

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1549

By: Sears

AS INTRODUCED

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; 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; authorizing certain municipalities to adopt stricter setback distances; 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 and mailed to certain owners; 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~~

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

~~2. — One~~

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

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

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

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

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

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

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

1. One-half (1/2) mile or two thousand six hundred forty (2,640) feet from the property line of a contiguous or adjacent

property owner, except with the express written consent of all owners of the contiguous or adjacent property;

2. One-half (1/2) mile or two thousand six hundred forty (2,640) feet from any public road right-of-way;

3. One (1) mile or five thousand two hundred eighty (5,280) feet from a permanent residential dwelling or occupied structure, except with the express written consent of all owners of the residential dwelling or occupied structure. In no case shall the distance from the base of a tower be located less than one-fourth (1/4) mile or one thousand three hundred twenty (1,320) feet;

4. Three (3) miles from the limits of any city, town or community consisting of five or more residential structures;

5. Three (3) miles from any airport, landing strip or airfield;

6. Three (3) miles from any school or hospital; and

7. One-half (1/2) mile or two thousand six hundred forty (2,640) feet from any producing oil or gas well or other above-ground oil or gas facility without the written consent of the person holding title to the oil or gas well or other above-ground oil or gas facility.

B. The governing body of municipalities may adopt setback distance greater than those required by this section for wind energy facilities all or a portion of which are located in the incorporated area of the municipality in order to promote the health, safety, peace and general welfare of the public.

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

A. The owner of a wind energy facility shall file notification of intent to build a facility with the Corporation Commission within ten (10) days of filing with the Federal Aviation Administration (FAA) a Form FAA 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace, or six (6) months prior to commencing construction on a wind energy facility, whichever date is earlier. The Commission shall prescribe the form and filing requirements of the notification; provided, the information required on the notification form shall include at least the same information required on the FAA form. Copies of the notification shall also be filed with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of filing with the Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be filed with the governing body of the municipality within twenty-four (24) hours of filing with the Commission.

B. Within ten (10) days of filing the notification with the Commission as provided for in subsection A of this section, the owner of the wind energy facility shall:

1. Cause a copy of the notification to be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located; and

2. Mail by certified mail, return receipt requested, a copy of the notification to all owners of record of real property any portion of which is located within five (5) miles of the proposed location of any wind tower of the wind energy facility.

C. Within sixty (60) days of filing the notification with the Commission as provided for in subsection A of this section, the owner of the wind energy facility shall hold a public hearing. Notice of the public hearing shall be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located and shall be mailed to all owners of record of real property any portion of which is located within five (5) miles of the proposed location of any wind tower of the wind energy facility. The notice shall contain the place, date and time of the public hearing. The public hearing shall be held in a facility adequate to accommodate the anticipated attendance which is located in one of the counties in which all or a portion of the wind energy facility is to be located.

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

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

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