

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1549

By: Sears

COMMITTEE SUBSTITUTE

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; deleting 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; prohibiting construction of wind energy facilities in certain locations; 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 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 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.

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 to cover the anticipated costs of decommissioning the wind energy facility. For a wind energy facility or portion thereof which commences construction prior to January 1, 2016, the evidence of financial security shall be filed after the fifteenth year of operation of the facility. For a wind energy facility or portion thereof which commences construction on or after January 1, 2016, the evidence of financial security shall be filed prior to the commencement of construction. Evidence of financial security may be in the form of a surety bond, ~~collateral bond, parent guaranty, or letter of credit.~~

B. ~~The~~ 1. For a wind energy facility which commences construction prior to January 1, 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~~

1        a.    the estimate of the total cost of decommissioning  
2            minus the salvage value of the equipment which shall  
3            be filed with the Commission in the fifteenth year of  
4            the project and every tenth year thereafter for the  
5            life of the wind energy facility~~+~~1, or

6        ~~2.~~ ~~One~~

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

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

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

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

7 E. The provisions of this section shall apply to any wind  
8 energy facility or portion thereof entering into or renewing a power  
9 purchase agreement (PPA) for the energy generated by the wind energy  
10 facility on or after ~~the effective date of this act~~ January 1, 2011.  
11 If a wind energy facility does not sell its energy under a power  
12 purchase agreement, the provisions of this section shall apply to  
13 the wind energy facility or portion thereof which construction  
14 commences on or after ~~the effective date of this act~~ January 1,  
15 2011.

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

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

22 1. One and one-half (1 1/2) nautical miles from the center line  
23 of any runway located on:  
24

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

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

6                (1)   a notice to the Federal Aviation Administration  
7                       (FAA) has been filed under Section 157.3 of Title  
8                       14 of the Code of Federal Regulations, and

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

13           c.    an airport owned by a municipality;

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

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

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

20           A.    The owner of a wind energy facility shall file notification  
21           of intent to build a facility with the Corporation Commission within  
22           six (6) months of filing with the Federal Aviation Administration  
23           (FAA) a Form FAA 7460-1 (Notice of Proposed Construction or  
24           Alteration) or any subsequent form required by the FAA for

1 evaluating the impact a proposed wind energy facility will have on  
2 air commerce safety and the preservation of navigable airspace, or  
3 six (6) months prior to commencing construction on a wind energy  
4 facility, whichever date is earlier. The Commission shall prescribe  
5 the form and filing requirements of the notification; provided, the  
6 information required on the notification form shall include at least  
7 the same information required on the FAA form. Copies of the  
8 notification shall also be filed with the board of county  
9 commissioners of every county in which all or a portion of the wind  
10 energy facility is to be located within twenty-four (24) hours of  
11 filing with the Commission. If all or a portion of the wind energy  
12 facility is to be located within the incorporated area of a  
13 municipality, copies of the notification shall also be filed with  
14 the governing body of the municipality within twenty-four (24) hours  
15 of filing with the Commission.

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

22 C. Within sixty (60) days of filing the notification with the  
23 Commission as provided for in subsection A of this section, the  
24 owner of the wind energy facility shall hold a public hearing.

1 Notice of the public hearing shall be published in a newspaper of  
2 general circulation in the county or counties in which all or a  
3 portion of the wind energy facility is to be located. The notice  
4 shall contain the place, date and time of the public hearing. The  
5 public hearing shall be held in one of the counties in which all or  
6 a portion of the wind energy facility is to be located.

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

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