

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1302

By: Pederson

AS INTRODUCED

An Act relating to wind energy facilities; amending Section 2, Chapter 92, O.S.L. 2015, as last amended by Section 1, Chapter 310, O.S.L. 2019 (17 O.S. Supp. 2019, Section 160.20), which relates to setback requirements; providing definition; adding certain private-use airports to setback requirement for wind energy facilities; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 92, O.S.L. 2015, as last amended by Section 1, Chapter 310, O.S.L. 2019 (17 O.S. Supp. 2019, Section 160.20), is amended to read as follows:

Section 160.20. A. After August 21, 2015, no wind energy facility may be constructed if the base of any tower is located at a distance of less than:

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

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

b. a private-use airport as defined in Section 157.2 of Title 14 of the Code of Federal Regulations which, prior to April 17, 2015, met the following four (4) requirements:

(1) was depicted as an airfield or airport on a Federal Aviation Administration (FAA) sectional navigation chart,

(2) was identified in the FAA National Aviation Systems Resources dataset,

(3) had an aircraft registered either at the airstrip location or had an aircraft registered to the airport owner or manager, and

(4) usage criteria of at least twenty-four flights per calendar year, or

c. an airport owned by a municipality;

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

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

B. Attestation of compliance with the setback requirements in this section shall be included in any reports required by the Corporation Commission. Stakeholder and landowner disputes arising under subsection A of this section shall fall under the exclusive jurisdiction of the district courts. The Corporation Commission may seek enforcement of the submission and attestation requirements of

1 this subsection and subsection C of this section through its  
2 administrative court system.

3 C. After ~~the effective date of this act~~ May 2, 2018,  
4 construction or operation of a proposed individual wind turbine or  
5 any other individual structure requiring a ~~Federal Aviation~~  
6 ~~Administration (FAA)~~ FAA Form 7460-1 that is part of a wind energy  
7 facility shall not encroach upon or otherwise have a significant  
8 adverse impact on the mission, training or operations of any  
9 military installation or branch of military as determined by the  
10 Military Aviation and Installation Assurance Siting Clearinghouse  
11 (Clearinghouse) and the FAA. Areas of impact include, but are not  
12 limited to, military training routes, drop zones, approaches to  
13 runways and bombing ranges. No individual wind turbine or any other  
14 individual structure that requires a FAA 7460-1 form that is part of  
15 a wind energy facility may be constructed or expanded unless there  
16 is an active Determination of No Hazard from the FAA and adverse  
17 impacts to the United States Department of Defense, pursuant to  
18 Title 32 of the Code of Federal Regulations, Section 211.6, have  
19 been resolved as evidenced by documentation from the Clearinghouse  
20 for the individual wind turbine or other individual structure. The  
21 Mission Compatibility Certification Letter or successor form may  
22 serve as such evidence of adverse impacts being resolved with the  
23 Department of Defense or successor agency.

1        1. The Determination of No Hazard and documentation of the  
2 resolution of adverse impacts to the Department of Defense shall be  
3 filed with the Corporation Commission and the Oklahoma Aeronautics  
4 Commission.

5        2. The requirements established by this subsection shall not  
6 prohibit the construction of an individual wind turbine or any other  
7 individual structure requiring a FAA 7460-1 form that is part of a  
8 wind energy facility if that individual wind turbine or other  
9 individual structure has received a Determination of No Hazard or  
10 mitigation plan on or before ~~the effective date of this act~~ May 2,  
11 2018.

12        3. The Corporation Commission is authorized to promulgate rules  
13 and regulations for the implementation of the provisions of this  
14 section and Section 160.21 of this title.

15        D. If an owner of a wind energy facility fails to submit an  
16 active Determination of No Hazard and documentation that adverse  
17 impacts to the Department of Defense have been resolved by the  
18 Clearinghouse for the individual wind turbine or other individual  
19 structure prior to the start of construction, the owner shall be  
20 subject to an administrative penalty not to exceed One Thousand Five  
21 Hundred Dollars (\$1,500.00) per day, per violation from the  
22 Corporation Commission as provided by law. In addition,  
23 stakeholders, including, but not limited to, the Corporation  
24 Commission or the Aeronautics Commission may institute an action in

1 any court of general jurisdiction to prevent, restrain, correct or  
2 abate any violation of subsection C of this section other than  
3 Corporation Commission actions related to submissions or  
4 attestations.

5 SECTION 2. This act shall become effective November 1, 2020.

6  
7 57-2-3343 CB 1/13/2020 11:01:14 AM  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25