ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 808

By: Bingman and Fields of the Senate

and

Sears of the House

An Act relating to wind energy; amending 17 O.S. 2011, Section 160.15, which relates to the Oklahoma Wind Energy Development Act; changing the time for the filing of evidence of financial security for wind energy facilities commenced after a certain date; modifying certain types of financial security; establishing the amount of evidence of financial security for wind energy facilities commenced after a certain date; updating statutory references; stating certain setback requirements for certain wind energy facilities; requiring the owner of a wind energy facility to file certain notification with the Corporation Commission; directing the Commission to prescribe the notification form and filing requirements; specifying inclusion of certain information; requiring copies of notification to be published in certain newspapers; directing the owner of the wind energy facility to hold a public meeting; listing conditions for the public meeting; prohibiting commencement of construction until the notification and public meeting requirements are met; establishing penalty; and providing for codification.

AUTHOR: Add the following Senate Coauthor: Marlatt

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to wind energy; amending 17 O.S. 2011, Section 160.15, which relates to the Oklahoma Wind Energy Development Act; changing the time for the submission of evidence of financial security for wind energy facilities commenced after a certain date; modifying certain types of evidence of financial security; establishing the amount of evidence of financial security for wind energy facilities commenced after a certain date; updating statutory references; stating certain setback requirements for certain wind energy facilities; providing for the reporting of certain compliance; specifying jurisdiction for certain disputes; requiring the owner of a wind energy facility to submit certain notification with the Corporation Commission; directing the Commission to prescribe the notification form and filing requirements; specifying inclusion of certain information; requiring copies of notification to be published in certain newspapers; directing the owner of the wind energy facility to hold a public meeting; listing conditions for the public meeting; prohibiting commencement of construction until the notification and public meeting requirements are met; establishing penalty; authorizing the Commission to promulgate rules and set fees; and providing for codification.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2011, Section 160.15, is amended to read as follows:

Section 160.15 A. ~~After the fifteenth year of operation~~ The owner of a wind energy facility~~, the owner~~ shall ~~file with~~ submit to the Corporation Commission evidence of financial security to cover the anticipated costs of decommissioning the wind energy facility. For a wind energy facility or portion thereof which reaches the commercial generation date prior to December 31, 2016, the evidence

of financial security shall be submitted after the fifteenth year of operation of the facility. For a wind energy facility or portion thereof which reaches the commercial generation date on or after December 31, 2016, the evidence of financial security shall be submitted by the fifth year of operation of the facility. Evidence of financial security may be in the form of a surety bond, collateral bond, parent guaranty, ~~or letter of credit~~ cash, cashier's check, certificate of deposit, bank joint custody receipt or other approved negotiable instrument as established in rules promulgated by the Commission.

B. ~~The~~ 1. For a wind energy facility which reaches the commercial generation date prior to December 31, 2016, the evidence of financial security shall be accompanied by an estimate of the total cost of decommissioning, minus the salvage value of the equipment, prepared by a professional engineer licensed in ~~the State of Oklahoma~~ this state. The amount of the evidence of financial security shall be either:

~~1. The~~

a. the estimate of the total cost of decommissioning minus the salvage value of the equipment which shall be ~~filed with~~ submitted to the Commission in the fifteenth year of the project and every tenth year thereafter for the life of the wind energy facility~~;~~, or

~~2. One~~

b. one hundred twenty-five percent (125%) of the estimate of the total cost of decommissioning which shall be ~~filed with~~ submitted to the Commission in the fifteenth year of the project.

2. For a wind energy facility which reaches the commercial generation date on or after December 31, 2016, the evidence of financial security shall be accompanied by an estimate of the total cost of decommissioning and an estimate of the salvage value of the equipment prepared by a professional engineer licensed in this state. The amount of the evidence of financial security shall be one hundred twenty-five percent (125%) of the estimate of the total cost of decommissioning, minus the salvage value of the equipment, which shall be submitted to the Commission by the fifth year after reaching the commercial generation date and thereafter upon request by the Commission.

C. If the owner of a wind energy facility fails to ~~file~~ submit the information with the Commission as is required by this section, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day.

D. In the event of a transfer of ownership of a wind energy facility, the evidence of financial security posted by the transferor shall remain in place and shall not be released until such time as evidence of financial security meeting the requirements

of this section is posted by the new owner of the wind energy facility and deemed acceptable by the Commission.

E. The provisions of this section shall apply to any wind energy facility or portion thereof entering into or renewing a power purchase agreement (PPA) for the energy generated by the wind energy facility on or after ~~the effective date of this act~~ January 1, 2011. If a wind energy facility does not sell its energy under a power purchase agreement, the provisions of this section shall apply to the wind energy facility or portion thereof which construction commences on or after ~~the effective date of this act~~ January 1, 2011.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.20 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. After the effective date of this act, no wind energy facility may be constructed if the base of any tower is located at a distance of less than:

1. One and one-half (1 1/2) nautical miles from the center line of any runway located on:

a. a public-use airport as defined in Section 120.2 of Title 3 of the Oklahoma Statutes,

b. a private-use airport as defined in Section 157.2 of Title 14 of the Code of Federal Regulations and for which:

(1) a notice to the Federal Aviation Administration (FAA) has been filed under Section 157.3 of Title 14 of the Code of Federal Regulations prior to the notification of intent to build a facility with the Corporation Commission pursuant to subsection A of Section 3 of this act, and

(2) an airport determination has been issued by the FAA with a determination of no objection or a conditional determination or the airport determination remains pending, or

c. an airport owned by a municipality;

2. One and one-half (1 1/2) nautical miles from any public school which is a part of a public school district; or

3. One and one-half (1 1/2) nautical miles from a hospital.

B. Attestation of compliance with the setback requirements in this section shall be included in any reports required by the Corporation Commission. Disputes arising under this section shall fall under the exclusive jurisdiction of the district courts.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.21 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The owner of a wind energy facility shall submit notification of intent to build a facility to the Corporation Commission within six (6) months of the initial filing pertaining to

commencement of construction with the Federal Aviation Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace. The Commission shall prescribe the form and submittal requirements of the notification; provided, the information required on the notification form shall include at least the same information required on the FAA form. The owner of the wind energy facility shall submit copies of the notification with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of filing with the Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be submitted to the governing body of the municipality within twenty-four (24) hours of filing with the Commission.

B. Within six (6) months of submitting the notification with the Commission as provided for in subsection A of this section, the owner of the wind energy facility shall cause a copy of the notification to be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located. Proof of publication shall be submitted to the Commission.

C. Within sixty (60) days of publishing the notification in a newspaper as provided for in subsection B of this section, the owner of the wind energy facility shall hold a public meeting. Notice of the public meeting shall be published in a newspaper of general circulation and submitted to the board of county commissioners in the county or counties in which all or a portion of the wind energy facility is to be located. The notice shall contain the place, date and time of the public meeting. Proof of publication of the notice shall be submitted to the Commission. The public meeting shall be held in one of the counties in which all or a portion of the wind energy facility is to be located.

D. The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information with the Commission as required in this section, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.22 of Title 17, unless there is created a duplication in numbering, reads as follows:

The Corporation Commission shall have authority to promulgate rules as necessary to implement the provisions of the Oklahoma Wind

Energy Development Act and to set fees necessary to carry out the duties and responsibilities of the Commission pursuant to the act."

Passed the House of Representatives the 7th day of April, 2015.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate