

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 808, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Bingman

Bingman -MJM-FS-Req#1588
2/18/2016 5:01 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 808

By: Bingman and Fields of the
Senate

and

Sears of the House

FLOOR 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;
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.

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

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

3 Section 160.15 A. ~~After the fifteenth year of operation of a~~
4 ~~wind energy facility, the~~ The owner of a wind energy facility shall
5 file with the Corporation Commission evidence of financial security
6 to cover the anticipated costs of decommissioning the wind energy
7 facility. For a wind energy facility or portion thereof which
8 reaches the commercial generation date prior to December 31, 2016,
9 the evidence of financial security shall be filed after the
10 fifteenth year of operation of the facility. For a wind energy
11 facility or portion thereof which reaches the commercial generation
12 date after December 31, 2016, the evidence of financial security
13 shall be filed by the fifth year of operation of the facility.
14 Evidence of financial security may be in the form of a surety bond,
15 collateral bond, parent guaranty, ~~or letter of credit~~ cash, cashiers
16 check, certificate of deposit, bank joint custody receipt or other
17 approved negotiable instrument as established in rules promulgated
18 by the Commission.

19 B. ~~The~~ 1. For a wind energy facility which reaches the
20 commercial generation date by December 31, 2016, the evidence of
21 financial security shall be accompanied by an estimate of the total
22 cost of decommissioning, minus the salvage value of the equipment,
23 prepared by a professional engineer licensed in the State of
24

1 ~~Oklahoma~~ this state. The amount of the evidence of financial
2 security shall be either:

3 ~~1. The~~

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

9 ~~2. One~~

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

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

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

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

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

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 160.20 of Title 17, unless there
22 is created a duplication in numbering, reads as follows:
23
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1 After the effective date of this act, no wind energy facility
2 may be constructed if the base of any tower is located at a distance
3 of less than:

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

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

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

11 (1) a notice to the Federal Aviation Administration
12 (FAA) has been filed under Section 157.3 of Title
13 14 of the Code of Federal Regulations, and

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

18 c. an airport owned by a municipality;

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

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

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

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

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

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

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

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19 55-1-1588

MJM

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