

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2355/2dn  
MDK:jld:jf

August 24, 2011

Sen. Lasee:

Please note the following about this version:

1. As drafted, the moratorium on new wind energy systems applies to a wind energy system of any size. Is that okay, or do you want the moratorium to apply only to wind energy systems that are larger than a certain size? For example, under current law, the PSC must promulgate rules regarding proof of financial responsibility for wind energy systems with a nominal operating capacity of one megawatt or more. See s. 196.378 (4g) (d). Also, the prior version of this bill required a study of a "large wind energy system," which was defined as a wind energy system that: 1) has a total installed nameplate capacity of more than 300 kilowatts; and 2) consists of individual wind turbines that have an installed nameplate capacity of more than 100 kilowatts.
2. If you want to limit the moratorium to wind energy systems that are larger than a certain size, how do you want to deal with wind energy systems that are smaller than that size? For example, should the PSC be allowed to promulgate setback distances for smaller wind energy systems or should political subdivisions be free to impose their own setback distances for the smaller systems?
3. The moratorium applies to commencing construction of wind energy systems, even if a political subdivision has approved the system. The moratorium will not apply if construction on a system begins before the bill's effective date. Is that okay?
4. As drafted, the bill will prohibit a political subdivision from imposing a setback requirement that is more more restrictive than the requirements in the rules that the PSC will eventually promulgate. Is that okay?
5. As in the previous version, this version has a delayed effective date of approximately three months after publication. Is that okay?
6. Please review the legislative findings. The LRB usually does not include legislative findings in bills, but we make an exception if a bill is likely to be subject to a constitutional challenge and the findings will help to rebut the challenge. This bill may be challenged on the basis that it impairs contracts, as the bill may prevent a person who contracted for the construction of a wind energy system from commencing construction until the PSC promulgates the required setback rules. Therefore, I

included legislative findings. If you have some suggestions about the language I drafted, please let me know.

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