

BERKSHIRE REGIONAL PLANNING COMMISSION  
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NATHANIEL W. KARNIS, A.I.C.P.  
Executive Director

July 23, 2010

The Honorable Therese Murray, President  
Massachusetts Senate  
State House, Room 330  
Boston, MA 02133

The Honorable Robert A. DeLeo, Speaker  
Massachusetts House of Representatives  
State House, Room 356  
Boston, MA 02133

RE: S.2260 & H.4886 – Wind Energy Facility Siting Reform Act

Dear President Murray and Speaker DeLeo:

The Berkshire Regional Planning Commission, representing the 32 cities and towns in Berkshire County, respectfully requests that the General Court not take any action on S.2260 or H.4886, the Wind Energy Facility Siting Reform Act, in the closing final few days of the formal 2010 legislative session. We have reviewed both bills and compared them; there are fatal flaws in both and in the few days remaining in the session, we do not believe that those can be reconciled and corrected. In the rush to take action, in fact, the worst aspects of both bills might survive, which would be unconscionable and serve no one's interests well.

Over the past year and a half, our Commission has very carefully reviewed the various versions of this legislation and have voiced our strong concerns regarding the following:

- 1) Local permitting has not been an obstacle to any wind project in Berkshire County. Delays have been entirely due to ineptness by project developers (Berkshire Wind) or solely by the extreme delays caused by appeals in the State wetlands permitting process (Hoosac Wind).
- 2) The timelines for local permitting are not workable as laid out in the bills, will lead to constructive approval of most if not all wind energy projects and are contrary to all established practice for development permitting in Massachusetts – wind energy would be given much favored treatment over the most important economic development projects in priority development areas (43D), affordable housing projects (40A), and any other form of renewable or non-renewable energy projects.
- 3) Despite the claims of the bills' proponents, a local decision to deny a project can be totally ignored in a filing to the Energy Facilities Siting Board, bypassing the local decision.
- 4) The ability of the EFSB to relax all existing regulations and the disproportionate favoritism being shown to this one form of energy development throughout both pieces of legislation is extreme and unprecedented.
- 5) The lack of standards at this point is very troubling. As a Commission, we have been asking the Commonwealth for at least six years, since we first reviewed the Hoosac and Berkshire Wind Projects under MEPA, to establish clear and predictable standards. The lack of progress by EOEEA in this regard is unfathomable and makes it appear that they do not want clear standards.

6) We question the different appeals processes, based on who brings the appeal, as to whether that passes constitutional muster under equal protection provisions.

We request that neither bill nor a melded version be brought to the floor as the 2010 session concludes and that they be referred to a study commission. We would be pleased to work with such a commission over the coming months to craft a workable bill that accomplishes the desired purposes. Neither S.2260 nor H.4886 meet those goals and therefore should be rejected.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathaniel W. Karns". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nathaniel W. Karns, AICP  
Executive Director

Cc: Members, Senate and House of Representatives  
The Honorable Deval Patrick, Governor  
Mr. Ian Bowles, Secretary, Executive Office of Energy & Environmental Affairs  
Mr. Thomas Philbin, Massachusetts Municipal Association  
Ms. Jennifer Ryan, Mass Audubon  
Ms. Eleanor Tillinghast, Green Berkshires  
Mr. Narain Schroeder, Berkshire Natural Resources Council  
Mr. Ken Kimmell, Executive Office of Energy & Environmental Affairs  
Massachusetts Association of Regional Planning Agencies