

Date: December 2, 2014

To: Joint Committee on Telecommunications, Utilities & Energy

From: Mark J. Cool  
Falmouth MA

Subj: Personal Statement  
Re: Bills **H.2980** and **S.1591**

I am opposed to S.1591 and H.2980.

I Thank the Committee for your time and consideration. I will comment only on two personally critical aspects shared in both Bills.

### **1. Noise Standards**

An objective cited in both Bill's section 1 is to *"ensure that wind energy generation facilities are sited in appropriate locations based on clear, predictable and protective environmental ... standards ..."* It's then reasonable to expect that the application of existing standards would ensure noise protective conditions around wind turbines.

To date however, there are no comprehensive noise standards or guidelines that achieve either Bill's objective to prevent unacceptable noise impact to nearby residents.

This fact is evidenced by Massachusetts DEP's position on the matter. After reviewing the January 2012 Wind Turbine Health Impact Study, and over 500 public comments, MassDEP concluded that the information currently available suggests the need to consider revisions to MassDEP's noise regulations and policy to address wind turbine noise (see [www.cbuiding.org](http://www.cbuiding.org) Oct 26, 2013).

The point is that specific siting standards relative acceptable noise characteristics from wind turbines are "unknown." Revisions have yet to be either formulated or implemented.

Without turbine specific noise standards, I contend that it's impossible to implement appropriate setbacks to prevent significant sound, health and safety impact.

The Bills further stipulate, *"The standards may vary from region to region ... provided, however, that all applicable standards shall be at least as protective as existing state environmental statutes and regulations. The standards shall be: (i) based upon best available science ..."*

To be consistent with Mass DEP's suspicion of current noise guideline effectiveness, and the Wind Turbine Health Impact Study's repeated recommendations for further research to be conducted, it's prudent to conclude that best available science is woefully lacking. Clear and predictable standards have yet to be formulated, which makes the effort to ensure wind turbines are sited in appropriate locations a 50/50 gamble.

At present, provisions in both Bills cannot provide public health and safety protection certainty.

## **2. CONTROL**

I have serious concerns about provisions that would substantially reduce or even bypass local authority.

Massachusetts General Law (Ch. 111 §122) authorize local boards of health to perform many critical duties related to the protection of public health. Many of these are controlled by local laws and regulations. This authorization reflects the legislature's understanding that many critical health problems are best handled by the experience of local community officials familiar with local conditions.

So to, as a member of Falmouth's Zoning Board of Appeals, I know zoning laws are intended to promote the health, safety, welfare, convenience, morals, and prosperity of the community. They are meant to enhance the General Welfare of the community's residents. They are designed to preserve, and are enforced to protect the character of the local community by guiding its future growth.

Who best to understand the community's local condition and best interests than its representative bodies (Boards of Selectmen, planning, zoning, town meeting) to control the development of their community?

These Bills use exclusionary provisions to take advantage of marginal benefits of state wind energy development while forcing municipalities to bear the burdens of such development. State "strong-arming" violates the very principle that municipal zoning ordinances should advance the General Welfare, not primarily of the state, but rather of the municipality's residents.

Finally, two facts remain regarding these Bills:

- 1) They will obstruct local board and commission oversight powers granted by local charter, and usurp "home rule" guarantees.
- 2) They are unable to ensure, with clear and predictable noise guidelines, public health and safety protection.

I urge the Committee, please kill these Bills.

Respectfully,

Mark J. Cool  
Falmouth MA