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Renewable Energy Alert

A Win for Wind Development in Wisconsin

In an opinion that should prove valuable to wind development projects in Wisconsin, the State of Wisconsin Court of Appeals struck down a Calumet County ordinance that placed across-the-board design restrictions on the development of wind energy projects. The Court held that a political subdivision may not regulate wind energy projects in a manner that is contrary to the State Legislature's policy clearly favoring such projects. The Court further held that any local restrictions on wind energy projects must be made on a *case-by-case basis* through a conditional use permit or other similar process.

This case should effectively invalidate several local ordinances that have been criticized as restricting the development of wind energy projects, although it also creates some uncertainty for wind energy developers seeking local approval for such projects. One obvious concern is that a political subdivision could attempt to implement an invalidated ordinance on a case-by-case basis through the conditional use permitting process; another concern is the lack of siting standards now applicable to wind energy projects. These concerns will no doubt increase calls for the adoption of uniform wind energy siting standards that both wind energy developers and political subdivisions can rely on.

Uniform siting standards is the subject of AB 256, which passed through the State Assembly last month. The bill directs the Public Service Commission ("PSC") to promulgate administrative rules that would establish statewide siting standards for wind energy projects. Under the bill, local regulation of wind energy projects could be no more restrictive than the standards developed by the PSC. The bill appears to have strong bipartisan support as it moves to the State Senate for discussion as SB 185.

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