

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 2 By: Green, Thompson, and
Seifried of the Senate
3
and
4
Pfeiffer of the House
5
6
7

8 An Act relating to wind energy facilities; amending
17 O.S. 2021, Section 160.20, as amended by Section
9 21, Chapter 126, O.S.L. 2023 (17 O.S. Supp. 2024,
Section 160.20), which relates to setback
10 requirements; providing setback requirements for
certain wind energy facility towers from certain
11 dwellings and property boundaries; updating statutory
language; and providing an effective date.
12

13
14
15 AUTHOR: Remove Representative Pfeiffer as principal House
author and substitute with Representative Caldwell
16 (Trey)
17

18 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
and insert:
19

20
21 "[wind energy - legislative findings - setback
22 requirement - waiver - owners of real property -
23 procedures for referral of question to eligible
24 voters - zoning provisions - period of construction

1 - exemption - filings - Oklahoma Corporation
2 Commission - database - noncodification -
3 codification]
4
5

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

7 SECTION 1. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 The Legislature finds that construction and operation of wind
10 turbines and construction of the towers used in connection with wind
11 turbines is a matter which is the proper subject of legislation.
12 The Legislature finds that the height of towers used to support
13 commercial wind turbines for production of electrical energy by
14 means of wind power is a potential issue with respect to setback
15 limitations and that there is a need for uniformity in areas of the
16 state likely to be affected by the construction and operation of
17 towers and wind turbines. The Legislature finds that consideration
18 of population density and average wind speed are a logical basis in
19 order to enact legislation related to setback requirements for the
20 structures used in the wind energy industry that pose risks related
21 to either persons or property or both in the event of damage to the
22 structures or structural failures.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.21.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. "Affected county" means a county having a population density greater than eight and five-tenths (8.5) persons per square mile according to the 2020 Federal Decennial Census or most recent population estimate and a county which has an average wind speed of less than nine and five-tenths (9.5) miles per hour according to the most recent climatology documents by county from the Oklahoma Climatological Survey as of the effective date of this act;

2. "Dwelling" means a structure occupied by one or more persons for at least six (6) months during a single calendar year or which is occupied by one or more persons for an average of more than fifty percent (50%) of the time during any other period of time in excess of one (1) year. As used in this section, dwelling shall not include a motor home or recreational vehicle;

3. "Improvement to real property" means a residential dwelling or a building used or suitable for use by a for-profit or nonprofit entity. As used in this act, improvement shall not include a fence;

4. "Industrial wind turbine" means a device used for the production of electrical energy by means of wind;

5. "Substantial construction activity" means movement or grading of earth at the site of a tower and pouring of concrete or

1 installation of material designed to support the weight of a tower
2 or both such activities and shall require due diligence and the
3 conduct of activity which is continuous without any cessation of
4 such activity for a period in excess of sixty (60) days;

5 6. "Tip height" means the highest measurable point of a tower
6 upon which an industrial wind turbine is installed or is capable of
7 being installed, including the height of the turbine itself without
8 regard to any period of time during which a turbine is removed from
9 the tower; and

10 7. "Tower" means a vertical structure used in order to support
11 an industrial wind turbine.

12 B. Except as provided by Section 160.20 of Title 17 of the
13 Oklahoma Statutes, except as provided by subsection C of this
14 section, in an affected county on or after the effective date of
15 this act, a tower or similar structure used in connection with an
16 industrial wind turbine shall not be located:

17 1. Any closer than a distance of one and one-half (1 1/2) times
18 the tip height of the tower. For purposes of this paragraph, the
19 distance shall be measured from the point on the property line of
20 the parcel of real property upon which the tower is located, which
21 is nearest to the point on a property line of any parcel of real
22 property affected by the provisions of this act; or

23 2. Any closer than one-half (1/2) nautical mile from the
24 nearest point of a dwelling structure.

1 C. An owner of real property that would otherwise be subject to
2 the provisions of this act with respect to a setback distance
3 applicable to a tower may waive the otherwise applicable setback
4 requirement. In order to exercise the waiver authorized by this
5 subsection, a point along the property line of a parcel of real
6 property shall be required to be within a distance of one and one-
7 half (1 1/2) times the tip height of the tower or a tower must be
8 located within one-half (1/2) mile of a dwelling structure. If an
9 owner of real property executes a lease with a wind energy company
10 to allow placement of a tower or other wind energy assets on such
11 real property, the execution of the lease agreement shall constitute
12 a waiver pursuant to this subsection.

13 D. 1. The provisions of subsection B of this section shall
14 continue to be applicable to the construction of a tower or similar
15 structure used in connection with an industrial wind turbine unless
16 a majority of the qualified electors of a county voting on a
17 question submitted for such purpose by the board of county
18 commissioners of the county approve the adoption of the setback
19 limitations as prescribed by subsection B of this section or a
20 modification or elimination of the setback limitation as prescribed
21 by subsection B of this section with respect to a tower constructed
22 on or after the effective date specified in the question submitted
23 to the voters.

24

1 2. In addition to the referral of the question pursuant to
2 paragraph 1 of this subsection, the question may also be submitted
3 to the voters of the county if a petition, signed by at least ten
4 percent (10%) of the number of voters who voted in the last
5 presidential election, is filed with the county clerk of the county.

6 3. The vote authorized by this subsection may occur no more
7 than once every five (5) years.

8 E. Subject to the limitations prescribed by paragraph 3 of
9 subsection D of this section, the question described by subsection D
10 of this section may be referred to a vote of the qualified electors
11 of the county by an affirmative vote of a majority of the board of
12 county commissioners.

13 F. The provisions of this section shall be applicable to towers
14 the physical construction of which begins on or after the effective
15 date of this act.

16 G. The provisions of this section shall be applicable whether
17 or not any existing zoning provisions are in effect on or after the
18 effective date of this act and the provisions of this act shall
19 supersede such zoning provisions.

20 H. Except as otherwise provided by subsection I of this
21 section, a wind energy company shall have a total period of four (4)
22 years in order to begin substantial construction activity of a wind
23 energy project. The time period shall be computed from the first
24 date as of which the wind energy company is contractually assured of

1 the ability to make an interconnection to the segment of the
2 national electric grid located within the state for which the
3 Southwest Power Pool is responsible.

4 I. If a wind energy company has had contractual assurance of
5 the ability to make such interconnection as described in subsection
6 H of this section, or a wind energy company has established an
7 actual physical connection to the segment of the national electric
8 grid located within the state for which the Southwest Power Pool is
9 responsible for a period of three (3) or more years prior to the
10 effective date of this act, the wind energy company shall have a
11 period of twelve (12) months from the effective date of this act to
12 begin substantial construction activity.

13 J. Leases of real property for the purposes of constructing
14 wind energy generation assets filed in the real property records of
15 the county in which the real property as described in the lease is
16 located prior to the effective date of this act, and meets the
17 provisions of subsection H or I, shall not be subject to the setback
18 provisions of this section. However, all such leases filed in the
19 real property records of the county in which the real property as
20 described in the lease is located on or after the effective date of
21 this act, whether the wind energy generation assets are subject to
22 the provisions of subsection H or I of this section or not, shall be
23 subject to the setback provisions of this section. In addition, any
24 such leases not filed in the real property records of the county in

1 which the real property as described in the lease is located on or
2 after the effective date of this act, whether or not the wind energy
3 generation assets are subject to the provisions of subsection H or I
4 of this section, shall be subject to the setback provisions of this
5 section.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 160.21.2 of Title 17, unless
8 there is created a duplication in numbering, reads as follows:

9 The Oklahoma Corporation Commission shall maintain a publicly
10 accessible and searchable database containing the status of each
11 county of the state with respect to whether a setback provision is
12 in effect and the relevant information regarding the setback
13 provisions, including any applicable expiration date."

14 Passed the House of Representatives the 7th day of May, 2025.

15

16

17 _____
18 Presiding Officer of the House of
Representatives

19 Passed the Senate the ____ day of _____, 2025.

20

21

22 _____
23 Presiding Officer of the Senate

23

24

1 ENGROSSED SENATE
2 BILL NO. 2

By: Green, Thompson, and
Seifried of the Senate

3 and

4 Pfeiffer of the House
5

6 An Act relating to wind energy facilities; amending
7 17 O.S. 2021, Section 160.20, as amended by Section
8 21, Chapter 126, O.S.L. 2023 (17 O.S. Supp. 2024,
9 Section 160.20), which relates to setback
10 requirements; providing setback requirements for
11 certain wind energy facility towers from certain
12 dwellings and property boundaries; updating statutory
13 language; and providing an effective date.

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

15 SECTION 4. AMENDATORY 17 O.S. 2021, Section 160.20, as
16 amended by Section 21, Chapter 126, O.S.L. 2023 (17 O.S. Supp. 2024,
17 Section 160.20), is amended to read as follows:

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

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

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

b. an airport owned by a municipality;

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

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

4 B. On and after November 1, 2025, no wind energy facility may
5 be constructed if the base of any tower is located at a distance of
6 less than:

7 1. One-quarter (1/4) nautical mile from the nearest point on
8 the outside wall of any residential dwelling; and

9 2. One-quarter (1/4) nautical mile from the nearest point of
10 any nonparticipating property.

11 If a notice of commencement of construction of a wind energy
12 facility is completed and filed with the Corporation Commission
13 prior to November 1, 2025, with a date to commence construction at
14 the location detailed in the notice on or before November 1, 2026,
15 the setback provisions described in this subsection shall not apply
16 to such facility.

17 C. Attestation of compliance with the setback requirements in
18 this section shall be included in any reports required by the
19 Corporation Commission. Stakeholder and landowner disputes arising
20 under subsection A or B of this section shall fall under the
21 exclusive jurisdiction of the district courts. The Corporation
22 Commission may seek enforcement of the submission and attestation
23 requirements of this subsection and subsection C D of this section
24 through its administrative court system.

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

22 1. The Determination of No Hazard and documentation of the
23 resolution of adverse impacts to the Department of Defense shall be
24

1 filed with the Corporation Commission and the Oklahoma Department of
2 Aerospace and Aeronautics.

3 2. The requirements established by this subsection shall not
4 prohibit the construction of an individual wind turbine or any other
5 individual structure requiring ~~a~~ an FAA 7460-1 form that is part of
6 a wind energy facility if that individual wind turbine or other
7 individual structure has received a Determination of No Hazard or
8 mitigation plan on or before April 3, 2018.

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

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

of this section other than Corporation Commission actions related to submissions or attestations.

SECTION 5. This act shall become effective November 1, 2025.

Passed the Senate the 27th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2025.

Presiding Officer of the House
of Representatives