

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 561

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

RELATING TO A MORATORIUM ON CERTAIN INDUSTRIAL WIND FARMS AND WIND TURBINES FOR A TIME CERTAIN; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6539, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO PROVIDE A MORATORIUM FOR A TIME CERTAIN ON THE PERMITTING, LICENSING OR CONSTRUCTION OF CERTAIN INDUSTRIAL WIND FARMS AND WIND TURBINES AND TO PROVIDE FOR CREATION OF A LEGISLATIVE TASK FORCE; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6539, Idaho Code, and to read as follows:

67-6539. MORATORIUM ON CONSTRUCTION OF CERTAIN INDUSTRIAL WIND FARMS AND WIND TURBINES FOR A TIME CERTAIN. (1) The legislature finds that industrial wind farms and wind turbines are having a significant negative impact upon Idaho's citizens, wildlife, aesthetic values, taxpayers, power rates, property values and the operations of Idaho's electrical utilities. Current wind development is outstripping the capacity of the utilities in Idaho to integrate the intermittent power provided by wind turbines. Local officials in Idaho have been overwhelmed with requests for the approval of wind development. However, the rate of development has not allowed proper analyses to be completed as to the impacts of large wind turbines in areas frequented by wildlife. For instance, wind turbines are being considered for construction in areas known to be utilized by sage grouse, a species currently under consideration for listing as an endangered species by the U.S. fish and wildlife service, which could have immediate and far-reaching effects on Idaho. Additionally, court action and claims of negative effects of wind turbines on private property and nearby residents are frequent. To properly address and better understand the operational questions, as well as the environmental and economic effects of wind energy, the legislature is placing a ban on the approval and construction of industrial wind farms and wind turbines until an analysis of such effects is completed by a legislative task force that shall present a report on or before January 10, 2014, to the Idaho legislature.

(2) From the effective date of this act until July 1, 2014, municipalities, counties and state agencies are prohibited from granting approval or issuing any new licenses or permits for the construction or operation of wind turbines that exceed one hundred (100) feet in height and have a nameplate capacity that exceeds one hundred (100) kilowatts. Projects that have been approved and against which no legal proceedings have been filed as of February 1, 2012, shall be allowed to be constructed. Projects for which legal proceedings are pending as of February 1, 2012, shall not be allowed to be

1 constructed until the legal proceedings are complete and a court of compe-  
2 tent jurisdiction finds that construction may proceed.

3 (3) The provisions of this section do not apply to a facility owned or  
4 controlled by the United States government or the Bonneville power adminis-  
5 tration for the purpose of providing power to the citizens of Idaho.

6 (4) There is created an eight (8) member legislative task force with  
7 four (4) members of the senate appointed by the senate president pro tem-  
8 pore and four (4) members of the house of representatives appointed by the  
9 speaker of the house of representatives to study the effects of wind energy  
10 and to provide recommendations to the legislature and the governor. The task  
11 force's analysis shall address, but not be limited to, issues related to the  
12 effect that wind development is having on power rates, the ability of Idaho's  
13 utilities to integrate more intermittent wind power into their systems, the  
14 effect wind turbines are having on wildlife and species that could be listed  
15 as endangered, the effect that wind turbines have on private property values  
16 and uses, the range of tax issues regarding wind power development and any  
17 other issues found to be pertinent. Members of the legislative task force  
18 shall be reimbursed for per diem and travel expenses from the legislative ac-  
19 count.

20 SECTION 2. An emergency existing therefor, which emergency is hereby  
21 declared to exist, this act shall be in full force and effect on and after its  
22 passage and approval, and this act shall be null, void and of no force and  
23 effect on and after July 1, 2014.