

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 1694

By: Newton

AS INTRODUCED

An Act relating to airports; 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. 2020, Section 160.20), which relates to setback requirements for wind turbines; prohibiting the building of certain structures within certain proximity of airports; providing for a status challenge of certain airports; listing certain airport status requirements; providing for certain rejection of airport status; allowing for certain release; 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. 2020, Section 160.20), is amended to read as follows:

Section 160.20 A. After August 21, 2015, no wind energy facility or any vertical structure over three hundred (300) feet tall 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:

1 a. a public-use airport as defined in Section 120.2 of
2 Title 3 of the Oklahoma Statutes, or a private-use
3 airport as defined in Section 157.2 of Title 14 of the
4 Code of Federal Regulations and which was depicted as
5 an airfield or airport on a Federal Aviation
6 Administration sectional aeronautical chart; provided,
7 however, that such status as an airfield or airport
8 may be challenged by an official vote of the Oklahoma
9 Aeronautics Commission, in which case an airport
10 status inspection shall be made of the airfield or
11 airport, which must show it meets the three following
12 requirements:

13 (1) the owner or manager of said airfield or airport
14 is a pilot licensed by the Federal Aviation
15 Administration,

16 (2) an aircraft is based at the airport as defined by
17 regulations and records of the Federal Aviation
18 Administration, or

19 (3) the airport owner or manager demonstrates
20 evidence or documentation of takeoff and landing
21 of aircraft from said airfield or airport.

22 If the airport fails to meet the aforementioned
23 requirements, its status as an airport shall be
24 rejected. However, an airport owner may sign a

1 release allowing a wind facility to be constructed in
2 closer proximity to his or her airport than the
3 requirements of this subsection.

4 b. an airport owned by a municipality;

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

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

8 B. Attestation of compliance with the setback requirements in
9 this section shall be included in any reports required by the
10 Oklahoma Corporation Commission. Stakeholder and landowner disputes
11 arising under subsection A of this section shall fall under the
12 exclusive jurisdiction of the district courts. The Corporation
13 Commission may seek enforcement of the submission and attestation
14 requirements of this subsection and subsection C of this section
15 through its administrative court system.

16 C. After the effective date of this act, construction or
17 operation of a proposed individual wind turbine or any other
18 individual structure requiring a Federal Aviation Administration
19 (FAA) Form 7460-1 that is part of a wind energy facility shall not
20 encroach upon or otherwise have a significant adverse impact on the
21 mission, training or operations of any military installation or
22 branch of military as determined by the Military Aviation and
23 Installation Assurance Siting Clearinghouse (Clearinghouse) and the
24 FAA. Areas of impact include, but are not limited to, military

1 training routes, drop zones, approaches to runways and bombing
2 ranges. No individual wind turbine or any other individual
3 structure that requires a FAA Form 7460-1 ~~form~~ that is part of a
4 wind energy facility may be constructed or expanded unless there is
5 an active Determination of No Hazard from the FAA and adverse
6 impacts to the United States Department of Defense, pursuant to
7 Section 211.6 of Title 32 of the Code of Federal Regulations,
8 ~~Section 211.6,~~ have been resolved as evidenced by documentation from
9 the Clearinghouse for the individual wind turbine or other
10 individual structure. The Mission Compatibility Certification
11 Letter or successor form may serve as such evidence of adverse
12 impacts being resolved with the Department of Defense or successor
13 agency.

14 1. The Determination of No Hazard and documentation of the
15 resolution of adverse impacts to the Department of Defense shall be
16 filed with the Corporation Commission and the Oklahoma Aeronautics
17 Commission.

18 2. The requirements established by this subsection shall not
19 prohibit the construction of an individual wind turbine or any other
20 individual structure requiring a FAA Form 7460-1 ~~form~~ that is part
21 of a wind energy facility if that individual wind turbine or other
22 individual structure has received a Determination of No Hazard or
23 mitigation plan on or before the effective date of this act.

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

4 D. If an owner of a wind energy facility fails to submit an
5 active Determination of No Hazard and documentation that adverse
6 impacts to the Department of Defense have been resolved by the
7 Clearinghouse for the individual wind turbine or other individual
8 structure prior to the start of construction, the owner shall be
9 subject to an administrative penalty not to exceed One Thousand Five
10 Hundred Dollars (\$1,500.00) per day, per violation from the
11 Corporation Commission as provided by law. In addition,
12 stakeholders, including, but not limited to, the Corporation
13 Commission or the Aeronautics Commission may institute an action in
14 any court of general jurisdiction to prevent, restrain, correct or
15 abate any violation of subsection C of this section other than
16 Corporation Commission actions related to submissions or
17 attestations.

18 SECTION 2. This act shall become effective November 1, 2021.
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