

1 ENGROSSED SENATE
2 BILL NO. 808

By: Bingman and Fields of the
Senate

3 and

4 Sears of the House

5
6 An Act relating to wind energy; amending 17 O.S.
7 2011, Section 160.15, which relates to the Oklahoma
8 Wind Energy Development Act; changing the time for
9 the filing of evidence of financial security for wind
10 energy facilities commenced after a certain date;
11 modifying certain types of financial security;
12 establishing the amount of evidence of financial
13 security for wind energy facilities commenced after a
14 certain date; updating statutory references; stating
15 certain setback requirements for certain wind energy
16 facilities; requiring the owner of a wind energy
17 facility to file certain notification with the
18 Corporation Commission; directing the Commission to
19 prescribe the notification form and filing
20 requirements; specifying inclusion of certain
21 information; requiring copies of notification to be
22 published in certain newspapers; directing the owner
23 of the wind energy facility to hold a public meeting;
24 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.

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 of a~~
~~wind energy facility, the~~ The owner of a wind energy facility shall
file with the Corporation Commission evidence of financial security

1 to cover the anticipated costs of decommissioning the wind energy
2 facility. For a wind energy facility or portion thereof which
3 reaches the commercial generation date prior to December 31, 2016,
4 the evidence of financial security shall be filed after the
5 fifteenth year of operation of the facility. For a wind energy
6 facility or portion thereof which reaches the commercial generation
7 date after December 31, 2016, the evidence of financial security
8 shall be filed by the fifth year of operation of the facility.
9 Evidence of financial security may be in the form of a surety bond,
10 collateral bond, parent guaranty, ~~or letter of credit~~ cash,
11 cashier's check, certificate of deposit, bank joint custody receipt
12 or other approved negotiable instrument as established in rules
13 promulgated by the Commission.

14 B. ~~The~~ 1. For a wind energy facility which reaches the
15 commercial generation date by December 31, 2016, the evidence of
16 financial security shall be accompanied by an estimate of the total
17 cost of decommissioning, minus the salvage value of the equipment,
18 prepared by a professional engineer licensed in ~~the State of~~
19 ~~Oklahoma~~ this state. The amount of the evidence of financial
20 security shall be 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 reaches the commercial
9 generation date after December 31, 2016, the evidence of financial
10 security shall be accompanied by an estimate of the total cost of
11 decommissioning and an estimate of the salvage value of the
12 equipment prepared by a professional engineer licensed in this
13 state. The amount of the evidence of financial security shall be
14 one hundred twenty-five percent (125%) of the estimate of the total
15 cost of decommissioning, minus the salvage value of the equipment,
16 which shall be filed with the Commission prior to commencement of
17 construction and every fifth year thereafter for the life of the
18 wind energy facility.

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

23 D. In the event of a transfer of ownership of a wind energy
24 facility, the evidence of financial security posted by the

1 transferor shall remain in place and shall not be released until
2 such time as evidence of financial security meeting the requirements
3 of this section is posted by the new owner of the wind energy
4 facility and deemed acceptable by the Commission.

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

9 If a wind energy facility does not sell its energy under a power
10 purchase agreement, the provisions of this section shall apply to
11 the wind energy facility or portion thereof which construction
12 commences on or after ~~the effective date of this act~~ January 1,
13 2011.

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

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

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

- 22 a. a public-use airport as defined in Section 120.2 of
23 Title 3 of the Oklahoma Statutes,
24

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

4 (1) a notice to the Federal Aviation Administration
5 (FAA) has been filed under Section 157.3 of Title
6 14 of the Code of Federal Regulations, and

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

11 c. an airport owned by a municipality;

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

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

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

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

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

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

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

1 shall be held in one of the counties in which all or a portion of
2 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 meeting 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 meeting 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 Passed the Senate the 12th day of March, 2015.

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13 _____
14 Presiding Officer of the Senate

15 Passed the House of Representatives the ____ day of _____,
16 2015.

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18 _____
19 Presiding Officer of the House
20 of Representatives
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