

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1549

6 By: Sears

7 COMMITTEE SUBSTITUTE

8 An Act relating to wind energy; amending 17 O.S.
9 2011, Section 160.15, which relates to the Oklahoma
10 Wind Energy Development Act; changing the time for
11 the filing of evidence of financial security for wind
12 energy facilities commenced after a certain date;
13 deleting certain types of financial security;
14 establishing the amount of evidence of financial
15 security for wind energy facilities commenced after a
16 certain date; updating statutory references;
17 prohibiting construction of wind energy facilities in
18 certain locations; requiring the owner of a wind
19 energy facility to file certain notification with the
20 Corporation Commission; directing the Commission to
21 prescribe the notification form and filing
22 requirements; specifying inclusion of certain
23 information; requiring copies of notification to be
24 filed with certain counties and municipalities within
a certain time; requiring copies of the notification
to be published in certain newspapers; directing the
owner of the wind energy facility to hold a public
hearing; listing conditions for the public hearing;
prohibiting commencement of construction until the
notification and public hearing requirements are met;
establishing penalty; providing for codification; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 17 O.S. 2011, Section 160.15, is
2 amended to read as follows:

3 Section 160.15 A. ~~After the fifteenth year of operation of a~~
4 ~~wind energy facility, the~~ The owner of a wind energy facility shall
5 file with the Corporation Commission evidence of financial security
6 to cover the anticipated costs of decommissioning the wind energy
7 facility. For a wind energy facility or portion thereof which
8 commences construction prior to January 1, 2016, the evidence of
9 financial security shall be filed after the fifteenth year of
10 operation of the facility. For a wind energy facility or portion
11 thereof which commences construction on or after January 1, 2016,
12 the evidence of financial security shall be filed prior to the
13 commencement of construction. Evidence of financial security may be
14 in the form of a surety bond, ~~collateral bond, parent guaranty, or~~
15 ~~letter of credit.~~

16 B. ~~The~~ 1. For a wind energy facility which commences
17 construction prior to January 1, 2016, the evidence of financial
18 security shall be accompanied by an estimate of the total cost of
19 decommissioning, minus the salvage value of the equipment, prepared
20 by a professional engineer licensed in ~~the State of Oklahoma~~ this
21 state. The amount of the evidence of financial security shall be
22 either:

23 1. ~~The~~

24

1 a. the estimate of the total cost of decommissioning
2 minus the salvage value of the equipment which shall
3 be filed with the Commission in the fifteenth year of
4 the project and every tenth year thereafter for the
5 life of the wind energy facility~~†~~, or

6 ~~2. One~~

7 b. one hundred twenty-five percent (125%) of the estimate
8 of the total cost of decommissioning which shall be
9 filed with the Commission in the fifteenth year of the
10 project.

11 2. For a wind energy facility which commences construction on
12 or after January 1, 2016, the evidence of financial security shall
13 be accompanied by an estimate of the total cost of decommissioning
14 prepared by a professional engineer licensed in this state. The
15 amount of the evidence of financial security shall be one hundred
16 twenty-five percent (125%) of the estimate of the total cost of
17 decommissioning which shall be filed with the Commission prior to
18 commencement of construction and every fifth year thereafter for the
19 life of the wind energy facility.

20 C. If the owner of a wind energy facility fails to file the
21 information with the Commission as is required by this section, the
22 owner shall be subject to an administrative penalty not to exceed
23 One Thousand Five Hundred Dollars (\$1,500.00) per day.

1 D. In the event of a transfer of ownership of a wind energy
2 facility, the evidence of financial security posted by the
3 transferor shall remain in place and shall not be released until
4 such time as evidence of financial security meeting the requirements
5 of this section is posted by the new owner of the wind energy
6 facility and deemed acceptable by the Commission.

7 E. The provisions of this section shall apply to any wind
8 energy facility or portion thereof entering into or renewing a power
9 purchase agreement (PPA) for the energy generated by the wind energy
10 facility on or after ~~the effective date of this act~~ January 1, 2011.

11 If a wind energy facility does not sell its energy under a power
12 purchase agreement, the provisions of this section shall apply to
13 the wind energy facility or portion thereof which construction
14 commences on or after ~~the effective date of this act~~ January 1,
15 2011.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 160.20 of Title 17, unless there
18 is created a duplication in numbering, reads as follows:

19 After the effective date of this act, no wind energy facility
20 may be constructed if the base of any tower is located at a distance
21 of less than:

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

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- 1 a. a public-use airport as defined in Section 120.2 of
2 Title 3 of the Oklahoma Statutes,
3 b. a private-use airport as defined in Section 157.2 of
4 Title 14 of the Code of Federal Regulations and for
5 which:
6 (1) a notice to the Federal Aviation Administration
7 (FAA) has been filed under Section 157.3 of Title
8 14 of the Code of Federal Regulations, and
9 (2) an airport determination has been issued by the
10 FAA with a determination of no objection or a
11 conditional determination or the airport
12 determination remains pending, or
13 c. an airport owned by a municipality;

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

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

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 160.21 of Title 17, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The owner of a wind energy facility shall file notification
21 of intent to build a facility with the Corporation Commission within
22 six (6) months of filing with the Federal Aviation Administration
23 (FAA) a Form FAA 7460-1 (Notice of Proposed Construction or
24 Alteration) or any subsequent form required by the FAA for

1 evaluating the impact a proposed wind energy facility will have on
2 air commerce safety and the preservation of navigable airspace, or
3 six (6) months prior to commencing construction on a wind energy
4 facility, whichever date is earlier. The Commission shall prescribe
5 the form and filing requirements of the notification; provided, the
6 information required on the notification form shall include at least
7 the same information required on the FAA form. Copies of the
8 notification shall also be filed with the board of county
9 commissioners of every county in which all or a portion of the wind
10 energy facility is to be located within twenty-four (24) hours of
11 filing with the Commission. If all or a portion of the wind energy
12 facility is to be located within the incorporated area of a
13 municipality, copies of the notification shall also be filed with
14 the governing body of the municipality within twenty-four (24) hours
15 of filing with the Commission.

16 B. Within six (6) months of filing the notification with the
17 Commission as provided for in subsection A of this section, the
18 owner of the wind energy facility shall cause a copy of the
19 notification to be published in a newspaper of general circulation
20 in the county or counties in which all or a portion of the wind
21 energy facility is to be located.

22 C. Within sixty (60) days of filing the notification with the
23 Commission as provided for in subsection A of this section, the
24 owner of the wind energy facility shall hold a public hearing.

1 Notice of the public hearing shall be published in a newspaper of
2 general circulation in the county or counties in which all or a
3 portion of the wind energy facility is to be located. The notice
4 shall contain the place, date and time of the public hearing. The
5 public hearing shall be held in one of the counties in which all or
6 a portion of the wind energy facility is to be located.

7 D. The owner of a wind energy facility shall not commence
8 construction on the facility until the notification and public
9 hearing requirements of this section have been met. If an owner of
10 a wind energy facility commences construction of the facility prior
11 to meeting the notification and public hearing requirements of this
12 section, the owner shall be subject to an administrative penalty not
13 to exceed One Thousand Five Hundred Dollars (\$1,500.00) for every
14 day of construction.

15 SECTION 4. This act shall become effective September 1, 2015.

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