that term~~ in 10 U.S.C. § 183a(h), and consistent with ~~Section 3.1.a.4 of~~ DoD Instruction 4180.02.

(2) DEPARTMENT OF DEFENSE SITING CLEARINGHOUSE. The Military Aviation and Installation Assurance Siting



**House County and Municipal Government Reported
Substitute for HB329**

Clearinghouse of the Department of Defense, as established by
10 U.S.C. § 183a.

(3) LOCAL GOVERNMENT. Any county or municipality.

(4) LOCAL IMPACT ISSUE. Any adoption or amendment by a
local government of a proposed zoning plan, comprehensive
master plan, or land development regulations that, if
approved, may or will significantly affect any area or
airspace that is within two miles of a military installation.

(5) MILITARY INSTALLATION. Any base, camp, post,
station, airfield, yard, center, or any other land area under
the jurisdiction of the United States Department of Defense,
including any leased facility, ~~the total acreage of which~~
~~installation is in excess of 500 acres~~. The term ~~military~~
~~installation~~ does not include any facility used primarily for
civil works, river projects, or flood control projects.

(6) NOTICE OF PRESUMED RISK. The notice provided by the
Department of Defense Siting Clearinghouse to an owner of an
energy facility pursuant to 10 U.S.C. § 183a(c)(2).

(7) TALL STRUCTURE. Any building, structure, or unit
within a multiunit building with a vertical height of more
than 200 feet measured from the top of the foundation of the
building, structure, or unit to the uppermost point of the
building, structure, or unit. The term does not include: wind
energy facilities, electrical transmission towers, slender
structures, or minor vertical projections of a parent
building, including, but not limited to, chimneys, flagpoles,
flues, spires, steeples, belfries, cupolas, antennas, poles,
lines, or wires, except that no such structure or vertical



**House County and Municipal Government Reported
Substitute for HB329**

projection may project more than 20 vertical feet above the parent building. The term also does not include any communications structures requiring antenna structure registration pursuant to 47 C.F.R. § 17.4.

(8) WIND ENERGY FACILITY. Facilities for the generation of electricity by wind power."

"§11-106-4

(a) Each local government whose territorial boundaries are within two miles of ~~all or~~ any portion of a military installation shall provide written notice to the military installation's commanding officer and the flying mission commanding officer if applicable, or their designees, of any local impact issue.

(b) Prior to approving any proposed tall structure or wind energy facility, the local government shall follow the requirements of Section 11-106-6. ~~The requirements of Section 11-106-6 shall apply regardless of the distance of the tall structure or wind energy facility from any military installation and regardless of whether the local government's territorial boundaries are within two miles of all or any portion of a military installation."~~

"§11-106-6

(a) The construction or operation of any tall structure or wind energy facility in this state shall not encroach upon or otherwise have an adverse impact on military operations and readiness of any military installation or branch of military.

(b) A person may not commence the construction of a tall structure within two miles of a military installation



**House County and Municipal Government Reported
Substitute for HB329**

unless the person has obtained approval from the governing
body of the local government in which the tall structure will
be located as further provided in this section.

~~(b)~~ (c) A governing body of a local government, ~~prior to
approving an application for the construction of a tall
structure~~ shall approve an application to commence
construction of a tall structure within two miles of a
military installation ~~once~~ ~~require~~ the applicant ~~to file~~ has
filed an application with the Federal Aviation Administration
under 49 U.S.C. § 44718, and ~~provide~~ provided the governing
body of the local government either of the following:

(1) A written "Determination of No Hazard to Air
Navigation" issued by the Federal Aviation Administration
pursuant to 14 C.F.R. Part 77, Subpart D.

(2) In coordination with any affected military
installation and the state Military Department, a written
determination resolving any adverse impact to military
operations identified during the aeronautics study conducted
pursuant to 14 C.F.R. Part 77, Subpart D.

~~(3) The tall structure shall be in compliance with
subsection (a) even if the local government either does not
require an application prior to the construction of a tall
structure or does not require the application outlined in this
subsection if the applicant has otherwise complied with the
requirements of subdivision (1) or (2).~~

(d) A local government may bring an action for
injunctive relief against any person that commences the
construction of a tall structure without obtaining prior



**House County and Municipal Government Reported
Substitute for HB329**

approval as required pursuant to this section.

~~(e)~~ (e) A local government considering an application for the construction of a wind energy facility shall require the applicant to provide the following at least 270 days prior to planned construction:

(1) Documentation that the owner or applicant has transmitted notice relating to the construction of the wind energy facility to the Department of Defense Siting Clearinghouse, the state Military Department, and the state Department of Transportation.

(2) A map showing the specific location and tower hub height with rotor diameter for each proposed wind turbine.

(3) Documentation that the facility owner has either initiated an informal review with the Department of Defense Siting Clearinghouse under 32 C.F.R. § 211.7 or filed for a formal review with the Secretary of Transportation and the Federal Aviation Administration pursuant to 49 U.S.C. § 44718.

~~(d)~~ (f) A local government may not approve an application for the construction of a wind energy facility prior to receiving documentation of one of the following:

(1) A completed Department of Defense Siting Clearinghouse informal review resulting in a determination of no presumed risk.

(2) A mitigation agreement between the owner or applicant and the Department of Defense Siting Clearinghouse resolving any notice of presumed risk.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration



**House County and Municipal Government Reported
Substitute for HB329**

pursuant to 14 C.F.R. Part 77, Subpart D.

~~(e)~~ (g) Notwithstanding subsection ~~(d)~~ (f), a local government may approve an application for the construction of a wind energy facility conditioned upon the applicant providing documentation of one of the requirements set out in subsection ~~(d)~~ (f).

~~(f)~~ (h) If any dispute arises between a local government and an applicant or military installation relating to the approval of any tall structure or wind energy facility, the local government shall provide notice to the Governor or the ~~Governor's~~ Governor's designee to facilitate resolution of the dispute.

~~(g)~~ (i) A local government may not require any other formal written approval from a military installation to approve an application for the construction of a tall structure or wind energy facility."

Section 2. This act shall become effective on October 1, 2025.