

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB2 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Trey Caldwell

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

FLOOR SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 2

By: Green, Thompson, and
Seifried of the Senate

and

Caldwell (Trey) of the
House

FLOOR SUBSTITUTE

An Act relating to wind energy; making legislative findings; defining terms; providing for setback requirement for certain affected counties; authorizing waiver by certain owners of real property; providing procedures for referral of question to eligible voters of a county; providing for effect of zoning provisions; prescribing the period of construction; providing an exemption; requiring certain filings in determining exemptions; requiring Oklahoma Corporation Commission to maintain database; providing for noncodification; providing for codification; and declaring an emergency.

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

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

The Legislature finds that construction and operation of wind turbines and construction of the towers used in connection with wind turbines is a matter which is the proper subject of legislation.
The Legislature finds that the height of towers used to support

1 commercial wind turbines for production of electrical energy by
2 means of wind power is a potential issue with respect to setback
3 limitations and that there is a need for uniformity in areas of the
4 state likely to be affected by the construction and operation of
5 towers and wind turbines. The Legislature finds that consideration
6 of population density and average wind speed are a logical basis in
7 order to enact legislation related to setback requirements for the
8 structures used in the wind energy industry that pose risks related
9 to either persons or property or both in the event of damage to the
10 structures or structural failures.

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

14 A. As used in this act:

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

22 2. "Dwelling" means a structure occupied by one or more persons
23 for at least six (6) months during a single calendar year or which
24 is occupied by one or more persons for an average of more than fifty

1 percent (50%) of the time during any other period of time in excess
2 of one (1) year. As used in this section, dwelling shall not
3 include a motor home or recreational vehicle;

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

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

10 5. "Substantial construction activity" means movement or
11 grading of earth at the site of a tower and pouring of concrete or
12 installation of material designed to support the weight of a tower
13 or both such activities and shall require due diligence and the
14 conduct of activity which is continuous without any cessation of
15 such activity for a period in excess of sixty (60) days;

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

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

23 B. Except as provided by Section 160.20 of Title 17 of the
24 Oklahoma Statutes, except as provided by subsection C of this

1 section, in an affected county on or after the effective date of
2 this act, a tower or similar structure used in connection with an
3 industrial wind turbine shall not be located:

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

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

12 C. An owner of real property that would otherwise be subject to
13 the provisions of this act with respect to a setback distance
14 applicable to a tower may waive the otherwise applicable setback
15 requirement. In order to exercise the waiver authorized by this
16 subsection, a point along the property line of a parcel of real
17 property shall be required to be within a distance of one and one-
18 half (1 1/2) times the tip height of the tower or a tower must be
19 located within one-half (1/2) mile of a dwelling structure. If an
20 owner of real property executes a lease with a wind energy company
21 to allow placement of a tower or other wind energy assets on such
22 real property, the execution of the lease agreement shall constitute
23 a waiver pursuant to this subsection.

1 D. 1. The provisions of subsection B of this section shall
2 continue to be applicable to the construction of a tower or similar
3 structure used in connection with an industrial wind turbine unless
4 a majority of the qualified electors of a county voting on a
5 question submitted for such purpose by the board of county
6 commissioners of the county approve the adoption of the setback
7 limitations as prescribed by subsection B of this section or a
8 modification or elimination of the setback limitation as prescribed
9 by subsection B of this section with respect to a tower constructed
10 on or after the effective date specified in the question submitted
11 to the voters.

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

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

19 E. Subject to the limitations prescribed by paragraph 3 of
20 subsection D of this section, the question described by subsection D
21 of this section may be referred to a vote of the qualified electors
22 of the county by an affirmative vote of a majority of the board of
23 county commissioners.

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1 F. The provisions of this section shall be applicable to towers
2 the physical construction of which begins on or after the effective
3 date of this act.

4 G. The provisions of this section shall be applicable whether
5 or not any existing zoning provisions are in effect on or after the
6 effective date of this act and the provisions of this act shall
7 supersede such zoning provisions.

8 H. Except as otherwise provided by subsection I of this
9 section, a wind energy company shall have a total period of four (4)
10 years in order to begin substantial construction activity of a wind
11 energy project. The time period shall be computed from the first
12 date as of which the wind energy company is contractually assured of
13 the ability to make an interconnection to the segment of the
14 national electric grid located within the state for which the
15 Southwest Power Pool is responsible.

16 I. If a wind energy company has had contractual assurance of
17 the ability to make such interconnection as described in subsection
18 H of this section, or a wind energy company has established an
19 actual physical connection to the segment of the national electric
20 grid located within the state for which the Southwest Power Pool is
21 responsible for a period of three (3) or more years prior to the
22 effective date of this act, the wind energy company shall have a
23 period of twelve (12) months from the effective date of this act to
24 begin substantial construction activity.

1 J. Leases of real property for the purposes of constructing
2 wind energy generation assets filed in the real property records of
3 the county in which the real property as described in the lease is
4 located prior to the effective date of this act, and meets the
5 provisions of subsection H or I, shall not be subject to the setback
6 provisions of this section. However, all such leases filed in the
7 real property records of the county in which the real property as
8 described in the lease is located on or after the effective date of
9 this act, whether the wind energy generation assets are subject to
10 the provisions of subsection H or I of this section or not, shall be
11 subject to the setback provisions of this section. In addition, any
12 such leases not filed in the real property records of the county in
13 which the real property as described in the lease is located on or
14 after the effective date of this act, whether or not the wind energy
15 generation assets are subject to the provisions of subsection H or I
16 of this section, shall be subject to the setback provisions of this
17 section.

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

21 The Oklahoma Corporation Commission shall maintain a publicly
22 accessible and searchable database containing the status of each
23 county of the state with respect to whether a setback provision is
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1 in effect and the relevant information regarding the setback
2 provisions, including any applicable expiration date.

3 SECTION 4. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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