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LAW/RWH

P.L.2011, CHAPTER 20, *approved February 3, 2011*
Senate, No. 212 (*Third Reprint*)

1 AN ACT concerning wind dependent energy facilities in ²[certain
2 parts of]² the coastal area and supplementing P.L.1973, c.185
3 (C.13:19-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. Notwithstanding the provisions of any rule or regulation
9 adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) to the
10 contrary, construction of a wind dependent energy facility shall not
11 be prohibited within 500 feet of the mean high water line of tidal
12 waters ¹on a pier ²[in existence on the effective date of this act, ¹]²
13 pursuant to P.L.1973, c.185, provided that ³(1)³ the permit
14 application filed with the department meets all other criteria
15 established by P.L.1973, c.185, any rules and regulations adopted
16 pursuant thereto, and any other applicable law, rule or regulation ³,
17 and (2) the wind dependent energy facility is an accessory use to the
18 other uses of, or purposes for, the pier³ .

19 b. Within 30 days after the date of enactment of this act, and
20 notwithstanding any provision of the “Administrative Procedure
21 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
22 department shall adopt, immediately upon filing with the Office of
23 Administrative Law, such rules and regulations as deemed
24 necessary to implement the provisions of this act which shall be
25 effective for a period not to exceed 12 months and shall thereafter
26 be amended, adopted or readopted in accordance with the
27 provisions of P.L.1968, c.410.

28 ²[c. The provisions of this section shall apply only to the
29 construction of a wind dependent energy facility in a municipality
30 in which casino gaming is authorized.]²
31

32 2. This act shall take effect immediately.
33
34
35

36
37 _____
38 Allows construction of wind dependent energy facilities on piers
within 500 feet of mean high water line of tidal waters.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted February 8, 2010.

²Assembly AEN committee amendments adopted October 14, 2010.

³Assembly floor amendments adopted October 25, 2010.

SENATE, No. 212

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

SYNOPSIS

Allows construction of wind dependent energy facilities within 500 feet of mean high water line of tidal waters under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning wind dependent energy facilities in certain
2 parts of the coastal area and supplementing P.L.1973, c.185
3 (C.13:19-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. Notwithstanding the provisions of any rule or regulation
9 adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) to the
10 contrary, construction of a wind dependent energy facility shall not
11 be prohibited within 500 feet of the mean high water line of tidal
12 waters pursuant to P.L.1973, c.185, provided that the permit
13 application filed with the department meets all other criteria
14 established by P.L.1973, c.185, any rules and regulations adopted
15 pursuant thereto, and any other applicable law, rule or regulation.

16 b. Within 30 days after the date of enactment of this act, and
17 notwithstanding any provision of the "Administrative Procedure
18 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
19 department shall adopt, immediately upon filing with the Office of
20 Administrative Law, such rules and regulations as deemed
21 necessary to implement the provisions of this act which shall be
22 effective for a period not to exceed 12 months and shall thereafter
23 be amended, adopted or readopted in accordance with the
24 provisions of P.L.1968, c.410.

25 c. The provisions of this section shall apply only to the
26 construction of a wind dependent energy facility in a municipality
27 in which casino gaming is authorized.
28

29 2. This act shall take effect immediately.
30
31

32 STATEMENT
33

34 This bill would allow construction of wind dependent energy
35 facilities within 500 feet of the mean high water line of tidal waters
36 pursuant to the "Coastal Area Facility Review Act," provided all
37 other requirements of law, rule or regulation are met. Current DEP
38 regulations permit only water dependent energy facilities to be
39 constructed within 500 feet of the mean high water line. This bill
40 also directs DEP to adopt rules and regulations concerning such
41 permits within 30 days after the date of enactment of the bill into
42 law. These rules and regulations will be effective for no more than
43 12 months and will be amended, adopted or re-adopted in
44 accordance with the "Administrative Procedure Act."

45 The bill would limit its provisions to municipalities in which
46 casino gaming is authorized.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 212

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2010

The Senate Environment and Energy Committee favorably reports Senate Bill No. 212.

This bill, as amended, would allow construction of wind dependent energy facilities on a pier that exists on the effective date of the bill, within 500 feet of the mean high water line of tidal waters pursuant to the “Coastal Area Facility Review Act,” provided all other requirements of law, rule or regulation are met. Current Department of Environmental Protection regulations permit only water dependent energy facilities to be constructed within 500 feet of the mean high water line. This bill also directs DEP to adopt rules and regulations concerning such permits within 30 days after the date of enactment of the bill into law. These rules and regulations will be effective for no more than 12 months and will be amended, adopted or re-adopted in accordance with the “Administrative Procedure Act.”

The bill would limit its provisions to municipalities in which casino gaming is authorized.

The committee amendment would provide that the bill would apply only to projects on piers in existence on the effective date of the bill.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 212

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 14, 2010

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Senate Bill No.212 (1R).

As amended by the committee, this bill allows construction of wind dependent energy facilities on a pier within 500 feet of the mean high water line of tidal waters pursuant to the "Coastal Area Facility Review Act," provided all other requirements of law, rule or regulation are met.

This bill also directs DEP to adopt rules and regulations concerning such permits within 30 days after the date of enactment of the bill into law. These rules and regulations will be effective for no more than 12 months and will be amended, adopted or readopted in accordance with the "Administrative Procedure Act."

As amended and reported from committee, this bill is identical to the committee substitute for Assembly Bill Nos. 868 and 2942 as also reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments to the bill delete the language that would have:

- 1) required the pier to exist on the effective date of the bill; and
- 2) limited the bill to municipalities in which casino gaming is authorized.

STATEMENT TO
[Second Reprint]
SENATE, No. 212

with Assembly Floor Amendments
(Proposed by Assemblyman MILAM)

ADOPTED: OCTOBER 25, 2010

This floor amendment would add a condition on the bill's allowance of the construction of wind dependent energy facilities on certain piers, which is, that the wind dependent energy facility to be constructed must be only an accessory use to the other uses of, or purposes for, the pier. Therefore, the bill would not allow any pier to be constructed as otherwise permitted in the bill if the main reason for the pier is to serve as the platform for a wind dependent energy facility.

ASSEMBLY, No. 868

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman MATTHEW W. MILAM
District 1 (Cape May, Atlantic and Cumberland)
Assemblyman NELSON T. ALBANO
District 1 (Cape May, Atlantic and Cumberland)
Assemblywoman ANNETTE QUIJANO
District 20 (Union)

Co-Sponsored by:

Assemblyman Rible

SYNOPSIS

Allows construction of wind dependent energy facilities within 500 feet of mean high water line of tidal waters under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/7/2010)

1 AN ACT concerning wind dependent energy facilities in the coastal
2 area and supplementing P.L.1973, c.185 (C.13:19-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Notwithstanding the provisions of any rule or regulation
8 adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) to the
9 contrary, construction of a wind dependent energy facility shall not
10 be prohibited within 500 feet of the mean high water line of tidal
11 waters pursuant to P.L.1973, c.185, provided that the permit
12 application filed with the department meets all other criteria
13 established by P.L.1973, c.185, any rules and regulations adopted
14 pursuant thereto, and any other applicable law, rule or regulation.

15 b. Within 30 days after the date of enactment of this act, and
16 notwithstanding any provision of the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
18 department shall adopt, immediately upon filing with the Office of
19 Administrative Law, such rules and regulations as deemed
20 necessary to implement the provisions of this act which shall be
21 effective for a period not to exceed 12 months and shall thereafter
22 be amended, adopted or readopted in accordance with the
23 provisions of P.L.1968, c.410.

24

25 2. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill allows construction of wind dependent energy facilities
31 within 500 feet of the mean high water line of tidal waters pursuant
32 to the "Coastal Area Facility Review Act," provided all other
33 requirements of law, rule or regulation are met. Current DEP
34 regulations permit only water dependent energy facilities to be
35 constructed within 500 feet of the mean high water line. This bill
36 also directs DEP to adopt rules and regulations concerning such
37 permits within 30 days after the date of enactment of the bill into
38 law. These rules and regulations will be effective for no more than
39 12 months and will be amended, adopted or readopted in
40 accordance with the "Administrative Procedure Act."

ASSEMBLY, No. 2942

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 17, 2010

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

SYNOPSIS

Allows construction of wind dependent energy facilities within 500 feet of mean high water line of tidal waters under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/15/2010)

1 AN ACT concerning wind dependent energy facilities in certain
2 parts of the coastal area and supplementing P.L.1973, c.185
3 (C.13:19-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. Notwithstanding the provisions of any rule or regulation
9 adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) to the
10 contrary, construction of a wind dependent energy facility shall not
11 be prohibited within 500 feet of the mean high water line of tidal
12 waters on a pier in existence on the effective date of this act,
13 pursuant to P.L.1973, c.185, provided that the permit application
14 filed with the department meets all other criteria established by
15 P.L.1973, c.185, any rules and regulations adopted pursuant thereto,
16 and any other applicable law, rule or regulation.

17 b. Within 30 days after the date of enactment of this act, and
18 notwithstanding any provision of the “Administrative Procedure
19 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
20 department shall adopt, immediately upon filing with the Office of
21 Administrative Law, such rules and regulations as deemed
22 necessary to implement the provisions of this act, which shall be
23 effective for a period not to exceed 12 months, and which shall
24 thereafter be amended, adopted, or readopted in accordance with the
25 provisions of P.L.1968, c.410.

26 c. The provisions of this section shall apply only to the
27 construction of a wind dependent energy facility in a municipality
28 in which casino gaming is authorized.
29

30 2. This act shall take effect immediately.
31
32

33 STATEMENT
34

35 This bill would allow construction of wind dependent energy
36 facilities on a pier that exists on the effective date of the bill, within
37 500 feet of the mean high water line of tidal waters pursuant to the
38 “Coastal Area Facility Review Act,” provided that the permit
39 application filed with the Department of Environmental Protection
40 (DEP) satisfies all other requirements of law, rule or regulation.
41 Current DEP regulations permit only water dependent energy
42 facilities to be constructed within 500 feet of the mean high water
43 line. The bill would, therefore, direct the DEP to adopt rules and
44 regulations within 30 days after the bill’s enactment into law, in
45 order to effectuate the permitting of wind dependent energy
46 facilities as authorized by the bill’s provisions. The DEP rules and
47 regulations in this regard would be effective for no more than 12

A2942 MCKEON, GUSCIORA

3

1 months and would be amended, adopted, or re-adopted in
2 accordance with the “Administrative Procedure Act.”

3 The bill would limit its provisions to municipalities in which
4 casino gaming is authorized.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 868 and 2942

STATE OF NEW JERSEY

DATED: OCTOBER 14, 2010

The Assembly Environment and Solid Waste committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 868 and 2942.

This committee substitute allows construction of wind dependent energy facilities on a pier within 500 feet of the mean high water line of tidal waters pursuant to the "Coastal Area Facility Review Act," provided all other requirements of law, rule or regulation are met.

This substitute bill also directs DEP to adopt rules and regulations concerning such permits within 30 days after the date of enactment of the bill into law. These rules and regulations will be effective for no more than 12 months and will be amended, adopted or readopted in accordance with the "Administrative Procedure Act."

As reported from committee, this committee substitute for Assembly Bill Nos. 868 and 2942 is identical to Senate Bill No. 212 (1R) as amended and reported by the committee.