

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1576

By: Schulz and Murdock of the
Senate

and

Ortega of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to the Corporation Commission;
12 amending Section 2, Chapter 92, O.S.L. 2015, as
13 amended by Section 2, Chapter 45, O.S.L. 2017 and
14 Section 3, Chapter 92, O.S.L. 2015, as amended by
15 Section 1, Chapter 45, O.S.L. 2017 (17 O.S. Supp.
16 2017, Sections 160.20 and 160.21), which relate to
17 setback requirements and notification of intent to
18 build a facility; prohibiting the construction of
19 wind facilities in certain circumstances; providing
20 exception to prohibition; requiring certain
21 submissions; requiring Corporation Commission to
22 promulgate rules; updating references; requiring
23 certain notification; and declaring an emergency.

24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 92, O.S.L.
2015, as amended by Section 2, Chapter 45, O.S.L. 2017 (17 O.S.
Supp. 2017, Section 160.20), is amended to read as follows:

1 Section 160.20 A. After ~~the effective date of this act~~ August
2 21, 2015, no wind energy facility may be constructed if the base of
3 any tower is located at a distance 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, or

8 b. an airport owned by a municipality;

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

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

12 B. Attestation of compliance with the setback requirements in
13 this section shall be included in any reports required by the
14 Corporation Commission. Disputes arising under this section shall
15 fall under the exclusive jurisdiction of the district courts.

16 C. After the effective date of this act, construction or
17 operation of a proposed wind energy facility or proposed wind energy
18 facility expansion shall not encroach upon or otherwise have a
19 significant adverse impact on the mission, training or operations of
20 any military installation or branch of military as determined by the
21 Military Aviation and Installation Assurance Siting Clearinghouse
22 and the Federal Aviation Administration. Areas of impact include
23 but are not limited to military training routes, drop zones,
24 approaches to runways and bombing ranges. No wind energy facility

1 may be constructed or expanded unless an active Determination of No
2 Hazard from the Federal Aviation Administration or an approved
3 mitigation plan is obtained from the Military Aviation and
4 Installation Assurance Siting Clearinghouse.

5 1. The Determination of No Hazard or mitigation plan shall be
6 submitted to the Corporation Commission.

7 2. The requirements established by this subsection shall not
8 prohibit a wind energy facility construction or wind energy facility
9 expansion if those facilities or facility expansions obtain a
10 written Determination of No Hazard or mitigation plan on or before
11 the effective date of this act.

12 3. The Corporation Commission shall promulgate rules and
13 regulations for the implementation of the provisions of this
14 section.

15 SECTION 2. AMENDATORY Section 3, Chapter 92, O.S.L.
16 2015, as amended by Section 1, Chapter 45, O.S.L. 2017 (17 O.S.
17 Supp. 2017, Section 160.21), is amended to read as follows:

18 Section 160.21 A. The owner of a wind energy facility shall
19 submit notification of intent to build a facility to the Corporation
20 Commission within six (6) months of the initial filing pertaining to
21 commencement of construction with the Federal Aviation
22 Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed
23 Construction or Alteration) or any subsequent form required by the
24 FAA for evaluating the impact a proposed wind energy facility will

1 have on air commerce safety and the preservation of navigable
2 airspace. The Corporation Commission shall prescribe the form and
3 submittal requirements of the notification; provided, the
4 information required on the notification form shall include at least
5 the same information required on the FAA form. The owner of the
6 wind energy facility shall ~~submit~~ send copies of the notification
7 with the board of county commissioners of every county in which all
8 or a portion of the wind energy facility is to be located within
9 twenty-four (24) hours of filing with the Corporation Commission.
10 If all or a portion of the wind energy facility is to be located
11 within the incorporated area of a municipality, copies of the
12 notification shall also be ~~submitted~~ sent to the governing body of
13 the municipality within twenty-four (24) hours of filing with the
14 Commission.

15 B. Within thirty (30) days of submitting the notification to
16 the Corporation Commission, as provided for in subsection A of this
17 section, the owner of the wind energy facility shall cause a copy of
18 the notification to be submitted to the Oklahoma Strategic Military
19 Planning Commission. The Oklahoma Strategic Military Planning
20 Commission shall notify local base commanders upon receipt of the
21 notification. The Oklahoma Strategic Military Planning Commission
22 shall submit a letter to the Military Aviation and Installation
23 Assurance Siting Clearinghouse outlining potential areas of impact,
24 as provided in Section 160.20 of this title, within thirty (30) days

1 of receipt of the notification. The letter from the Oklahoma
2 Strategic Military Planning Commission shall be submitted to the
3 Corporation Commission.

4 C. Within six (6) months of submitting the notification with
5 the Commission as provided for in subsection A of this section, the
6 owner of the wind energy facility shall cause a copy of the
7 notification to be published in a newspaper of general circulation
8 in the county or counties in which all or a portion of the wind
9 energy facility is to be located. Proof of publication shall be
10 submitted to the Commission.

11 ~~C.~~ D. Within six (6) months of submitting the notification with
12 the Commission as provided in subsection A of this section, the
13 owner of the wind energy facility shall cause a copy of the
14 notification to be sent, by certified mail, to:

15 1. Any operator, as reflected in the records of the Corporation
16 Commission, who is conducting oil and gas operations upon all or any
17 part of the surface estate as to which the wind energy developer
18 intends the construction of the wind energy facility;

19 2. Any operator, as reflected in the records of the
20 Corporation Commission, of an unspaced unit, or a unit created by
21 order of the Corporation Commission, who is conducting oil and gas
22 operations for the unit where all or any part of the unit area is
23 within the geographical boundaries of the surface estate as to which
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1 the wind energy developer intends the construction of the wind
2 energy facility; and

3 3. As to tracts of land not described in paragraphs 1 and 2 of
4 this subsection on which the wind energy developer intends to
5 construct a wind energy facility, all lessees of oil and gas leases
6 covering the mineral estate underlying any part of the tracts of
7 land that are filed of record with county clerk in the county where
8 the tracts are located and whose primary term has not expired.

9 If the wind energy developer makes a search with reasonable
10 diligence, and the whereabouts of a party entitled to any notice
11 described in this subsection cannot be ascertained or such notice
12 cannot be delivered, then an affidavit attesting to such diligent
13 search for the parties shall be placed in the records of the county
14 clerk where the surface estate is actually located.

15 ~~D.~~ E. Within sixty (60) days of publishing the notification in
16 a newspaper as provided for in subsection ~~B~~ C of this section, the
17 owner of the wind energy facility shall hold a public meeting.
18 Notice of the public meeting shall be published in a newspaper of
19 general circulation and submitted to the board of county
20 commissioners in the county or counties in which all or a portion of
21 the wind energy facility is to be located. The notice shall contain
22 the place, date and time of the public meeting. Proof of
23 publication of the notice shall be submitted to the Commission. The
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1 public meeting shall be held in one of the counties in which all or
2 a portion of the wind energy facility is to be located.

3 ~~E.~~ F. With regard to the surface estate upon which the owner of
4 a wind energy facility intends to construct a wind energy facility,
5 at least sixty (60) days before entering upon the surface estate for
6 the purposes of commencement of construction of the wind energy
7 facility, the owner shall provide written notice, by certified mail,
8 of its intent to construct the wind energy facility to:

9 1. Any operator, as reflected in the records of the Corporation
10 Commission, who is conducting oil and gas operations upon all or any
11 part of the surface estate as to which the wind energy developer
12 intends the construction of the wind energy facility;

13 2. Any operator, as reflected in the records of the Corporation
14 Commission, of an unspaced unit, or a unit created by order of the
15 Corporation Commission, who is conducting oil and gas operations for
16 the unit where all or any part of the unit area is within the
17 geographical boundaries of the surface estate as to which the wind
18 energy developer intends the construction of the wind energy
19 facility; and

20 3. As to tracts of land not described in paragraphs 1 and 2 of
21 this subsection on which the wind energy developer intends to
22 construct a wind energy facility, all lessees of oil and gas leases
23 covering the mineral estate underlying any part of the tracts of
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1 land that are filed of record with county clerk in the county where
2 the tracts are located and whose primary term has not expired.

3 The notice shall contain a map or plat of the proposed location,
4 with sufficient specificity of all of the various elements of the
5 wind energy facility to be located on the governmental section which
6 includes all or any part of the tracts of land described in
7 paragraphs 1, 2 and 3 of this subsection and the approximate date
8 that the owner of the wind energy facility proposes to commence
9 construction. If the wind energy developer makes a search with
10 reasonable diligence, and the whereabouts of a party entitled to any
11 notice described in this subsection cannot be ascertained or such
12 notice cannot be delivered, then an affidavit attesting to such
13 diligent search for the parties shall be placed in the records of
14 the county clerk where the surface estate is actually located.
15 Within thirty (30) days of receiving said notice, any operator, as
16 described in paragraphs 1, 2 and 3 of this subsection shall
17 reciprocate, in writing by certified mail, certain site, operational
18 and infrastructure information, with sufficient specificity, to be
19 shared with the owner of the wind energy facility to assist both
20 with the safe construction and operation pertaining to the surface
21 estate. This information should include ALTA surveys of existing
22 subsurface and surface improvements on the property, if any, as well
23 as other technical specifications for existing improvements such as
24 pipe size, material, capacity and depth.

1 ~~F.~~ G. The owner of a wind energy facility shall not commence
2 construction on the facility until the notification and public
3 meeting requirements of this section have been met. If an owner of
4 a wind energy facility fails to submit the information ~~with the~~
5 ~~Commission~~ as required in this section, the owner shall be subject
6 to an administrative penalty from the Corporation Commission not to
7 exceed One Thousand Five Hundred Dollars (\$1,500.00) per day.

8 SECTION 3. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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13 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/11/2018 - DO PASS,
14 As Amended.
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