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STATEMENT FROM SENATOR BENJAMIN B. DOWNING ON THE WIND ENERGY SITING REFORM ACT

(July 28, 2009) - Since this legislative session began in January there is no issue I have devoted anywhere near as much time and thought to as the Wind Energy Siting Reform Act. My focus has held for several reasons. First, I have focused on this legislation because of the potential impact to my district. Second, I have dedicated my time to this bill, potential amendments, alternative proposals, and the many issues associated with it, because I owe my constituents – both those who support and oppose the proposal – the comfort of knowing I have done my homework, understand the implications of moving forward, and have thought the issue through.

I should say at the outset, I have not yet determined my final position on the bill. There are significant issues that are not addressed in the current proposal, or that arise from the current proposal, which must be addressed. Understanding these issues is what my research has been about and what I am continuing to do. Before I highlight some of those issues, I believe a few points should be made.

First, many of those who have written have made a passionate and persuasive case that before wind energy development is expedited, the Legislature should act on conservation and energy efficiency. I agree and in many respects, during last session, we took major steps forward in these areas. The focus of the 2008 Green Communities Act – itself the centerpiece of last session's environmental legislation – was, and in implementation is, efficiency and conservation. Among the many provisions of this legislation was a requirement that electric companies boost investment in energy efficiency and conservation efforts; a further provision required funds raised through the Regional Greenhouse Gas Initiative (RGGI) be used on conservation and efficiency; and still further, the state's building code was directed to fully adopt the International Energy Conservation Code. These are just a few of the efforts undertaken to prioritize efficiency and conservation that were included in the legislation, along with incentives for any number of renewable energy sources, including solar, hydro, wind, and others.

Despite its sweeping size and scope, the Green Communities Act was only one of several major environmental and energy initiatives passed by the Legislature last session. Others included: the Green Jobs Act, which I was the lead Senate sponsor of; the Clean Energy Biofuels Act, which provided incentives for non-corn, second generation biofuels, held to the highest environmental standards; the Environmental Bond, which was twice as large as its previous iteration and made a record investment in our parks, open space and state environmental assets; and finally the Global Warming Solutions Act, which committed Massachusetts to reducing our CO₂ emissions eighty percent by the year 2050.

In this flurry of activity, some wanted to expedite or alter the siting process for all renewable energy development, or selected types of renewable energy. I joined with others in arguing against these proposals, saying that the issue was too complex to simply be added on as an amendment to larger legislative vehicles. The decision to address the issues related to siting, in particular of wind energy developments, separate, was

recognition by a majority of my colleagues that the argument I made with others was compelling and accurate.

This brings me back to the current deliberations surrounding the Wind Energy Reform Siting Act. The proposal before the Joint Committee on Telecommunications, Utilities and Energy is the product of a Commission established in the Green Communities Act, composed of legislators, administration officials, environmental advocates and wind energy developers. The bill has had a public hearing in the State House and the Committee chairs are currently negotiating the logistics of a potential public hearing in the Berkshires, if not several statewide. Additionally, in June DCR and DOER held a public forum on some issues addressed in the bill at Berkshire Community College in Pittsfield.

Personally, I have heard from over 70 constituents who have written individual letters on the issue and many more who have signed petitions. This is not surprising, considering that of the potential 68 sites the Executive Office of Energy and Environmental Affairs (EEA) identified as having significant wind to facilitate development, 45 were located in my Berkshire, Hampshire & Franklin Senate District. This being the case, along with my personal research, I have met with community leaders, environmentalists, local officials, Administration officials and wind energy developers (local, national, utility scale, community, and others). I am continuing these meetings, while also collaborating and discussing the issue with colleagues, in particular with the Berkshire delegation, the Chair of the Telecommunications, Utilities & Energy Committee, and others. Obviously, this is an ongoing process, but I do want to be clear about one thing: this proposal will not emerge from Committee, let alone reach the Senate floor for a vote until the fall at the earliest. Until that point, I intend to continue working with the relevant Committee chairs to improve the bill until I am confident in protects the interests of western Massachusetts.

The key points of the legislation I am working on are as follows: local control, host community/region input in siting standards, and host community/region benefit. On the issue of local control over the permitting process, I have heard concerns of local elected officials, conservation commissions, and others. The Massachusetts Municipal Association (MMA) has offered possible amendments to the bill, which would restore some local rights, while consolidating and expediting the permitting process. I believe a consolidated process makes sense, but that host communities should have an appeal, even in cases where the project may meet the statewide siting standards. As far as statewide standards are concerned, I believe a public process, run by a body with a more diverse membership than that of the EFSB ought to be the body developing the standards. Ideally, this process would be similar to that of the recently passed Ocean Management Act and will have at least one, if not two dedicated seats for the Berkshires. Finally, in the community benefits section of the bill, I am looking at spelling out more clearly what benefits communities can negotiate, as hosts. Potential items included dedicating a portion of construction and maintenance jobs to local labor or mandating a minimum amount of electricity to be sold to the community/region in the form of a power purchase agreement.

I strongly believe that the natural resources of the Berkshires cannot be completely forsaken for energy production. However, I also believe that we have a responsibility to do all we can – energy efficiency, conservation, and yes, smart renewable energy development – to address the massive challenge presented by global climate change. In its current form, or in a drastically improved form, the Wind Energy Siting Reform Act won't singlehandedly solve the problem, but done right, I believe it could be part of the solution.

In the end, a final position on the bill is not simply an environmental decision, an energy policy decision, or an economic decision. Rather, this decision is about whether or not this legislation balances those three needs in a sustainable fashion. Currently, I do not believe it does, but with certain changes I believe it could. Until a vote is scheduled, I am going to reserve judgment and continue to work to improve the legislation. In the end, it is my hope that we can find that balance and I can support the bill, but I will not be blinded by that hope and I will continue to work to ensure that the needs of western Massachusetts are met and the voice of the 48 communities I represent is heard.

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