

1 ENGROSSED HOUSE
2 BILL NO. 1549

By: Sears and McBride of the
House

3 and

4 Bingman, Quinn and Mazzei
5 of the Senate

6
7 An Act relating to wind energy; amending 17 O.S.
8 2011, Sections 160.13 and 160.15, which relate to the
9 Oklahoma Wind Energy Development Act; adding
10 definition; changing the time for the filing of
11 evidence of financial security for wind energy
12 facilities commenced after a certain date; modifying
13 acceptable types of financial security; establishing
14 the amount of evidence of financial security for wind
15 energy facilities commenced after a certain date;
16 updating statutory references; prohibiting
17 construction of wind energy facilities in certain
18 locations; requiring the owner of a wind energy
19 facility to file certain notification with the
20 Corporation Commission; directing the Commission to
21 prescribe the notification form and filing
22 requirements; specifying inclusion of certain
23 information; requiring copies of notification to be
24 filed with certain counties and municipalities within
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
meeting; listing conditions for the public meeting;
prohibiting commencement of construction until the
notification and public meeting requirements are met;
establishing penalty; providing for codification; and
providing an effective date.

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

28 SECTION 1. AMENDATORY 17 O.S. 2011, Section 160.13, is
29 amended to read as follows:

1 Section 160.13 As used in the Oklahoma Wind Energy Development
2 Act:

3 1. "Abandonment" means the failure to generate electricity from
4 commercial wind energy equipment for a period of twenty-four (24)
5 consecutive months for reasons other than curtailment, repowering, a
6 valid judicial order or other governmental regulatory action, with
7 no pending negotiations for purchase. A wind energy facility shall
8 not be considered abandoned if the owner or operator has elected not
9 to run the facility, but it has been maintained in proper working
10 order and is capable of generating electricity;

11 2. "Commencement of construction" means beginning excavation of
12 wind turbine foundations or other actions relating to the actual
13 erection and installation of commercial wind energy equipment. It
14 shall not include erection of meteorological towers, environmental
15 assessments, surveys, preliminary engineering or other activities
16 associated with assessment of development of the wind resources on a
17 given parcel of property;

18 3. "Commercial generation date" means the date on which the
19 wind turbine in question first generates electrical energy in
20 commercial quantities;

21 4. "Commercial wind energy equipment" means a wind tower and
22 turbine with five hundred kilowatts (500kw) or greater of total
23 nameplate generating capacity;

1 5. "Commercial quantities" means an amount of electrical energy
2 sufficient for sale or use off-site from a wind turbine or wind
3 energy facility, and shall not include amounts of electrical energy
4 used only for the maintenance or testing of the wind turbine or wind
5 energy facility itself;

6 6. "Interconnection agreement" means a signed agreement with
7 the Southwest Power Pool relating to the interconnection of a wind
8 energy facility;

9 7. "Owner" means the entity having a majority equity interest
10 in commercial wind energy equipment, including their respective
11 successors and assigns;

12 ~~7.~~ 8. "Useful life" means the time during which a wind turbine
13 or wind energy facility is generating electricity in commercial
14 quantities;

15 ~~8.~~ 9. "Wind turbine" means a wind energy conversion system
16 which converts wind energy into electricity through the use of a
17 wind turbine generator and includes the turbine, blade, tower, base
18 and pad transformer, if any; and

19 ~~9.~~ 10. "Wind energy facility" means an electrical generation
20 facility consisting of one or more wind turbines under common
21 ownership or operating control, and includes substations,
22 meteorological data towers, aboveground and underground electrical
23 transmission lines, transformers, control systems, and other
24 buildings or facilities used to support the operation of the

1 facility, and whose primary purpose is to supply electricity to an
2 off-site customer or customers. Wind energy facility shall not
3 include a wind energy facility located entirely on property held in
4 fee simple absolute estate by the owner of the wind energy facility.

5 SECTION 2. AMENDATORY 17 O.S. 2011, Section 160.15, is
6 amended to read as follows:

7 Section 160.15 A. ~~After the fifteenth year of operation of a~~
8 ~~wind energy facility, the~~ The owner of a wind energy facility shall
9 file with the Corporation Commission evidence of financial security
10 to cover the anticipated costs of decommissioning the wind energy
11 facility. For a wind energy facility or portion thereof which has
12 entered into an interconnection agreement prior to January 1, 2016,
13 the evidence of financial security shall be filed after the
14 fifteenth year of operation of the facility. For a wind energy
15 facility or portion thereof which enters into an interconnection
16 agreement on or after January 1, 2016, the evidence of financial
17 security shall be filed prior to commencement of construction.
18 Evidence of financial security may be in the form of a surety bond,
19 collateral bond, parent guaranty, ~~or letter of credit~~ cash,
20 cashier's check, certificate of deposit, bank joint custody receipt
21 or other approved negotiable instrument as established in rules
22 promulgated by the Commission.

23 B. ~~The~~ 1. For a wind energy facility which has entered into an
24 interconnection agreement prior to January 1, 2016, the evidence of

1 financial security shall be accompanied by an estimate of the total
2 cost of decommissioning, minus the salvage value of the equipment,
3 prepared by a professional engineer licensed in ~~the State of~~
4 ~~Oklahoma~~ this state. The amount of the evidence of financial
5 security shall be either:

6 ~~1. The~~

7 a. the estimate of the total cost of decommissioning
8 minus the salvage value of the equipment which shall
9 be filed with the Commission in the fifteenth year of
10 the project and every tenth year thereafter for the
11 life of the wind energy facility~~+~~, or

12 ~~2. One~~

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

17 2. For a wind energy facility which enters into an
18 interconnection agreement on or after January 1, 2016, the evidence
19 of financial security shall be accompanied by an estimate of the
20 total cost of decommissioning and an estimate of the salvage value
21 of the equipment prepared by a professional engineer licensed in
22 this state. The amount of the evidence of financial security shall
23 be one hundred twenty-five percent (125%) of the estimate of the
24 total cost of decommissioning, minus the salvage value of the

1 equipment, which shall be filed with the Commission prior to
2 commencement of construction and every fifth year thereafter for the
3 life of the wind energy facility.

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

8 D. In the event of a transfer of ownership of a wind energy
9 facility, the evidence of financial security posted by the
10 transferor shall remain in place and shall not be released until
11 such time as evidence of financial security meeting the requirements
12 of this section is posted by the new owner of the wind energy
13 facility and deemed acceptable by the Commission.

14 E. The provisions of this section shall apply to any wind
15 energy facility or portion thereof entering into or renewing a power
16 purchase agreement (PPA) for the energy generated by the wind energy
17 facility on or after ~~the effective date of this act~~ January 1, 2011.
18 If a wind energy facility does not sell its energy under a power
19 purchase agreement, the provisions of this section shall apply to
20 the wind energy facility or portion thereof which construction
21 commences on or after ~~the effective date of this act~~ January 1,
22 2011.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 160.20 of Title 17, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

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

14 (1) a notice to the Federal Aviation Administration
15 (FAA) has been filed under Section 157.3 of Title
16 14 of the Code of Federal Regulations prior to
17 the notification of intent to build a facility
18 with the Corporation Commission pursuant to
19 subsection A of Section 4 of this act, and

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

24 c. an airport owned by a municipality;

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

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

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 160.21 of Title 17, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The owner of a wind energy facility shall file notification
8 of intent to build a facility with the Corporation Commission within
9 six (6) months of the initial filing with the Federal Aviation
10 Administration (FAA) of a Form FAA 7460-1 (Notice of Proposed
11 Construction or Alteration) or any subsequent form required by the
12 FAA for evaluating the impact a proposed wind energy facility will
13 have on air commerce safety and the preservation of navigable
14 airspace. The Commission shall prescribe the form and filing
15 requirements of the notification; provided, the information required
16 on the notification form shall include at least the same information
17 required on the FAA form. Copies of the notification shall also be
18 filed with the board of county commissioners of every county in
19 which all or a portion of the wind energy facility is to be located
20 within twenty-four (24) hours of filing with the Commission. If all
21 or a portion of the wind energy facility is to be located within the
22 incorporated area of a municipality, copies of the notification
23 shall also be filed with the governing body of the municipality
24 within twenty-four (24) hours of filing with the Commission.

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

7 C. Within sixty (60) days of publishing the notification in a
8 newspaper as provided for in subsection B of this section, the owner
9 of the wind energy facility shall hold a public meeting. Notice of
10 the public meeting shall be published in a newspaper of general
11 circulation in the county or counties in which all or a portion of
12 the wind energy facility is to be located. The notice shall contain
13 the place, date and time of the public meeting. The public meeting
14 shall be held in one of the counties in which all or a portion of
15 the wind energy facility is to be located.

16 D. The owner of a wind energy facility shall not commence
17 construction on the facility until the notification and public
18 meeting requirements of this section have been met. If an owner of
19 a wind energy facility commences construction of the facility prior
20 to meeting the notification and public meeting requirements of this
21 section, the owner shall be subject to an administrative penalty not
22 to exceed One Thousand Five Hundred Dollars (\$1,500.00) for every
23 day of construction.

24 SECTION 5. This act shall become effective September 1, 2015.

1 Passed the House of Representatives the 11th day of March, 2015.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2015.

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9 Presiding Officer of the Senate