

# Impact of Article X siting on NYS Local Governments in Rural Counties

January 31, 2008

## Dear Local Government Official:

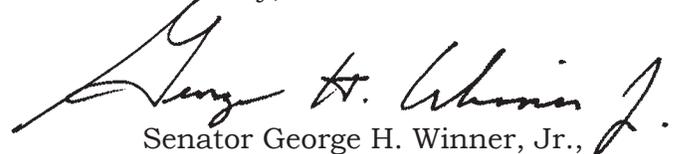
As you may know, two bills have been introduced in the state Legislature that would re-authorize Article X of the Public Service Law which is designed to streamline the siting review and approval process for major electric generating facilities. (A brief summary of the proposed provisions is shown on Page 2). Wind farm projects that meet certain thresholds established for power plants are included in these proposals, with the process governed by a statewide siting board.

Currently, municipalities in New York govern the siting process for wind farms proposed within their jurisdictions utilizing land use regulations they have enacted and the SEQRA review process, with several projects either already completed or under review. The proposed Article X legislation would impact such local control over the siting of wind farms.

The NYS Legislative Commission on Rural Resources has been a strong proponent of responsible wind energy development in rural New York. It is our intent to inform the Legislature of the impact on rural communities of the proposed Article X legislation. Please take a few moments to provide your guidance to us by completing the questionnaire on Page 3 and return by Fax (518.426.6960) or E-mail: [ruralres@senate.state.ny.us](mailto:ruralres@senate.state.ny.us) by February 20. It is anticipated action will be taken on the Article X legislation this session so time is of the essence in submitting your input. Call 518.455.2544 if you have any questions or need assistance in completing the survey.

Thank you for your cooperation and assistance.

Sincerely,



Senator George H. Winner, Jr.,  
Chairman

Note: The US wind energy industry installed 5,244 megawatts (MW) of wind power capacity in 2007, according to the American Wind Energy Association (AWEA). The rapid growth boosts the total US wind power capacity by 45% in only one year. In fact, wind power provided 30% of the new generating capacity installed in the United States in 2007. And, in New York, there are currently six operating wind farms, five under construction, and at least 30 more planned.



# Synopsis of Article X Bills

## ***Senate Bill 5908/ Assembly Bill 8697***

Two bills (Senate 5908 and Assembly 8697) have been introduced in the state Legislature to re-authorize Article X of the Public Service Law that governs the siting of major electric generating facilities. Although not specifically mentioned anywhere in the proposed legislation, wind farm projects that meet certain kilowatt threshold capacities shown below would also be included in the siting review process along with power plants.

A statewide siting board would govern the review and approval of all such projects, with construction prohibited without applicants first obtaining an operating certificate. Applicants would provide the following information and materials: a description of the site and facility, alternative locations, environmental impacts, health impacts, generating plant costs and useful life, need for the plant, security issues, and provision for public notice and input.

Major electric generating facilities would be defined under the Assembly bill as those that meet or exceed a threshold of 30 thousand kilowatts. The Senate bill defines two types of electric generation facilities as being either “major” or “minor”, with corresponding thresholds of 80 thousand or more and 50 thousand or more kilowatts. Minor projects would be charged lower fees.

Both bills include provisions that create a pre-application process that requires applicants to file a preliminary scoping statement describing the project, its potential environmental impacts and proposed studies to evaluate those impacts. Such studies would include air and water quality, ecology, land use, noise, visual, cultural, socioeconomic, transportation and other considerations. The public would be kept abreast of the filing through published notices and other outreach efforts designed to encourage its participation.

The siting board would be required to determine if the proposed facility is in compliance with local laws and regulations, unless it finds that those local requirements are unreasonably restrictive in view of existing technology or the needs of or cost to rate payers. Municipalities or state agencies would be prohibited from requiring additional permits or approvals of a proposed facility beyond those expressly provided for under the legislation, with minor amendments. Conforming provisions from the state Environmental Conservation Law (ECL) clarify that actions taken by the siting board under Article X are not subject to the requirements of the State Environmental Quality Review Act (ECL Article 8).

The siting board would have 60 days to determine if an application complied with Article X and if so to set a date for a public hearing. Reviews of new projects with an expected capacity under 200 thousand kilowatts must be completed within 12 months after receipt of a complete application, with a 6 month extension available to projects exceeding 200 thousand kilowatts, if needed.

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For more information on detailed provisions in the two bills, readers are encouraged to go to either the Senate or Assembly web sites at [www.senate.state.ny.us](http://www.senate.state.ny.us) or [www.assembly.state.ny.us](http://www.assembly.state.ny.us).

# Impact of Article X Questionnaire

1. **Has the state been involved with attempts to site wind energy projects in your area?**

a. Please explain how current efforts have been helpful.

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b. Please explain how the current efforts have been detrimental.

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2. **List any existing state resources (NYSERDA/PSC/Rural Resources Commission wind energy brochure) that assisted your community in making informed decisions and developing local controls with regard to wind energy projects. Explain.**

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3. **Please review the attached proposed Article X regulations before the state legislature.**

a. Which proposals would be most beneficial to your municipality?

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b. Which proposals would be most detrimental to your municipality?

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4. What regulations do you currently have or contemplate having in place to exercise local control over new wind energy projects?

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5. Please give specific examples of wind energy projects that have been prolonged by state or other outside interests.

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6. Please make any other comments or suggestions you wish to add. (Feel free to append additional materials or statements).

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Person completing survey \_\_\_\_\_ Date \_\_\_\_\_

Municipality \_\_\_\_\_

*Thank you for your cooperation and assistance.*

Legislative Commission on Rural Resources  
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