

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL NO. 808

By: Bingman

6 COMMITTEE SUBSTITUTE

7 An Act relating to wind energy; amending 17 O.S.  
8 2011, Section 160.15, which relates to the Oklahoma  
9 Wind Energy Development Act; changing the time for  
10 the filing of evidence of financial security for wind  
11 energy facilities commenced after a certain date;  
12 deleting certain types of financial security;  
13 establishing the amount of evidence of financial  
14 security for wind energy facilities commenced after a  
15 certain date; updating statutory references;  
16 prohibiting construction of wind energy facilities in  
17 certain locations; requiring the owner of a wind  
18 energy facility to file certain notification with the  
19 Corporation Commission; directing the Commission to  
20 prescribe the notification form and filing  
21 requirements; specifying inclusion of certain  
22 information; requiring copies of notification to be  
23 filed with certain counties and municipalities within  
24 a certain time; requiring copies of the notification  
to be published in certain newspapers; directing the  
owner of the wind energy facility to hold a public  
hearing; listing conditions for the public hearing;  
prohibiting commencement of construction until the  
notification and public hearing requirements are met;  
establishing penalty; providing for codification; and  
providing an effective date.

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

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

1 Section 160.15 A. ~~After the fifteenth year of operation of a~~  
2 ~~wind energy facility, the~~ The owner of a wind energy facility shall  
3 file with the Corporation Commission evidence of financial security  
4 to cover the anticipated costs of decommissioning the wind energy  
5 facility. For a wind energy facility or portion thereof which  
6 commences construction prior to January 1, 2016, the evidence of  
7 financial security shall be filed after the fifteenth year of  
8 operation of the facility. For a wind energy facility or portion  
9 thereof which commences construction on or after January 1, 2016,  
10 the evidence of financial security shall be filed prior to the  
11 commencement of construction. Evidence of financial security may be  
12 in the form of a surety bond, ~~collateral bond, parent guaranty, or~~  
13 ~~letter of credit.~~

14 B. ~~The~~ 1. For a wind energy facility which commences  
15 construction prior to January 1, 2016, the evidence of financial  
16 security shall be accompanied by an estimate of the total cost of  
17 decommissioning, minus the salvage value of the equipment, prepared  
18 by a professional engineer licensed in ~~the State of Oklahoma~~ this  
19 state. The amount of the evidence of financial security shall be  
20 either:

21 ~~1. The~~

22 a. the estimate of the total cost of decommissioning  
23 minus the salvage value of the equipment which shall  
24 be filed with the Commission in the fifteenth year of

1 the project and every tenth year thereafter for the  
2 life of the wind energy facility~~+~~, or

3 ~~2. One~~

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

8 2. For a wind energy facility which commences construction on  
9 or after January 1, 2016, the evidence of financial security shall  
10 be accompanied by an estimate of the total cost of decommissioning  
11 prepared by a professional engineer licensed in this state. The  
12 amount of the evidence of financial security shall be one hundred  
13 twenty-five percent (125%) of the estimate of the total cost of  
14 decommissioning which shall be filed with the Commission prior to  
15 commencement of construction and every fifth year thereafter for the  
16 life of the wind energy facility.

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

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

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

3 E. The provisions of this section shall apply to any wind  
4 energy facility or portion thereof entering into or renewing a power  
5 purchase agreement (PPA) for the energy generated by the wind energy  
6 facility on or after ~~the effective date of this act~~ January 1, 2011.

7 If a wind energy facility does not sell its energy under a power  
8 purchase agreement, the provisions of this section shall apply to  
9 the wind energy facility or portion thereof which construction  
10 commences on or after ~~the effective date of this act~~ January 1,  
11 2011.

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

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

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

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

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

1 (1) a notice to the Federal Aviation Administration  
2 (FAA) has been filed under Section 157.3 of Title  
3 14 of the Code of Federal Regulations, and

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

8 c. an airport owned by a municipality;

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

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

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

15 A. The owner of a wind energy facility shall file notification  
16 of intent to build a facility with the Corporation Commission within  
17 six (6) months of filing with the Federal Aviation Administration  
18 (FAA) an FAA Form 7460-1, Notice of Proposed Construction or  
19 Alteration, or any subsequent form required by the FAA for  
20 evaluating the impact a proposed wind energy facility will have on  
21 air commerce safety and the preservation of navigable airspace, or  
22 six (6) months prior to commencing construction on a wind energy  
23 facility, whichever date is earlier. The Commission shall prescribe  
24 the form and filing requirements of the notification; provided, the

1 information required on the notification form shall include at least  
2 the same information required on the FAA Form 7460-1. Copies of the  
3 notification shall also be filed with the board of county  
4 commissioners of every county in which all or a portion of the wind  
5 energy facility is to be located within twenty-four (24) hours of  
6 filing with the Commission. If all or a portion of the wind energy  
7 facility is to be located within the incorporated area of a  
8 municipality, copies of the notification shall also be filed with  
9 the governing body of the municipality within twenty-four (24) hours  
10 of filing with the Commission.

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

17 C. Within sixty (60) days of filing the notification with the  
18 Commission as provided for in subsection A of this section, the  
19 owner of the wind energy facility shall hold a public hearing.  
20 Notice of the public hearing shall be published in a newspaper of  
21 general circulation in the county or counties in which all or a  
22 portion of the wind energy facility is to be located. The notice  
23 shall contain the place, date, and time of the public hearing. The  
24

1 public hearing shall be held in one of the counties in which all or  
2 a portion of the wind energy facility is to be located.

3 D. The owner of a wind energy facility shall not commence  
4 construction on the facility until the notification and public  
5 hearing requirements of this section have been met. If an owner of  
6 a wind energy facility commences construction of the facility prior  
7 to meeting the notification and public hearing requirements of this  
8 section, the owner shall be subject to an administrative penalty not  
9 to exceed One Thousand Five Hundred Dollars (\$1,500.00) for every  
10 day of construction.

11 SECTION 4. This act shall become effective September 1, 2015.

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