



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-041

September 23, 2025

The Honorable Brad Hall
State Representative
1527 Pointer Trail East
Van Buren, Arkansas 72956

Dear Representative Hall:

I am writing in response to your request for an opinion on whether local governments may enact moratoriums on the construction and installation of wind turbines under Act 945 of 2025 (the “Arkansas Wind Energy Development Act”).¹

You ask the following questions:

1. Pursuant to Act 945, may a city, county, or other municipality/governmental subdivision enact any moratoriums on the construction and installation of wind turbines or similar structures?

Brief response: Yes, local governments, as defined in A.C.A. § 23-18-1303, may enact moratoriums on wind-turbine construction.

2. If the response to question one is in the affirmative, is there a time frame for enacting such moratoriums?

Brief response: No, there is no timeframe for enacting any moratoriums related to wind energy.

¹ Acts 940 and 945 of the 95th General Assembly both amend Title 23, Chapter 18 of the Arkansas Code to add Subchapter 13. Subchapter 13 under Act 945 is the “Arkansas Wind Energy Development Act,” while Subchapter 13 under Act 940 is titled, “Retirement of Dispatchable Electric Generation Facilities.” The Subchapter 13 code sections cited within this opinion refer to those created by Act 945. But note that the Arkansas Code Revision Commission may renumber them.

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DISCUSSION

Moratoriums are an interim zoning measure, typically enacted through an ordinance or resolution, that halts all local approvals of one or more types of development.² They are temporary and are typically enacted to allow a local unit of government time to study and make informed decisions in response to new land uses, such as wind farms.³ The validity of a specific moratorium depends on whether its duration is reasonable, whether the local government acted in good faith and responded promptly to the development issue that necessitated the moratorium, whether it serves a legitimate public purpose, and whether it complies with all relevant laws—including those explicitly related to the moratoriums (in this case, the Arkansas Wind Energy Development Act) and those governing zoning procedures.⁴

Zoning regulations, like moratoriums, are generally upheld by the courts if they serve a legitimate public purpose, are not unreasonably burdensome to private interests, and are applied fairly and without discrimination. Courts have consistently recognized zoning as a valid exercise of the government's police power, provided it aligns with enabling legislation and respects constitutional rights.⁵ In Arkansas, a municipality's zoning authority comes from A.C.A. § 14-56-416, whereas a county's zoning authority is established in A.C.A. § 14-17-209.

Question 1: Pursuant to Act 945, may a city, county, or other municipality/governmental subdivision enact any moratoriums on the construction and installation of wind turbines or similar structures?

Yes, a local unit of government, as defined in A.C.A. § 23-18-1303(4)(A)-(E), may enact moratoriums on the construction and installation of wind turbines or similar structures. The Arkansas Wind Energy Development Act does not prohibit moratoriums. Rather, A.C.A. § 23-18-1313(a)(1) authorizes a local unit of government to “adopt local legislation addressing the construction, expansion, operation, or redevelopment of a wind energy facility ... if the local legislation is consistent with this subchapter and existing federal and state laws.” It also enables a local unit of government to pass legislation that is more restrictive than state law.

In my opinion, A.C.A. § 23-18-1313 broadly delegates authority to municipalities and counties, enabling them to enact local laws that address their specific needs, including the possibility of imposing moratoriums on wind energy development. No state or federal law prohibits or preempts a local unit of government from passing moratoriums on the construction and installation of wind turbines and similar facilities.

² 61 Planning & Environmental Law No. 9, p. 3.

³ 4 Am. Law. Zoning § 35:1 (5th ed.); *Ecogen, LLC v. Town of Italy*, 438 F. Supp. 2d 149, 161–62 (W.D. N.Y. 2006).

⁴ *Id.*

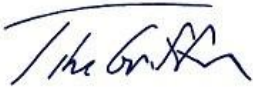
⁵ 32 Am. Jur. Proof of Facts 3d 485.

Question 2: If the response to question one is in the affirmative, is there a time frame for enacting such moratoriums?

No, there is no timeframe for enacting any moratoriums related to wind energy.

Assistant Attorney General Justin Hughes prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line above it.

TIM GRIFFIN
Attorney General