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Wind and Energy Update in Massachusetts

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Wind facility siting in Massachusetts has endured another setback with the "tabling" of the legislature's most recent attempt to enact a law providing for review and regulatory framework for the siting of land-based wind energy projects. Benjamin Downing, state senator from Pittsfield and co-chair of the Legislature's Joint Committee on Telecommunications, Utilities and Energy, called for a study group to review the current three wind energy siting reform bills, which effectively ends debate for this legislative session. This leaves individual communities to continue to regulate the siting of wind facilities on their own, with some assistance to be found in two model siting directives, including: an As-of-Right Zoning Ordinance or Bylaw: Allowing Use of Wind Energy Facilities; and a Model Amendment to a Zoning Ordinance or By-law: Allowing Conditional Use of Wind Energy Facilities, for not-as-of-right projects. To date, according to the website of the Massachusetts Department of Energy Resources ("DOER"), 40 wind energy projects have been installed in 21 communities by private and public entities throughout the state, including ten turbines located in Hancock built by the Berkshire Wind Power Cooperative. Additionally, as of the end of 2011, DOER has designated 86 communities throughout the state as "Green Communities," involving the granting of more than \$17 million; and 104 communities having adopted the new Board of Building Regulations and Standards Stretch Code. In the courts, the Massachusetts Supreme Judicial Court upheld the previously approved power purchase agreement with Cape Wind for its renewable energy contract with National Grid, by finding that the approval of the contract was "in the public interest."

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